

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE BOARD ROOM OF THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, JULY 28, 2005, AT 9:00 A.M., NOTICE HAVING BEEN**
5 **PUBLISHED IN THE RICHMOND TIMES-DISPATCH ON JULY 7 AND 14, WITH AN**
6 **ADDITIONAL SPECIAL AD ON JULY 14 AND 21, 2005.**
7

Members Present: **R. A. Wright, Chairman**
 James W. Nunnally, Vice-Chairman
 Elizabeth G. Dwyer,
 Helen E. Harris
 Richard Kirkland, CBZA

Also Present: **David D. O’Kelly, Assistant Director of Planning**
 Benjamin Blankinship, Secretary
 James F. Lehmann, County Planner
 Priscilla M. Parker, Recording Secretary

8
9 Mr. Wright - I call the June meeting of the County of Henrico Board of
10 Zoning Appeals to order. Would you stand for the **Pledge of Allegiance to the Flag of**
11 **Our Country.** Before we begin our Agenda today, I want to take a moment to
12 recognize a member of this Board, who has just completed 30 years on the Board of
13 Zoning Appeals. Mr. James W. Nunnally was reappointed for another term,
14 commencing August 1, 2005, and ending July 31, 2010. Jim, we congratulate you on
15 your service to the County through the Board of Zoning Appeals over these 30 years.
16

17 Mr. Nunnally - Thank you, Mr. Wright. I appreciate it so much, and I’ve
18 enjoyed working with all the people I have so far, and I just hope you will help me out up
19 here during this term.
20

21 Mr. Wright - You’ll make it fine. Mr. Secretary, would you read the rules,
22 please.
23

24 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
25 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
26 case. Then at that time the applicant should come to the podium. I will ask everyone
27 who intends to speak on that case, in favor or in opposition, to stand and be sworn in.
28 The applicants will then present their testimony. After the applicant has spoken, the
29 Board will ask them questions, and then anyone else who wishes to speak will be given
30 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
31 have an opportunity for rebuttal. After hearing the case, and asking questions, the
32 Board will take the matter under advisement. They will render all of their decisions at
33 the end of the meeting. If you wish to know their decision on a specific case, you can
34 either stay until the end of the meeting, or you can call the Planning Office later this

35 afternoon, or you can check the website. The vote on each case will be posted to our
36 website within an hour of the end of the meeting. This meeting is being tape recorded,
37 so we will ask everyone who speaks, to speak directly into the microphone on the
38 podium, to state your name, and to spell your last name please. And finally, out in the
39 foyer, there are two binders, containing the staff report for each case, including the
40 conditions that have been recommended by the staff.

41
42 Mr. Wright - Please call the first case.

43
44 Mr. Blankinship - The first case actually has been withdrawn. A-58-2005,
45 David A. Morse appeals a decision of the Director of Planning. Mr. Morse left me a
46 voice mail this morning stating that he intends to drop his appeal. It may be well for the
47 Board to go ahead and take a vote supporting the Director of Planning's determination.

48
49 Mr. Wright - Do I hear a motion?

50
51 Mr. Kirkland - I make a motion that we withdraw the case A-58-2005 and
52 support the ruling of the Director of Planning.

53
54 Ms. Dwyer - Second.

55
56 Mr. Wright - Any discussion? All in favor, say aye. Opposed, no. So
57 ordered. Thank you.

58
59 Upon a motion by Mr. Kirkland, seconded by Ms. Dwyer, the Board **approved**
60 **withdrawal of** application **A-58-2005**, appealing a decision of the Director of Planning,
61 and expressed their support of the ruling of the Director of Planning.

62
63 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
64 Negative: 0
65 Absent: 0

66
67 Mr. Blankinship - Mr. Chairman, as I have mentioned to you, but I will mention
68 to everybody, I made a colossal mistake this month. We advertised the Agenda with
69 only one case at 9:00 o'clock, and then after consulting with you and management, we
70 changed the advertisement to move several of the cases to 9:00 o'clock, as is our
71 normal practice. When the notice letters went out, I did not make the same change on
72 those, so we have a number of cases this morning that were advertised for 9:00 o'clock,
73 the notice letters said 10:00 o'clock, and after discussing that with the County Attorney's
74 Office, I think we agreed that we should not hear any of those cases before 10:00
75 o'clock, so we have two decisions to make, and then several other issues to discuss
76 between now and 10:00 o'clock, and then we will begin calling those cases on the 10:00
77 o'clock agenda.

78
79 **Beginning at 9:00**

80

81 Mr. Blankinship - So the first thing for this morning is UP-9-2004, Tidewater
82 Quarries. This is a continuation of the Show Cause Hearing from June 16.
83
84 **UP-9-2004 TIDEWATER QUARRIES** requests a conditional use permit
85 pursuant to Sections 24-52(d) and 24-103 to extract materials from
86 the earth at 11400 Staples Mill Road (Parcels 756-773-3302 and
87 759-773-4746), zoned A-1, Agricultural District and M-2C, General
88 Industrial District (Conditional) (Three Chopt).
89
90 Mr. Wright - The only thing I know from our minutes we read, is there any
91 additional report concerning the highway, I-295?
92
93 Mr. Blankinship - We received a letter from them, stating that they had begun
94 work, but would not have it completed by this time, and that they would send a
95 representative here to this meeting. We received another letter just yesterday or the
96 day before, requesting some further information from us, to help them in preparing that
97 report.
98
99 Mr. Wright - Is a representative here? Come forward, please, and be
100 sworn.
101
102 Mr. Blankinship - Do you swear that the testimony you are about to give is the
103 truth, the whole truth, and nothing but the truth, so help you God?
104
105 Mr. Jennings - I do. I'm Gary Jennings.
106
107 Mr. Wright - Would you give us any information that you can on this study
108 that's being conducted; I guess the idea is the impact I-295 has possibly on these
109 homes in that area.
110
111 Mr. Jennings - Yes sir. We are at the beginning stage of this study; it
112 probably will not be completed until September. I would not want to speculate on the
113 outcome of the investigation until the professional engineers on staff have finished the
114 investigation.
115
116 Mr. Wright - Any questions of members of the Board?
117
118 Ms. Dwyer - So your investigation will be complete by the end of
119 September?
120
121 Mr. Jennings - It should be complete sometime in September.
122
123 Ms. Dwyer - Are you also looking at perhaps the impact of the quarry and
124 its operations on the roadbed?
125
126 Mr. Jennings - Yes we are.

127
128 Ms. Dwyer - So you're looking at two things, the possible impact of the
129 vibrations from I-295 on the homes and also whether the quarry has had any affect on
130 the roadway.
131
132 Mr. Jennings - We are looking at both those issues.
133
134 Mr. Wright - All right sir. Any other questions? Thank you very much for
135 appearing.
136
137 Mr. Kirkland - Mr. Chairman, I'd like to see if we've had a report back also,
138 from the building officials, from the Building Inspection Department about their
139 inspections that might have been made. I believe they said they were going to do that
140 at the last meeting.
141
142 Mr. Wright - Any such report, Mr. Blankinship?
143
144 Mr. Blankinship - Yes, we received some comments, and they were included
145 in the staff report, and I see the Building Official is here this morning.
146
147 Mr. Wright - Would you come forward.
148
149 Mr. Revels - I'm Gregory Revels.
150
151 Mr. Wright - Have you been sworn? I don't believe so. Please be sworn.
152
153 Mr. Blankinship - Do you swear that the testimony you are about to give is the
154 truth, the whole truth, and nothing but the truth, so help you God?
155
156 Mr. Revels - Yes I do. I provided a brief report to the Director of Planning
157 via memo on July 25, indicating that we had looked at 12 of the homes in response to
158 our contacts that we made with the residents, and we had called each one that had filed
159 a written complaint, to offer services, to perform inspections, and the purpose of that
160 process was to determine whether or not the problems they were experiencing were
161 tied to any type of structural failure in the home. We did get responses back from 12 of
162 them. We went out and looked at those homes, and we did not find any structural
163 failures in the homes that might be leading to the problems that they have experienced
164 up to this point.
165
166 Mr. Kirkland - How about soils? Did you check on soils?
167
168 Mr. Revels - All the soils for all the lots in Winterberry and Summerberry
169 were laboratory tested by an engineer prior to construction of the homes. Those soils
170 conditions were taken into account, and engineer footings were designed for each of
171 them that had suspect soils. In most cases, engineers also performed inspections of
172 those footings when the houses were constructed. We found no problems with any of

173 the foundations, no cracks, with any of the foundations that would lead you to believe
174 there was any kind of a soils problem.

175
176 Ms. Dwyer - We have some questions too.

177
178 Ms. Harris - When Mr. Revels finished his report, I wanted to find out if
179 the citizen liaison committee met and their progress.

180
181 Ms. Dwyer - What about mining in the area? Did you look into that,
182 whether there were any old mine shafts; there have been some in the area.

183
184 Mr. Revels - There have been some in the area, but I'm not familiar with
185 any in these particular subdivisions. Again, there were engineered soil surveys taken
186 on every lot in Summerberry and Winterberry, and the questionable ones that are
187 located in Hartley, and they didn't turn up anything that I'm aware of.

188
189 Ms. Dwyer - Those were done at the time the houses were built, or they
190 were done recently?

191
192 Mr. Revels - No, that was done at the time the houses were built.

193
194 Ms. Dwyer - When you say that there's no structural failure that would
195 cause some of the damage reported, exactly what does that mean? I have cracks in my
196 drywall and cracks in the cement in my garage. Does that mean I have a structural
197 failure in my home, or does it just mean it's normal settling?

198
199 Mr. Revels -It could mean normal settling or movement, and I think one of the things
200 people were confused about was the concept of settlement being something that occurs
201 one time and never reoccurs again. In reality, there's normal movement anticipated or
202 expected or permitted or allowed as a result of normal use over the life of the building.
203 You can have those types of things reoccur. There's a variety of different sources that
204 could lead to that. Whether or not those sources, in this case, are attributable to
205 blasting or vibrations from the roadway bed, we certainly cannot make that
206 determination based on a single individual site inspection. It would require a lot of
207 forensic investigation over a period of time to be able to make that assessment.

208
209 Ms. Dwyer - So although there's no structural failure in the homes that
210 you investigated that would cause some of the damage reported, it's also true that that
211 sort of damage, cracks in drywall, cracks in garages, occur normally, without what you
212 call a structural failure?

213
214 Mr. Revels - It could occur normally without any structural failure. It could
215 occur normally in areas that do not have interstates next to them. It can occur normally
216 in areas that don't have quarries that have blasting activities.

217
218 Ms. Dwyer - So to what would you attribute that kind of cracking?

219
220 Mr. Revels - What we're sure with the homeowners is that it could be
221 environmental loads such as wind loading, snow loading and ice loading during
222 wintertime. There's been at least two significant wind events that have occurred since
223 the subdivision was built that could have led to the issue.
224
225 Ms. Dwyer - Such as Isabel and the hurricane?
226
227 Mr. Revels - Isabel, and there was also a tornado that went through a
228 portion of one of the subdivisions. Normal human activity, in terms of using the
229 structure, loading, in terms of how much furniture or storage you put in the building, just
230 normal activities will load the elements, the trusses, the floor rafters. Those things are
231 permitted a certain amount of movement and deflection even under the building code as
232 a design parameter, and that's enough movement to cause cracking in the seams and
233 joints, and nail pops as well. The other aspect that could affect this is the workmanship
234 quality and the way the materials were installed in the first way, that may quite frankly,
235 meet Code requirements, but may cause objectionable aesthetic problems over the life
236 of the structure.
237
238 Ms. Dwyer - So again, when you use the term "structural failure," you
239 could have poor or better workmanship that's not within the categories of structural
240 failure.
241
242 Mr. Revels - That's absolutely correct.
243
244 Ms. Dwyer - And that poor workmanship could contribute to this sort of
245 damage. When we think of settling, we think of soil settling. Is that also part of this?
246
247 Mr. Revels - It could be, but you would expect to see, if that were the
248 case, some kind of problem with the foundation system, which we did not see. When I
249 talk about structural failure, what I mean is breaking on girders, beams, joists, rafters,
250 trusses, some significant movement that would point out the fact that there's a structural
251 problem with the home that's not going to be repairable until you fix that structural issue.
252 Then the cosmetic issue will be fixed, or can be fixed, and expected to not reoccur.
253 This isn't an issue of structural failure up to the point that we've seen.
254
255 Ms. Harris - Did you have an opportunity to observe the diagonal crack
256 across the window that many of the citizens referred to?
257
258 Mr. Revels - I saw one window that was damaged. I didn't see anything
259 in the structure that would lead me to believe that there's a structural problem with the
260 house that caused that crack to occur. I can't explain why that crack occurred.
261
262 Ms. Harris - The liaison committee was wondering if we have a report. I
263 know that it's in the packet.
264

265 Mr. Wright - Mr. Blankinship, do we have anything from the liaison
266 committee?

267
268 Mr. Blankinship - There have been a couple of things passed on to you.
269 There was a press release, and also a letter from one of the officials at Tidewater
270 Quarries, explaining some of the activities there. I see the counsel for Tidewater
271 Quarries is here; perhaps he could address that question.

272
273 Mr. Wright - Would you like to hear from him, Ms. Harris?

274
275 Ms. Harris - Yes.

276
277 Mr. Wright - I think you were sworn last time you testified, so that's not
278 necessary.

279
280 Mr. Wilson - My name is Jack Wilson; I'm an attorney representing
281 Tidewater Quarries. Yes, there have, so far, been three meetings of the Community
282 Liaison Committee, an organizational meeting, an informational meeting, and then they
283 also organized the most recent information fair that was held earlier this week. The next
284 meeting of the Community Liaison Committee is set for August 3rd; at that point they are
285 planning to interview three experts that the Community Liaison Committee has set up to
286 actually get retained by the committee to further inspect and do some other analyses,
287 but the interviews will take place on August 3rd, and then the Community Liaison
288 Committee will select the expert, again to be paid for by Tidewater Quarries, but to be
289 selected by the Liaison Committee to continue the ongoing dialog and try to help explain
290 what these people are experiencing and how Tidewater Quarries can modify its
291 activities, if necessary, to assist them.

292
293 Ms. Harris - So this will be ongoing?

294
295 Mr. Wilson - Yes ma'am. The idea is that this will be an ongoing
296 committee well into the future. This will probably be a permanent committee, an
297 ongoing liaison committee between the Quarry and the affected subdivisions to make
298 sure that communication is there between the two groups, so that Tidewater can be the
299 good neighbor that it's promised to be.

300
301 Ms. Dwyer - So the expert's purpose is two-fold, one to monitor vibrations
302 among the residences in the neighborhoods that are affected, and the other would be to
303 recommend modifications to Tidewater's operations.

304
305 Mr. Wilson - I believe that's it exactly, yes ma'am. Again, because this is
306 a committee that's been set up, and it's neighborhood committees, I've not attended any
307 of those meetings as counsel for Tidewater. There's been a facilitator hired to facilitate
308 those meetings. Obviously, Tidewater representatives are there, and community
309 representatives are there, but I've not participated in them. My understanding is again,
310 that this expert will be picked by the Community Liaison Committee to monitor those

311 issues that are important to the communities.

312

313 Ms. Dwyer - Do you know how long, or does someone here know how
314 long it might take for this third party expert to have any sort of assessment and
315 recommendation?

316

317 Mr. Wilson - I don't know that there's been any time line set up that we're
318 aware of. Again, I think the expert, -- at this point, they've been seeing some resumes;
319 they're going to interview the person on August 3rd; and then it's going to be an
320 educational process for the expert to get feedback from the community members,
321 explore Tidewater's activities, see if there are things that Tidewater could be doing that
322 would alter the effect that the neighbors are feeling, and I think that's really going to be
323 an ongoing process without any definitive deadline. I think again, Tidewater's position
324 obviously is, they need to be a good neighbor. The permit comes up for renewal again
325 in 2009, and it needs to make sure that the communities that are closest to the Quarry
326 understand the operations of the Quarry and are comfortable with those operations.

327

328 Mr. Wright - Any further questions? Is anyone here from the committee
329 from the residents who would like to add something to this report? I want to give
330 everybody an equal opportunity to address these issues. I think that concludes any
331 information that we were to receive.

332

333 Mr. Kirkland - Mr. Chairman, after reading over all the comments made by
334 the homeowners and the testimony by the VDOT spokesman, he says it will take till
335 September to complete the study, I'm not faulting the State of Virginia, but a lot of times
336 they don't hit right on time. Also, I heard about the hurricane, tornado, wind reports, and
337 normally by reading the blasting reports that took place through the years, in the winter
338 months, normally the blasting is not this frequent. So I would like to make a
339 recommendation that we defer this case for one year. This will give the Liaison
340 Committee, the studies to be done, the engineers to be picked, and all the information
341 to come before us in one year.

342

343 Mr. Wright - Is that your motion?

344

345 Mr. Kirkland - Yes sir.

346

347 Mr. Wright - Do I hear a second?

348

349 Mr. Nunnally - Second.

350

351 Mr. Wright - Is there any further discussion?

352

353 Ms. Harris - I was wondering why not six months instead of a year?

354

355 Mr. Kirkland - My situation with six months is that winter will be coming on
356 in six months, and that might hinder the studies, the reports, and of course the blasting

357 will not be as frequent, so they can't make studies if they're not blasting. It's been said
358 at a couple of the hearings that they don't do a lot of quarrying in the wintertime, so it
359 looks like the spring months are when they really do a lot of blasting. If you'll read the
360 blasting reports, you see that in the December, November, October, they're kind of
361 slacked off on blasting. It looks like the months of March and April they really go to
362 town on blasting, so that would give them a full year, and we'd be back to the summer
363 again, and that would have covered the whole gamut of seasons and taken care of
364 everything. That's why I'm going for the year. Every study should be completed by
365 then. If the Liaison Committee is just going to interview in August, they're going to
366 make the gentlemen acquainted with all the information through the month of
367 September, then we go during the winter months of having to make his tests. If it's
368 snowing, raining, sleeting by November or December, we're going to be over six
369 months. That's why I picked the year. I think that's fair to everyone.

370
371 Mr. Wright - You understand that we would entertain further evidence of
372 anything that happens between now and that time; we would hear that at that time.

373
374 Ms. Dwyer - So it would reopen the case essentially at the next hearing,
375 unlike what we did today, just to hear specific requested information.

376
377 Mr. Wright - Right. Things that have occurred from now, the end of our
378 meeting in June, until the time we would hear this, we'd hear it.

379
380 Ms. Dwyer - I understand what you're saying about the VDOT, but I
381 guess I'm concerned about waiting an entire year for a hearing.

382
383 Mr. Kirkland - A lot of studies are done for a year. I think six months is just
384 too short a period of time; I really do. You don't want to put pressure on the
385 homeowners association or the Liaison Committee to push this. We want them to do a
386 thorough job, and we want to have a good engineer out there; I know they do, to see if
387 the Quarry is causing any of their structural problems. To push an engineer, you might
388 not be able to find an engineer to say he could do it in two or three months, after
389 September, which would be six months. He might say he needs six months after
390 September to do it, so I'm giving him a year. That should cover everything.

391
392 Mr. Wright - Any further discussion from the Board? I'll call for a vote. All
393 in favor of the motion, say aye. Opposed, no. It's carried.

394
395 Mr. Kirkland - That would be July 27, 2006.

396
397 Mr. Wright - July 27, 2006, at 9:00 o'clock.

398
399 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board did not find cause
400 to revoke the above-referenced conditional use permit **and deferred** application **UP-9-**
401 **2004** for a conditional use permit to extract materials from the earth at 11400 Staples

402 Mill Road (Parcels 756-773-3302 and 759-773-4746). The Board decided to hold
403 another show cause hearing in one year, at its meeting on July 27, 2006 at 9:00 A. M.

404
405 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
406 Negative: 0
407 Absent: 0
408

409 **A-40-2005 MR. AND MRS. F. MICHAEL CROWLEY** request a variance from
410 Section 24-95(i)(2) to build an in-ground swimming pool at 901
411 South Gaskins Road (West Knoll) (Parcel 739-733-2504), zoned R-
412 0, One-family Residence District (Tuckahoe). The accessory
413 structure location requirement is not met. The applicants propose
414 an in-ground swimming pool in the side yard, where the Code
415 allows accessory structures in the rear yard.
416

417 Mr. Blankinship - This is a re-hearing of a case that was previously denied.
418 The applicant submitted a letter, stating that there was new testimony that was not
419 available at the hearing at which it was denied, and they requested an opportunity to
420 present that new testimony to the Board.
421

422 Mr. Wright - Would the applicant please come to the podium. Does
423 anyone else desire to speak with reference to this case? Would you raise your right
424 hand and be sworn please?
425

426 Mr. Blankinship - Do you swear that the testimony you are about to give is the
427 truth, the whole truth, and nothing but the truth, so help you God?
428

429 Mr. Redmond - I do. My name is David Redmond. I'm the attorney for the
430 applicant, Mr. and Mrs. F. Michael Crowley. This is a re-hearing, and we appreciate the
431 opportunity to present some evidence which we hope you'll find will be persuasive in the
432 granting of the variance. I plan to present a factual overview of the site and site
433 utilization, and then I would like to call on Mr. Crowley, as the property owner, to discuss
434 the impact on his site, and then Mr. Richard Cromwell, who's the Director of Golf
435 Operations at the Country Club of Virginia, to express the views of the Country Club of
436 Virginia as the adjacent property owner. After those presentations, I would like to have
437 the opportunity to summarize and describe why I think this is an appropriate variance
438 under the circumstances of the Cochran case.
439

440 Ms. Dwyer - Mr. Redmond, I would like you to address the Cochran case
441 first.
442

443 Mr. Redmond - I certainly can do that. I think the Cochran case, which as
444 we know was decided in April 2004, took on the constitutional test from the Penn
445 Central case to decide when, in fact any ordinance, not just a zoning ordinance, but any
446 zoning or applicable land use type ordinance, would create an unconstitutional taking of
447 the property. They're using that in connection with the Penn Central, the railroad station

448 in downtown New York, where they were trying to refuse by calling it a landmark, the
449 right to use air rights above. So what they've done is they've taken a global case, which
450 was a United States Supreme Court case, and have now decided, as I read it, that in
451 the context of Virginia cases, that any hardship is defined as an unconstitutional case.
452 If you don't have a hardship that would amount to a complete taking, as defined in that
453 United States Supreme Court's case, you have no authority to proceed. That's my
454 underlying understanding of the case. They use the term that the ordinance would
455 unreasonably restrict the use of the property as a whole. I understand that in any kind
456 of property, there are various property rights and interests which are attendant to the
457 use of the property. The air right in Grand Central Station is a right which we would
458 have. What I don't think that the case describes, is the three cases which were set up
459 to reach those conclusions.

460
461 What that case does not describe is, what if the ordinance in effect, creates a safety
462 concern, a hazard, if the implementation of the ordinance is made, a safety condition
463 which hurts the property owner, is pushed forward. Nor does it describe what happens
464 if the application of that ordinance adversely affects the adjoining property owner. I
465 think these are two issues that can be distinguished from the general statement of what
466 does this do with respect to the property, where we know that it absolutely could affect
467 the safety of the individuals on the site and secondly, the utilization of the adjoining
468 property. That's how I'd like to try to distinguish this; that's my purpose in this
469 discussion. I'd like to put forth some testimony to that effect.

470
471 Further, I also think that the Henrico Code, in and of itself, certainly hasn't been
472 amended and the way that the Henrico Code reads, in effect a hardship is only that
473 which goes against the spirit of the Zoning Ordinance. The Zoning Ordinances are
474 designed to promote the health, safety and welfare of the community, and in this
475 instance, I think safety is very much a part of it. So in the Henrico Code, I think that
476 they have taken a line of argument which would support what I am saying here as to the
477 safety of the property vis-a-vis Cochran. You've got your Code, and if you went through
478 Section 11-26, is that the number, -- I think if you went through all the tests that are set
479 forth, no, Section 24-116, -- I think if you went through all the tests under the existing
480 ordinance, I think this case would go square on all points -- uniqueness of property and
481 all, to reach the conclusion of the variance would be appropriate in this case. That's my
482 overall reason for trying to discuss and go through the issues of safety and adverse
483 effect on adjoining property owners, and I think that very frankly, it's law versus common
484 sense in some respects. By the time we finish, I hope that you would agree that this
485 would be the absolute correct conclusion. From your standpoint, you need to decide
486 that Cochran is not an issue as it's presented in this case.

487
488 Ms. Dwyer - Would you say that the homeowner in this case has
489 reasonable and beneficial use of their property as it is without a pool?

490
491 Mr. Redmond - The property has been used as a residence since 1948, and
492 it continues to be used as a residence.

493

494 Mr. Blankinship - Is there a safety concern if it's used as it's used today, or
495 does that only arise if they build a pool?
496

497 Mr. Redmond - It only arises as a pool? It clearly does. The setting of the
498 property is, the house itself is unique. I know Mr. Crowley could speak to this. We were
499 just talking about it outside. We were talking about the effect of golf balls. The Club
500 and course have been there since 1928. The house has been there since the late
501 1940's. Incidentally, your County records show the house as being constructed in 1963.
502 I passed out a photograph from the Richmond News Leader, which shows in fact that
503 the house was there and present in 1955. It actually was built sometime in the late
504 1940's. I think if you even look at that photograph, you'll see the relationship of the
505 house to the golf course to the ninth green; it's only about 35 yards from the corner of
506 the property to the ninth green. It's very close proximity; it's maintained its openness for
507 so long. In answer to your question, I guess golf balls, for as long as the house has
508 been there, have flown into the back yard. The reality is now though, that if you have to
509 follow the ordinance and if you put the pool within 55 feet of the golf course, which you
510 will, you'll go back almost to the cart path, adjacent to the boundary line. Balls hit the
511 cart path, bounce in. Mr. Crowley can testify as to the number of balls which
512 customarily fly into the yard. The hazard is certainly created by the use of that portion
513 of the property.
514

515 Mr. Wright - But aren't you creating your hardship by having a pool at all?
516

517 Mr. Blankinship - In Cochran, in all three of the cases that the Court
518 consolidated there, the Court found that they could have resolved the issue by
519 abandoning the project.
520

521 Mr. Redmond - But those cases, as I read those cases, were the classic
522 minor case – I want to move my building two feet to the left because it's this, that, and
523 the other. There wasn't a major undertaking such as this, to be able to bring in an
524 entirely new use, which is permitted under the Code, and use the property. Those were
525 just minor adjustments as I read most of the cases.
526

527 Mr. Blankinship - I believe the actual Cochran case in Fairfax, they intended to
528 demolish a house and build a new one, and the Board said they didn't need to do that to
529 make reasonable use of the property. They could just keep the existing house.
530

531 Mr. Redmond - You're right about that.
532

533 Mr. Wright - Also, in one of those cases, they wanted to build another
534 accessory building and place it in excess of the square feet that were permitted. That
535 was denied because they said they could just abandon the project if they had a
536 reasonable use of the property. That puts this Board in a tough position. They said that
537 the special question for BZA in considering an application for a variance, as well as for a
538 court reviewing its decision as well, was the effect of the Zoning Ordinance upon the
539 property under consideration, as it stands, interferes with all reasonable and beneficial

540 use of the property taken as a whole. If the answer is in the negative, the BZA has no
541 authority to go further. They've taken authority away from this Board if you have
542 reasonable, beneficial use of the property. That's what we're faced with here.
543

544 Mr. Redmond - My rejoinder to that is, simply yes, that's what the case says,
545 but I wonder if the case was truly intended to create safety concerns and unreasonable
546 use as far as adjoining property is concerned.
547

548 Mr. Wright - It goes further to say that the legislature in its wisdom could
549 change the statute to permit this Board to do some things, to take into consideration
550 some other things too.
551

552 Mr. Redmond - I understand the legislature did act this year, and Henrico is
553 yet to undertake that as I understand it.
554

555 Mr. Wright - That statute that was enacted doesn't affect this Board. It's
556 the Zoning Administrator, and that gets a little ticklish, as to how far the Board of
557 Supervisors will want to go with that.
558

559 Ms. Dwyer - It hasn't changed Cochran and its application to this case or
560 to this Board, and I think Cochran is unequivocal. I just don't see any wiggle room or
561 gray area in this case whatsoever. In Cochran, the Court said in all three cases, "if the
562 project were abandoned, this would not be a problem, if the property owners then still
563 have reasonable and beneficial use of the property, then a variance cannot be granted."
564 That's the question, and in this case, clearly the owners have reasonable, beneficial use
565 of their property, without a swimming pool at all, so under Cochran we have no
566 jurisdiction to even inquire further as I read that case. I don't think the Court could have
567 been any clearer in defining what our authority is and what its limits are.
568

569 Mr. Wright - I think where we need something is for folks to get our
570 legislators working to do something to give some discretion in certain types of cases.
571

572 Mr. Redmond - Does the fact that your Code reads differently, at least to my
573 mind, clearly reading the Section 24-116, where it talks about hardship, and then
574 parenthetically says

575
576 Mr. Wright - We don't get to that.
577

578 Mr. Redmond - Wouldn't we like to get to that?
579

580 Mr. Wright - We'd like to, but Cochran says we have no authority to get to
581 that. Once we get past that point, then we can consider the hardship applications.
582

583 Ms. Dwyer - Safety issues affect the neighbors. Those are issues that
584 come into play after the threshold question has been met and answered.
585

586 Mr. Wright - We've got to get past the threshold question first, and it's put
587 us in a real bind.
588

589 Mr. Redmond - It will certainly restrict the number of variance cases that
590 you'll be receiving, I would think.
591

592 Ms. Dwyer - Probably.
593

594 Mr. Blankinship - Yes, there are three filed for next month.
595

596 Ms. Dwyer - You've done a lot of work, and we have read your letters and
597 your submissions. Mr. Chairman, shall we proceed or
598

599 Mr. Wright - I don't want to deny Mr. Redmond the opportunity to present
600 his case. I want to be fair and listen to everything because he's billed on a record, and
601 he may want to appeal this case, and he'd have something to have in the record.
602

603 Mr. Redmond - I appreciate that, and I think it's important that Mr. and Mrs.
604 Crowley and the Club have an opportunity to express their views on this.
605

606 Mr. Wright - We just wanted to be up front with you at the outset.
607

608 Mr. Redmond - I think, clearly, and whether we talk about threshold or just
609 common sense in the application of the ordinances as written, we submitted a revised
610 plat, which shows the entirety of the property, approximately two acres. The parcel on
611 which the house is located is actually about a 1.4-acre piece. That was what was
612 presented on the original one. When I sent in the packet of papers, we had a revised
613 2003 survey. You have it in front of you. I think the point is, that it is a unique piece of
614 property; it does abut the Country Club of Virginia. The parcel 1 that we're talking about
615 was constructed in the late 1940's by Dr. Bryant, and apparently was quite an
616 undertaking. They took down a building at First and Franklin Street and reinstalled it out
617 there so they'd have all these 17th and 18th Century furnishings, it's so beautifully done
618 on the inside. I think the Richmond News Leader photograph, which you were looking
619 at a moment ago, shows the relationship of the property very well, and how a pool in the
620 back yard could obviously adversely affect the golf operations on site.
621

622 The second parcel, which brings in the final .6 acres was acquired in exchange between
623 the Eures and the Country Club of Virginia in 1986, and the Crowleys acquired both
624 pieces to bring the total to a little more than two acres. Obviously the problem that we
625 have is evidenced on the survey, and that is the location of the house. The rear yard of
626 this property is only 55 feet deep on a lot that's two acres in size, and relatively narrow
627 in configuration, but nevertheless the definition of rear line for your purposes is only 55
628 feet. Then, it's also unique, because that abuts the golf course, and the golf course, as
629 we said, was constructed in 1928 – there's always been a feeling of openness and all
630 involved in the use of the property. To my knowledge, and I've played the course for a
631 while, we've never had any interference with the property owners from the house side,

632 and we hope that wouldn't change. This is not a typical house, in what we would now
633 call a suburban type golf community at all. There are only two other houses on the
634 fairway, and those are actually set much further back than the Crowley's house is set. I
635 think also you can tell from the design of the house, when they built the house, they had
636 two frontages, because they wanted to maintain sort of a handsome Georgian look on
637 the golf course side, which I think they did. You can see it so well from that photograph.
638 When we asked to place the pool on the side yard, that maintains the integrity of the
639 whole experience, and at the same time provides more safety from errant golf balls, and
640 more privacy as far as the Country Club is concerned.

641
642 The staff had suggested that a privacy fence could be installed along the rear line, and
643 sure, a privacy fence could be installed. It showed four and a half feet, and I believe the
644 County ordinance, I read it, could go to 7 feet. But 7 feet won't stop all those high hooks
645 that some of us can hit that would go into the pool anyway. It would help some, and
646 obviously balls bouncing off the cart path would be eliminated, but it still wouldn't
647 provide the safety and security that you'd find if the pool were relocated over on the side
648 lot line, further from the golf course.

649
650 Also, we have spoken with representatives of the Country Club of Virginia. You have a
651 letter from Mr. Skip Harris, who is the General Manager, in support, and Richard
652 Cromwell, Director of Golf Operations, is here to address their view in this. I also spoke
653 with Bill Walsh, who is the trustee of the land trust that owns the adjoining property to
654 the south. He said that he has passed on all the notices to the beneficiary of the trust,
655 and he has not received any objections from the beneficiary at this point, so I would say
656 we have concurrence, and we also understand that at least a representative from the
657 Planning staff had contacted some other owners along South Gaskins, and to our
658 knowledge, they all responded that they had no objection to it, probably stated that they
659 were in favor of it. I wasn't there, but nevertheless, the neighborhood at large is in favor
660 of this particular request. With that, I'd like to ask Mr. Crowley to come and speak to his
661 experience with the house and the operations surrounding it.

662
663 Mr. Crowley - I'm Mike Crowley. Obviously, I understand your situation,
664 and we appreciate the time that you've given us this morning. Hopefully, you can
665 understand our frustration. The comment was made at the last meeting, "Wouldn't you
666 have researched this before you purchased the house?" While that's a valid comment,
667 I'd like to make the point that the house across the street, whose address is Gaskins
668 Road, has a pool in the side yard. I'd also like to point out that a house that we looked
669 at before acquiring this piece of property, that's adjacent to the 16th fairway of the
670 Country Club of Virginia, and I've been a member there for over 30 years, also has a
671 pool in the side yard. So when we were looking at property to buy, and we saw very
672 adjacent properties that had pools in their side yards, it never crossed our minds, that
673 on two acres of land, with this kind of privacy, that nobody can even see the house, let
674 alone the place that we want to put the pool, that there would be any issue with where
675 we want to put the pool.

676
677 Mr. Wright - The Supreme Court of Virginia intervened.

678
679 Mr. Crowley - Right, and they intervened after we purchased the house.
680 This ruling came after we purchased the house, and I have full belief that this Board and
681 your staff would have approved this variance, had we asked for this variance at the time
682 we purchased the house. That's frustrating for us as a property owner.

683
684 Secondly, there are other reasons in addition too; I've had four back surgeries; I've got
685 rods and screws in my back; I lived on the intercoastal waterway in Savannah for 13
686 years; I swam out there as a health reason, and one of the reasons I want a pool is so
687 that I can swim for health reasons, and I can get any neurosurgeon who's put a zipper
688 in my back four times to verify that it is good therapy. Our point is one, the safety issue.
689 Just since June, we've picked up fifteen golf balls where the pool would be located.
690 That's not indicative, because if you sit on our terrace and have a drink, which we do
691 quite often, most of the people who hit the balls in the back yard come and get their own
692 ball and take it away, so by collecting the balls, you can't get a good read in terms of the
693 safety issue. It's constant. When I came back and purchased this property, based on
694 other property that I looked at around there, based on property that exists today, where
695 pools are in the side yard, we had no belief that we could not put a pool in the side yard,
696 the front yard, any place that we wanted to put it on the property. As Richard will testify,
697 the Country Club of Virginia fully supports this, because of the increased liability for
698 people playing golf, should we put a pool, which we're allowed to do in the back yard,
699 for players and for the Club itself.

700
701 Also, if we were to put the pool where the staff would like us to put the pool, it would
702 require that we tear down thirty to fifty to hundred-year old cedar trees that provide a
703 screening from the Clubhouse as well, which protects us and protects the Club. So it's
704 a unique piece of property. The reason we didn't do the research, is because property
705 exists today that has the same setting, and we wanted it for health reasons and safety
706 reasons and common sense reasons, to put in the pool, which probably amounts to a
707 thirty or forty feet difference from what you're allowing us to do. It's very frustrating for
708 us to develop this property to protect a historical house that was built out of materials
709 from the 1800's downtown, and to pay the taxes that we pay, and to not be able to use
710 the property in a fashion that does not only not affect any of the adjoining property
711 owners, but that has the full support of the adjoining property owners, some of whom
712 have the beneficial use of a pool in their side yard. That's our frustration, and we
713 appreciate your hearing that, and we wanted to make that point. I'd like to turn it over to
714 Richard Cromwell and let him tell you the Club's point of view.

715
716 Mr. Wright - Thank you. Any questions of members of the Board?

717
718 Mr. Cromwell - My name's Richard Cromwell, Director of Golf at the Country
719 Club of Virginia. I'd just like to address a few points that have already been covered,
720 also covered in a letter from our General Manager, Mr. Skip Harris. The first one does
721 deal with safety that we've heard a lot about, and with the design of the hole there,
722 they're going to end up with a number of balls in the area where the pool would be
723 located directly behind the house. There is a cart path there that would help speed balls

724 over in that direction, and a number of balls do end up there. That's a tough one to get
725 around.

726
727 The other one, from an impact from the Golf Club itself, more from a selfish standpoint,
728 and you can see this in the picture, there is a natural stand of trees, some cedars, that
729 Mr. Crowley referred to; that would protect the site line and also provide noise reduction
730 and protect that experience that we're trying to create as the golfers play golf there,
731 particularly on the ninth green.

732
733 In a final point, regarding constructing a fence there, to protect the area if the pool was
734 located right behind, the course was constructed back in the late 20's on natural
735 farmland. It's open vistas; you can see the view again from that picture. It's not
736 consistent, really with anything else that goes on over the 36 holes that are out there on
737 that site. Of course it would only provide a measure of protection, no guarantee that
738 any balls wouldn't go there.

739
740 Mr. Wright - Mr. Cromwell, as a matter of interest, is there any way you
741 could change that hole?

742
743 Mr. Cromwell - It's a rather famous design back from the 1920's, so we'd
744 prefer to keep it like it is there.

745
746 Mr. Wright - People who live along a golf course collect a lot of golf balls.

747
748 Mr. Crowley - The point is that it's not a safety hazard for cutting the grass;
749 it is a safety hazard as you pointed out. I understand your point about abandoning the
750 project. We're not going to abandon the project for a lot of reasons. If you look at the
751 photograph that's up there now, that's all the back yard there is. If you look closely,
752 you'll see the wrought iron from the terrace that comes out there. There's hardly any
753 room to put a pool in the back yard. Just to the left of that large tree, is the cart path, so
754 that's the area that you're requiring us to put a pool in, even though we have two and a
755 half acres of land out there.

756
757 Ms. Dwyer - I appreciate what you've said. I just want to clarify
758 something about the abandoning of the project. We're not interested in your
759 abandoning the project. We're not recommending or suggesting that. We're simply
760 saying that those are the words of the Supreme Court that govern the way we act, and
761 one of the comments that they made was "if a person still has beneficial and reasonable
762 use of their property, even if they abandon the proposed project, then the Board has no
763 authority to grant the variance." That's how that came into the discussion.

764
765 Mr. Crowley - I understand that, but I think Mr. Redmond has also pointed
766 out how it does comply with regards to the Henrico Code, and some of the issues with
767 the Code, and I think they're in conflict with the ruling, and that was our point today, is
768 we believe that according to the Code, that we should be allowed to build a pool. I
769 understand what you're saying, totally, and to me, and this is probably not your fault,

770 this is absolutely another example of government interfering with common sense in the
771 normal run of life. It's very frustrating when you pay the kind of taxes that we pay to the
772 County, the amount of taxes that the Country Club pays, the support that it pays to the
773 County, and when it's in support, and there's no objection whatsoever from anybody,
774 there's 100% support, that something that appears to be just common sense – I run a
775 large business, so I know the frustrations. I've been through this with coastal councils in
776 South Carolina and other things, and we've always come to some reasonable judgment,
777 despite what a court case might say, in terms of where there's wiggle room for common
778 sense. In this case, it's very clear that common sense suggests that there ought to be
779 wiggle room here. I understand the position that you're in, but it's extremely frustrating
780 to have to lead your life dealing with these kinds of issues. It's very frustrating to me
781 that other people in the same neighborhood have been given the right, which we're
782 being denied.

783
784 Ms. Dwyer - Of course the fundamental County ordinance that we're
785 dealing with is the one that says the pool has to be in the back yard.

786
787 Mr. Crowley - I understand that, but I'm saying that there are pools in the
788 side yard on the properties adjacent right now. That's the reason that we had no idea
789 that we could not do this.

790
791 Mr. Wright - I fully understand that. I think the remedy here is with your
792 legislator. There can be some legislation that would clear this up.

793
794 Mr. Crowley - How do we go about that?

795
796 Mr. Wright - Talk to your legislator about introducing some legislation ...

797
798 Mr. Crowley - that gives you some flexibility.

799
800 Mr. Kirkland - Yes.

801
802 Mr. Wright - This court said that there could be legislation that would
803 allow certain things to be done. They interpreted the law as it now stands, that we have
804 no authority, but they specifically referred to that in the case, that the legislature could
805 introduce some statutes that would permit some latitude here.

806
807 Mr. Crowley - Understand that we have no issue with this Board with this
808 situation. What we have is an issue with the Henrico County Code that Dave tried to
809 point out, that there is wiggle room here with regards to the Cochran case. You seem to
810 disagree.

811
812 Ms. Harris - Mr. Crowley, it appears that the golf course was built in the
813 1920's and your house was built in the 40's. Was it ever designed for the front of your
814 house to be the rear?

815

816 Mr. Crowley - It's interesting, if you look at the design of the house, you
817 would assume that the front of the house is facing the golf course. That argument could
818 be made, and we thought about making it, but we figured it would be a feudal argument
819 since the driveway comes up the other side. I happen to know for a fact, that is the way
820 that Dr. Hancock got his pool put in the side of his yard, that this Board determined that
821 his house faced another direction. You could very well determine that the driveway is in
822 the back of the yard.
823

824 Mr. Wright - That would still put the pool in the side yard. Either way, it's
825 front or back.
826

827 Mr. Crowley - That's true. The other issue is that we actually have two
828 pieces of property here, and parcel 901 and parcel 903, and I would have no objection
829 to placing the pool on parcel 903, which is in the front yard. It's a separate piece of
830 property, but I could put it at the rear of that property, but I don't know whether you
831 would approve that variance or not.
832

833 Ms. Dwyer - You probably wouldn't need a variance if you met all the
834 County requirements. That might be something you could pursue.
835

836 Mr. Crowley - I think that the point that Mr. Redmond said that it's not a
837 buildable lot.
838

839 Mr. Redmond - There are some issues about the lot. It's .6 of an acre, and
840 you look at the definition of rear yard, it's defined off of a dwelling, and there's no
841 dwelling on that lot. We would love to be able to place that pool as an alternative in that
842 front portion. It would meet all the tests that we would have, as opposed to putting it in
843 what is the rear yard of 901. We looked closely at that.
844

845 Mr. Wright - Maybe that needs to be pursued. I don't know what would
846 be the result.
847

848 Mr. Redmond - We'll certainly be glad to talk to Mr. Blankinship about it and
849 see if there's an option.
850

851 Ms. Dwyer - If I may also add, Mr. Wright mentioned amending State
852 ordinances or State laws, which may be more difficult than amending a County
853 ordinance. That's another possibility.
854

855 Mr. Redmond - I know the enabling legislation is there, to allow for
856 modifications by the Zoning Administrator, so they gave some latitude. I understand the
857 County hasn't adopted that, and is not pursuing it.
858

859 Ms. Dwyer - What about the regulations regarding pool location?
860

861 Mr. Redmond - I was talking about the variance aspects, taking it away from

862 you.

863

864 Mr. Redmond - Unless you have any more questions about Cochran, I think
865 you understand our position on the fact that it just seems, and put aside the statement
866 that it has to be confiscatory and whole, it just seems unreasonable that a court would
867 require a property owner to do something which could be a hazard to that property
868 owner, just because he has other use of that property and secondly, clearly, as far as
869 the adjoining property owner is concerned, the privacy, the removal from the golf
870 operations, -- that house has been there for 59 years, and the operations have been
871 there – it just makes all the sense in the world to maintain that position. If you have no
872 further questions, I appreciate it.

873

874 Mr. Wright - Thank you very much for appearing. We appreciate your
875 taking your time to come. A-40-2005.

876

877 Ms. Dwyer - I move we deny.

878

879 Mr. Kirkland - Second.

880

881 Mr. Wright - Motion's made and seconded we deny it. Any further
882 discussion?

883

884 Ms. Dwyer - This occupant has used the property for a number of years.
885 It's been on the site for a number of years, used as a residence. It can continue to be
886 used as a residence, so denial of this variance will not affect that reasonable use under
887 the Cochran case, so they've not met that threshold question.

888

889 Mr. Wright - Also, it appears that they may be able to work something
890 through the County with the separate lot.

891

892 Ms. Dwyer - There is space to build the pool, just not in the precise
893 location that they desire. But under Cochran, even if they couldn't build the pool at all,
894 we still wouldn't be authorized to grant this variance.

895

896 Mr. Wright - Any further discussion? All in favor of denial, say aye.
897 Opposed, no. It's denied.

898

899 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
900 Kirkland, the Board **denied** application **A-40-2005** for a variance to build an in-ground
901 swimming pool at 901 South Gaskins Road (West Knoll) (Parcel 739-733-2504).

902

903 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

904 Negative: 0

905 Absent: 0

906

907 The Board denied your request as it found from the evidence presented that there was
908 no “hardship approaching confiscation” as required by § 15.2-2309 of the Code of
909 Virginia to justify a variance.

910
911 Mr. Blankinship - Mr. Chairman, the last item that we have before beginning
912 new cases is a request from Milton R. Jeffers for a rehearing of a case A-63-2005. It’s
913 an application that you denied last month. Let me read the applicable sentence from
914 the Bylaws of the Board of Zoning Appeals, Article IV, Paragraph 2: “No motion for a
915 rehearing shall be entertained unless new evidence is submitted which could not
916 reasonably have been presented at the original hearing.” Is Mr. Jeffers still here – I saw
917 him before.

918
919 Mr. Wright - Is Mr. Jeffers here?

920
921 Mr. Blankinship - I thought I saw him; perhaps I was mistaken.

922
923 Mr. Nunnally - Is Mr. Jeffers here?

924
925 Mr. Blankinship - Well, he’s represented by letter:

926
927 “This is my motion for rehearing of the denial of my application for a
928 variance on the addition to my garage. The building contractor I
929 hired to do the addition to my already existing garage, told me he
930 would take care of the paperwork. I did not know that he had failed
931 to do so until I asked him for it, and he never returned my calls. I
932 became concerned. I talked to a realtor, who advised me to file for
933 a variance. Had I known the contractor was not going to comply
934 with the Board’s regulations, I would not be in this situation. None
935 of my neighbors have complained to me or to the Board, so far as I
936 know. It is also my understanding that four-story apartments are
937 being constructed behind my property that will be higher than the
938 addition to my garage, so I do not see how the variance I seek
939 could truly adversely impact the neighborhood. Yours truly, Milton
940 Jeffers”

941
942 Ms. Dwyer - This was the garage in Varina.

943
944 Mr. Blankinship - Yes ma’am. We had received a complaint, and when we
945 investigated, we told him that had to be correct.

946
947 Mr. Wright - What’s the pleasure of the Board?

948
949 Mr. Nunnally - I move we deny a rehearing.

950
951 Mr. Kirkland - Second.

952

953 Mr. Wright - The motion's that we deny a rehearing. Is there any
954 discussion?

955
956 Ms. Dwyer - Because nothing new has been presented. According to our
957 Bylaws, we have to have some new evidence that couldn't have been presented before.
958

959 Mr. Wright - Any further discussion? Hearing none, all in favor, say aye.
960 Opposed, no. So ordered.

961
962 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **denied** a request
963 from Milton R. Jeffers for a rehearing of a case A-63-2005. The Board denied the
964 request because nothing new has been presented. According to the Bylaws, there has
965 to be some new evidence that couldn't have been presented before.
966

967 Mr. Blankinship - Well, my big mistake seems to have been a little mistake.
968 I've felt badly about that all week.

969
970 Mr. Wright - We only have a minute, so I'm not going to get into anything;
971 we'll just wait and take a brief moment.

972
973 **Beginning at 10:00**

974
975 Mr. Wright - All right, 10:00 o'clock cases.

976
977 **A-65-2005** **W. GRAY CORBETT, JR.** requests a variance from Section 24-94
978 to build an attached garage at 5330 Springfield Road
979 (Summerberry) (Parcel 756-770-3110), zoned R-3C, One-family
980 Residence District (Conditional) (Brookland). The rear yard
981 setback is not met. The applicant proposes 15 feet rear yard
982 setback, where the Code requires 40 feet rear yard setback. The
983 applicant requests a variance of 25 feet rear yard setback.
984

985 Mr. Wright - Does anyone else desire to speak with reference to this
986 case? Would you raise your right hand and be sworn please?
987

988 Mr. Blankinship - Do you swear that the testimony you are about to give is the
989 truth, the whole truth, and nothing but the truth, so help you God?
990

991 Mr. Corbett - I do. W. Gray Corbett, Jr. The main thing I want to do is try
992 to build an attached garage to the back of our house on Springfield Road. We have a
993 reverse corner lot, as you can see. That's one of the original houses in the
994 Summerberry parcel. We were built in 1984, and the rest of the houses, were built
995 probably after 2000. We have a deck on the back of the house right now. What I would
996 propose to do is take the deck down and go ahead and build the garage to the back. I
997 have a 92-year-old father-in-law who is living with me, and it would just be more
998 convenient for us to put an attached garage to the house, so that we could pull on up,

999 and he would not get wet.
1000
1001 Mr. Wright - Any questions of members of the Board?
1002
1003 Mr. Kirkland - Mr. Corbett, did you read the staff report on this case? Did
1004 you notice that in # 1 it said that there was room for a one-car garage?
1005
1006 Mr. Corbett - I read that, yes.
1007
1008 Mr. Kirkland - You couldn't live with a one-car garage?
1009
1010 Mr. Corbett - My wife couldn't, but I would live with it.
1011
1012 Mr. Wright - If you read that, it's in reference to that Cochran case that
1013 we've been talking about for two months. You have a home on your property now, and
1014 you have reasonable use of the property without this. That puts this Board in a very
1015 difficult position. We would have no authority to even hear the case.
1016
1017 Ms. Dwyer - Had you considered having the garage on a wing that comes
1018 towards the front?
1019
1020 Mr. Corbett - We had thought about that. I just felt like, aesthetically it
1021 wouldn't be as pleasing as putting it onto the back. We would try to match it as much as
1022 we could with the rest of the houses. All the rest of the houses have a two-car garage,
1023 and I just feel like it would fit better. I talked to the two people who live across from us
1024 and the person who lives behind us; they have no problems. I asked them to e-mail Mr.
1025 Blankinship; I don't know if anybody ever did or not.
1026
1027 Mr. Blankinship - It should be in the file if they did.
1028
1029 Mr. Corbett - They had no problems; they were very pleased that we
1030 moved in. The house was rental property two years prior to us buying it last August,
1031 and there were about twenty young men living there, and there was a fence that was
1032 damaged due to Isabel all along the right side of the house, and we took that down, and
1033 that made the neighbors real happy because it was an eyesore at the time.
1034
1035 Mr. Wright - All right, sir. Anything further you wish to present?
1036
1037 Mr. Corbett - That's all I have to say.
1038
1039 Ms. Harris - Outside of Cochran, what effect would this addition have on
1040 the visibility from that corner, if you built the garage – the traffic?
1041
1042 Mr. Corbett - Instead of coming in off of Springfield, which is a really bad
1043 spot to try to get out of in the morning, and to pull into, it would just be easier for us to
1044 just go down Warnerwood and just pull into our garage area. We have two cars. I don't

1045 think it would be any more than normal. We have people come visit us, and they park
1046 either out in front of the house, or they park on Warnerwood and just walk through. I
1047 don't think it would be any additional traffic for that street.

1048
1049 Mr. Wright - Any further questions of the Board? Is anyone here in
1050 opposition to this request? Hearing none, that concludes the case. A-65-2005.

1051
1052 Mr. Kirkland - Move that we deny it.

1053
1054 Mr. Wright - Motion's made that we deny it. Is there a second?

1055
1056 Ms. Dwyer - Second.

1057
1058 Mr. Kirkland - They have reasonable use of the property, plus they could
1059 build a one-car garage, and they could build a garage in another location on the
1060 property, so there's a lot of reasons.

1061
1062 Mr. Wright - Any further discussion? All in favor of denial, say aye.
1063 Opposed, say no. It's denied.

1064
1065 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
1066 Dwyer, the Board **denied** application **A-65-2005** for a variance to build an attached
1067 garage at 5330 Springfield Road (Summerberry) (Parcel 756-770-3110).

1068
1069 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1070 Negative: 0

1071 Absent: 0

1072
1073 The Board denied your request as it found from the evidence presented that there was
1074 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
1075 Virginia to justify a variance.

1076
1077 Mr. Wright - Next case.

1078
1079 **A-78-2005** **LIFESTYLE HOMES OF FOUR MILE RUN** requests a variance
1080 from Section 24-94 to allow a one-family dwelling to remain at 8121
1081 Four Mile Run Parkway (Four Mile Run) (Parcel 819-686-5549),
1082 zoned R-2A, One-family Residence District (Varina). The front yard
1083 setback is not met. The applicant has 42 feet front yard setback
1084 where the Code requires 45 feet front yard setback. The applicant
1085 requests a variance of 3 feet front yard setback.

1086
1087 Mr. Wright - Does anyone else desire to speak with reference to this
1088 case? Would you raise your right hand and be sworn please?

1089
1090 Mr. Blankinship - Do you swear that the testimony you are about to give is the

1091 truth, the whole truth, and nothing but the truth, so help you God?
1092
1093 Mr. Planz - I do. Bryan Planz. I'm with Balzer and Associates,
1094 representing Lifestyle Homes in this matter, as they're out of Virginia Beach. I'm here, I
1095 guess, more to answer questions that may be presented by the Board, or any
1096 opposition that may be present.
1097
1098 Mr. Wright - We need you to present your case.
1099
1100 Mr. Planz - Not a problem. The structure located on this lot in Four Mile
1101 Run Subdivision was built as the model home, one of the first structures in the
1102 subdivision. I see by the report that the front yard setback on the original building
1103 permit plat conforms to the zoning as far as the front yard setback being greater than 45
1104 feet. To the best of my knowledge, Balzer and Associates did provide that building
1105 permit plat to the County at that time; however, this structure is eight years old. Our
1106 records being destroyed after seven years, I do not have proof of that. We're here to
1107 request a variance against that 45-foot front yard setback to allow us an additional three
1108 feet.
1109
1110 Mr. Wright - How was this house staked out? Did you have a surveyor
1111 stake the house?
1112
1113 Mr. Planz - I can't say, because of our records being destroyed after
1114 seven years. We have staked probably 95% of the homes in this neighborhood. It is
1115 not unusual for the very first house, being the model home, not to be done by an
1116 engineer other than who did the original subdivision, which was not Balzer and
1117 Associates.
1118
1119 Mr. Nunnally - And you've been using this house since 1997 as a model
1120 home? Any you've sold it now, right?
1121
1122 Mr. Planz - Yes. When this request was presented to me by Lifestyle
1123 Homes, I was under the impression that they still owned it and wanted to get this
1124 cleared up before they conveyed it to a new homeowner. In the report here, it says that
1125 it has already been conveyed.
1126
1127 Mr. Nunnally - It has been conveyed?
1128
1129 Mr. Planz - That's what I don't know. I was under the impression that
1130 Lifestyle Homes still owned it and was going to get it cleaned up, but in the staff report,
1131 it says that it had already been conveyed.
1132
1133 Mr. Blankinship - We spoke to a gentleman on site who said that he had
1134 purchased the home.
1135
1136 Mr. Planz - That's very possible; I'm just not sure if it actually has been

1137 conveyed at this point.
1138
1139 Mr. Kirkland - Mr. Blankinship, when this home was built, even though it
1140 was a model, was there a building permit applied?
1141
1142 Mr. Blankinship - Yes, I've got it here.
1143
1144 Mr. Kirkland - I was wondering, was there a drawing with that, which
1145 showed how far the house should sit back?
1146
1147 Mr. Blankinship - Yes sir, it shows 45 feet.
1148
1149 Mr. Kirkland - Balzer did the original survey.
1150
1151 Mr. Planz - Of that individual parcel? Yes that is correct.
1152
1153 Mr. Blankinship - That was submitted with the building permit.
1154
1155 Mr. Wright - Wasn't this checked when they got the original Certificate of
1156 Occupancy, Mr. Blankinship?
1157
1158 Mr. Blankinship - It should have been.
1159
1160 Mr. Wright - The County should have checked – is there any record that it
1161 was checked, or what happened? That's been eight years ago.
1162
1163 Mr. Blankinship - We don't have the detail records from that period. We have
1164 the record that a CO was issued, but we don't have all the paperwork.
1165
1166 Mr. Wright - Once a CO is issued, couldn't they rely upon that to assume
1167 that everything was satisfactory?
1168
1169 Mr. Blankinship - 99% of the time, yes sir.
1170
1171 Mr. Kirkland - I see where the error was made on this plot plan. It probably
1172 came off of the corner of the porch, versus where the County drew in a little box here,
1173 and determined 45 feet from that point, and they probably thought they had 56.9 feet or
1174 maybe 53 feet. I can see where the error occurred right there on this plot. The County
1175 should have picked that up. It's got "Received, Henrico County Building Inspections."
1176
1177 Ms. Dwyer - Are you saying that if you draw the line from the corner of
1178 the house to the road at a different angle
1179
1180 Mr. Kirkland - Let me show you this – it shows you where they drew the
1181 box.
1182

1183 Mr. Nunnally - Mr. Blankinship, you say you talked to someone who said
1184 they had purchased the home?
1185
1186 Mr. Blankinship - Yes sir, there was a gentleman there.
1187
1188 Mr. Nunnally - He didn't say anything about getting a variance on it, did he?
1189
1190 Mr. Blankinship - He was unaware of it. He asked us to send him a copy of
1191 the file, which we did.
1192
1193 Ms. Dwyer - So where is it written how this is measured, how the front
1194 yard setback is measured?
1195
1196 Mr. Blankinship - It's defined as the nearest point. The yard is the area
1197 between the lot line and the nearest point of the structure.
1198
1199 Ms. Dwyer - And if there's any confusion about that, is that something the
1200 County would normally pick up in its CO?
1201
1202 Mr. Blankinship - Normally, today we require an "as built" survey to be
1203 submitted, showing that the dwelling was built where it was approved to be built. Where
1204 it was approved to be built was in conformance with the Code, but it was actually built
1205 slightly different from what was approved. Today we would require an "as built survey,"
1206 and we would pick that up at the time of CO. Of course it's really too late now, but at
1207 least we were aware of it at that time. In '97 whether we required "as built," I don't
1208 know; it was before I came here. I think we were requiring "as built" then; I don't know
1209 for certain.
1210
1211 Mr. Wright - You could take the position they would not have a
1212 reasonable use of the property without this variance unless you moved the house at a
1213 great expense, or disfigured it by chopping off the garage and the porch.
1214
1215 Mr. Blankinship - That raises the question of what's reasonable at that point.
1216
1217 Mr. Wright - It looks like the County had something to do with this.
1218
1219 Ms. Harris - It may not be exactly a self-imposed hardship.
1220
1221 Mr. Wright - I don't know. This new owner could rely on the CO that was
1222 issued by the County.
1223
1224 Mr. Kirkland - When the new owner purchased the property, this is when
1225 the mistake was caught? I guess they did a lawyer's title insurance-type survey?
1226
1227 Mr. Planz - To the best of my knowledge, it wasn't even caught at that
1228 time, by the title company, the closing attorney, or whenever this most current survey

1229 was produced, that the builder saw that it was in violation. I'm assuming that's why the
1230 current owner was unaware that there was even a problem.

1231
1232 Mr. Blankinship - This is dated March 2005.

1233
1234 Mr. Wright - Any further questions of the Board? Is anyone here in
1235 opposition to this request? Hearing none, that concludes the case. A-78-2005.

1236
1237 Mr. Nunnally - Move we approve it.

1238
1239 Ms. Harris - Second.

1240
1241 Mr. Wright - Motion's made and seconded that we approve it. Any
1242 discussion?

1243
1244 Ms. Dwyer - Given our adherence to Cochran, we may have more
1245 incidents of people going ahead and building and then asking for the variances later,
1246 and we need to be mindful of that. This is not that case; this is one in which

1247
1248 Mr. Wright - Sounds like a comedy of errors here.

1249
1250 Ms. Dwyer - And it's confusing, because there's an angle to the road, and
1251 there's several angles to the house. It seems that a person could legitimately have
1252 thought that the setback had been met. It's been there for 8 years, so it's an
1253 exceptional case.

1254
1255 Mr. Wright - So motion's been made and seconded that we approve it.
1256 Any further discussion? All in favor of approval, say aye. Opposed, say no. It's
1257 approved.

1258
1259 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
1260 Harris, the Board **granted** application **A-78-2005** for a variance to allow a one-family
1261 dwelling to remain at 8121 Four Mile Run Parkway (Four Mile Run) (Parcel 819-686-
1262 5549). The Board granted the variance subject to the following condition:

1263
1264 1. This approval applies only to the existing improvements shown on the plan filed
1265 with the application. Any additional improvements shall comply with the applicable
1266 regulations of the County Code.

1267
1268 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1269 Negative: 0
1270 Absent: 0

1271
1272 The Board granted this request, as it found from the evidence presented that, due to the
1273 unique circumstances of the subject property, strict application of the County Code
1274 would produce undue hardship not generally shared by other properties in the area, and

1275 authorizing this variance will neither cause a substantial detriment to adjacent property
1276 nor materially impair the purpose of the zoning regulations.

1277
1278 Mr. Wright - Next case.

1279
1280
1281 **UP-13-2005 WEST END ASSEMBLY OF GOD** requests a temporary
1282 conditional use permit pursuant to Section 24-116(c)(1) to install a
1283 tent and a mobile box office at 401 Parham Road (Parcel 753-736-
1284 0655), zoned R-1, One-family Residence District (Tuckahoe).

1285
1286 Mr. Blankinship - I forgot to mention that UP-13-2005 has requested a
1287 deferral. The church had requested a temporary use permit for their mobile box office.
1288 In talking to them, they would also like to erect a tent at the same time, and I told them
1289 since that had not been advertised or notified, that they would need to defer, so they'll
1290 be back before you next month with that.

1291
1292 Mr. Wright - UP-13-2005. Do I hear a motion?

1293
1294 Ms. Dwyer - I move we defer this case to our August meeting.

1295
1296 Mr. Kirkland - Second.

1297
1298 Mr. Wright - Motion made and seconded. Any discussion? Hearing
1299 none, all in favor, say aye. Opposed, no. It's deferred.

1300
1301 Upon a motion by Ms. Dwyer, seconded by Mr. Kirkland, the Board **deferred** application
1302 **UP -13-2005** for a temporary conditional use permit to install a tent and a mobile box
1303 office at 401 Parham Road (Parcel 753-736-0655).

1304
1305
1306 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1307 Negative: 0
1308 Absent: 0

1309
1310 The Board deferred the request, from the July 28, 2005, until the August 25, 2005,
1311 meeting, so that the request for a tent could be considered at the same time.

1312
1313 **A-79-2005 LOUISE BURWELL** requests a variance from Section 24-94 to
1314 build a sunroom over an existing deck at 1208 Wilderness Court
1315 (Newmarket Farms) (Parcel 802-704-3522), zoned R-3, One-family
1316 Residence District (Varina). The rear yard setback is not met. The
1317 applicant has 29 feet rear yard setback, where the Code requires
1318 40 feet rear yard setback. The applicant requests a variance of 11
1319 feet rear yard setback.

1320

1321 Mr. Wright - Does anyone else desire to speak with reference to this
1322 case? Would you raise your right hand and be sworn please?
1323

1324 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1325 truth, the whole truth, and nothing but the truth, so help you God?
1326

1327 Mr. Harris - Yes I do. My name is James Harris. I'm with AAPCO of
1328 Richmond, the contractor for Mrs. Burwell. On the rear of this property, there is an
1329 existing 14 by 16 deck, with a landing and a set of stairs. It also has an aluminum patio
1330 cover roof over the top of it, and what we're proposing is to enclose three walls on the
1331 room with vinyl walls and sliding glass windows.
1332

1333 Mr. Kirkland - You would not change the footprint of the deck or the roof?
1334

1335 Mr. Harris - No sir, we're building on the existing deck as is. The only
1336 thing we would have to do is uncover just the concrete footers for the building inspector
1337 and fill them back in. We're looking not to make any major improvements at all, other
1338 than if we have to upgrade the framing on the deck.
1339

1340 Ms. Dwyer - Mr. Blankinship, how far is a deck allowed to extend into the
1341 setback area?
1342

1343 Mr. Blankinship - Up to ten feet.
1344

1345 Ms. Dwyer - So they're not in compliance, is that it, already with the
1346 existing deck is not in compliance, because it's eleven feet?
1347

1348 Mr. Blankinship - Apparently not, unless that's a foot of overhang. If the deck
1349 itself is at eleven feet, then it's in violation.
1350

1351 Ms. Dwyer - What about the roof? Are you permitted to have a roof over
1352 a deck?
1353

1354 Mr. Blankinship - No ma'am.
1355

1356 Ms. Dwyer - So the roof as it exists is a violation of the ordinance. So we
1357 have an existing situation that is in violation of the ordinance.
1358

1359 Mr. Kirkland - Were there any permits issued for this deck or any of this
1360 roofing?
1361

1362 Mr. Blankinship - The deck was probably included on the dwelling and would
1363 have been approved up to ten feet and may have just been built in error. The roof I
1364 don't have any record on. It does not look like it was constructed with the existing
1365 dwelling.
1366

1367 Mr. Wright - There is currently a residence on this property.
1368
1369 Mr. Harris - Yes.
1370
1371 Mr. Wright - And when was it built?
1372
1373 Mr. Harris - Our staff report says 1975.
1374
1375 Mr. Blankinship - 1975 is what we have in our records.
1376
1377 Mr. Wright - In '75 it was built, so since that time, the owners have had
1378 reasonable use of the property in its present existence.
1379
1380 Mr. Harris - Yes, with the exception, the only other thing that was in
1381 concern here was that they have a mentally challenged son, and this way he could
1382 better use the back yard.
1383
1384 Ms. Harris - Had you considered building on the side? I know that this is
1385 probably the most economical way to go.
1386
1387 Mr. Harris - Yes, this is why it was considered, was because the
1388 structure itself, being the deck, is already existing.
1389
1390 Mr. Wright - Any further questions of the Board? Is anyone here in
1391 opposition to this request? Hearing none, that concludes the case. A-79-2005.
1392
1393 Mr. Nunnally - I move we deny it.
1394
1395 Mr. Kirkland - Second.
1396
1397 Mr. Wright - Motion has been made and seconded that we deny it. Is
1398 there any discussion? Your basis for the denial is?
1399
1400 Mr. Nunnally - I don't think it's in conformance with the law right now.
1401 Looks like to me they've almost imposed it so far.
1402
1403 Mr. Kirkland - Probably would have if somebody hadn't said something.
1404
1405 Mr. Wright - The basic reason would be that they have reasonable use of
1406 the property. All in favor of denial, say aye. Opposed, no. Denied.
1407
1408 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1409 Kirkland, the Board **denied** application **A-79-2005** for a variance to build a sunroom
1410 over an existing deck at 1208 Wilderness Court (Newmarket Farms) (Parcel 802-704-
1411 3522).
1412

1413 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1414 Negative: 0
1415 Absent: 0

1416
1417 The Board denied your request as it found from the evidence presented that there was
1418 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
1419 Virginia to justify a variance.

1420
1421 **UP-14-2005** **EASTERN HENRICO RURITAN** requests a temporary conditional
1422 use permit pursuant to Section 24-116(c)(1) to operate a turkey
1423 shoot at 3808 Nine Mile Road (Parcel 806-723-4768), zoned A-1,
1424 Agricultural District (Varina).

1425
1426 Mr. Wright - Does anyone else desire to speak with reference to this
1427 case? Would you raise your right hand and be sworn please?

1428
1429 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1430 truth, the whole truth, and nothing but the truth, so help you God?

1431
1432 Mr. Courtney - I do. My name is James E. Courtney, Jr.

1433
1434 Mr. Stewart - I do. I'm Stanley Stewart. Eastern Henrico Ruritan is a
1435 community service organization located in Henrico County, and we request an
1436 extension of an existing temporary use permit to operate a turkey shoot, which we have
1437 operated for 38 years, I believe, for the years 2005 and 2006. This is a fundraiser for
1438 this organization.

1439
1440 Mr. Kirkland - Mr. Blankinship, have we had any complaints?

1441
1442 Mr. Blankinship - No sir, none that I'm aware of.

1443
1444 Mr. Wright - I don't see a time when this expires. It indirectly says in # 1
1445 that hours of operation are so and so.

1446
1447 Mr. Nunnally - 2005 and 2006 calendar years, it says.

1448
1449 Mr. Blankinship - We could clarify that if you like.

1450
1451 Mr. Stewart - It's October 7, 2005, to December 16, 2005, and October 6,
1452 2006, to December 15, 2006. The hours are 6:00 pm to 10:00 pm.

1453
1454 Mr. Wright - I understand that, but there's no specific statement that the
1455 permit expires on a certain day, and it would be at the end of 2006.

1456
1457 Ms. Dwyer - Is there any limitation on the type of firearm that's used for
1458 the turkey shoot?

1459
1460 Mr. Stewart - In what respect? It's a shotgun, 4-10, 16, 20-gauge, or 12-
1461 gauge; we furnish shells, so everybody shoots the same shells. It's not a matter of "you
1462 bring your own." You bring your own gun. Then there are restrictions in the gun related
1463 to choking of the barrels – do you know what I'm talking about there?
1464
1465 Ms. Dwyer - You might explain it.
1466
1467 Mr. Stewart - The diameter of the barrel, we'll say at the end, restricts the
1468 shot as it comes out, and the more that it's reduced at the end of the barrel, the tighter a
1469 pattern it holds, which we require you can't go more than what's considered a 4-choke,
1470 or a turkey-tube choke, which brings it down and keeps it in. Then our targets are eight
1471 inches square, one-inch thick oak, with a frontier on it, and then your paper target. The
1472 shot number is number 8 shot, which is small, real small, so we're safe with it if that's
1473 what you're asking.
1474
1475 Ms. Dwyer - I am. So you inspect the guns before people can use them.
1476 Is somebody there to make sure that the guns have the right diameter choke?
1477
1478 Mr. Stewart - The guns are not, the way our rules are, if you can buy it
1479 over the shelf, say at Green Top, it's acceptable. We do have a micrometer that we can
1480 put down the barrel and measure the difference between the diameter this far in the
1481 barrel and the end – that would tell you how much difference, in the thousands, it's
1482 being reduced, and if we get a complaint on a gun, then we would pull the gun out, put
1483 the mike in it and do that. Otherwise, you're looking at the guns, you've got a man on
1484 the firing line who's watching the guns. He's also watching for shell cha.....
1485 You can't believe in a fundraiser what you've got to do, but you're watching for them
1486 pulling different shells, so sometimes we'll run a blue shell; sometimes we'll run a red
1487 shell, and make sure that
1488
1489 Ms. Dwyer - My son does paintball, and they do the same thing.
1490
1491 Mr. Stewart - I don't know about that.
1492
1493 Ms. Dwyer - Is there any alcohol consumed at all?
1494
1495 Mr. Stewart - No ma'am, absolutely not.
1496
1497 Ms. Dwyer - I would like to modify # 5. It says, "No alcoholic beverages
1498 may be consumed outside of the main building" I think it should be they
1499 don't consume any alcohol at all on the premises.
1500
1501 Mr. Nunnally - Is there no alcohol at all inside the building?
1502
1503 Mr. Stewart - No, but it's all outside anyway, except.
1504

1505 Mr. Nunnally - Well, I know, and we don't want it outside, but you don't
1506 have any inside.
1507

1508 Ms. Harris - I noticed that this area is more populated now than 38 years
1509 ago when you got started, but there's a home right across the street on Dabbs House
1510 Road. Are you familiar with the Assisted Living or senior citizens there?
1511

1512 Mr. Stewart - We're kind of downstream from there, because we're at that
1513 softball diamond. Are you familiar with that? Do you know where the softball field is?
1514 Right in there where the police department used to be? Then the guns are discharged
1515 towards the back where the Utility Department has their vehicles, their snowplows and
1516 those kinds of things. What you're talking about is out close to Nine Mile Road, so they
1517 probably wouldn't even hear it, if that's what you're asking. Certainly, nothing has any
1518 potential to go that way.
1519

1520 Mr. Wright - Any further questions of the Board? Is anyone here in
1521 opposition to this request? Hearing none, that concludes the case. UP-14-2005.
1522

1523 Mr. Nunnally - Move we approve it.
1524

1525 Mr. Kirkland - Second.
1526

1527 Mr. Wright - Motion's made and seconded that we approve it. Any
1528 discussion?
1529

1530 Ms. Dwyer - I would like to amend Condition # 5, so that it says no
1531 alcoholic beverages may be consumed on the premises during the turkey shoot. That's
1532 what they said they do anyway.
1533

1534 Mr. Wright - They have no problem with that.
1535

1536 Mr. Kirkland - That's fine.
1537

1538 Mr. Blankinship - You had asked us to clarify the expiration in Condition # 1 as
1539 well.
1540

1541 Ms. Dwyer - One of their rules is that people only use shot provided by
1542 the Ruritans and that, I guess I'm wondering whether we should require them to inspect
1543 the guns just to make sure that they do comply with what their rules are. This isn't really
1544 adding anything.
1545

1546 Mr. Kirkland - Believe me, once you fire the gun and the barrel isn't right,
1547 they will inspect it.
1548

1549 Ms. Dwyer - It's hard to hide, in other words?
1550

1551 Mr. Blankinship - Self-policing.
1552
1553 Ms. Dwyer - Having never been to a turkey shoot I think I'm
1554 going to go this year though.
1555
1556 Mr. Kirkland - I've been to several.
1557
1558 Mr. Wright - Any further discussion? Hearing none, all in favor of
1559 approval, say aye. Opposed, no. It's approved.
1560
1561 Ms. Dwyer - That's with the two amendments.
1562
1563 Mr. Wright - Right, correcting the conditions.
1564
1565 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1566 Kirkland, the Board **granted** application **UP-14-2005** for a temporary conditional use
1567 permit to operate a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768). The
1568 Board granted the use permit subject to the following conditions:
1569
1570 1. [Amended] Hours of operation shall be limited to 6:00 p.m. to 10:00 p.m. on
1571 Fridays during October through December and on the Wednesday before Thanksgiving
1572 during calendar years 2005 and 2006. This permit shall expire December 31, 2006.
1573
1574 2. No firearm shall be discharged within 300 feet of any lot occupied by a dwelling,
1575 or within 300 feet of any building other than buildings on the same parcel, or across any
1576 road or street.
1577
1578 3. The land shall be clearly posted to show where shooting will occur.
1579
1580 4. Sufficient off-street parking shall be provided for all cars visiting the premises.
1581
1582 5. [Amended] No alcoholic beverages may be consumed on the site during the
1583 turkey shoot. A sign to this effect must be conspicuously posted in the immediate
1584 vicinity of the shooting area. No person under the influence of alcohol, as defined in
1585 Section 18.2-266 of the Code of Virginia, may be permitted in the shooting area.
1586
1587 6. Restrooms shall be provided.
1588
1589 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1590 Negative: 0
1591 Absent: 0
1592
1593 The Board granted the request because it found the proposed use will be in substantial
1594 accordance with the general purpose and objectives of Chapter 24 of the County Code.
1595
1596 **A-80-2005 SHERRY L. BAXTER** requests a variance from Section 24-95(c)(4)

1597 to build a front porch at 3016 Greenway Avenue (Dumbarton)
1598 (Parcel 776-745-4559), zoned R-4, One-family Residence District
1599 (Brookland). The front yard setback is not met. The applicant has
1600 16 feet front yard setback, where the Code requires 35 feet front
1601 yard setback. The applicant requests a variance of 19 feet front
1602 yard setback.
1603

1604 Mr. Wright - Does anyone else desire to speak with reference to this
1605 case? Would you raise your right hand and be sworn please?
1606

1607 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1608 truth, the whole truth, and nothing but the truth, so help you God?
1609

1610 Ms. Baxter - I do. Sherry L. Baxter. When I purchased my home in
1611 November of 1999, it was one of three houses on the block. It was in total woods. I
1612 have pictures of when I purchased it, in the shade. I have pictures of what it looks like
1613 now and the housing development that has come up.
1614

1615 Mr. Wright - If you want us to consider those, you need to present them.
1616 We'll have to keep those thirty days in our file.
1617

1618 Ms. Baxter - My situation is this. When I purchased the property, it was in
1619 the shade; it was in the woods; it was wonderful. Housing development came in; all the
1620 woods have been taken out, even down to the pine tree in the front, because it was
1621 technically on County property. The County came through and took every tree out, all
1622 the way down to the grass. There's not one piece of shade in the front of my property
1623 any more. From the moment the sun comes up, to the moment the sun goes down, I
1624 am in full sun in the front of my property. I would like to put a porch on my property, so
1625 that I can have some shade to the front of my home. If you look at the pictures of my
1626 neighborhood now, very nice houses, they all have covered porches or covered stoops,
1627 even down to the older home that's still on my block. It has a covered porch. I'm the
1628 only one in full sun. There's not a tree any more. I realize we've had some hurricanes,
1629 but decisions were made that were beyond my control with the woods being either
1630 County property or developers' property, and I would like to put a porch on the front of
1631 my home.
1632

1633 Ms. Dwyer - One of the things that we've been discussing, Ms. Baxter, is
1634 the way the Supreme Court has defined what authority this Board has to grant a
1635 variance. The standard they have set is that if a person has reasonable use of their
1636 home, then we don't have the authority to grant a variance.
1637

1638 Ms. Baxter - I have reasonable use of my home. I do not have
1639 reasonable use of my yard. It's so hot. I used to sit out there in the swings and rock my
1640 granddaughter. I cannot sit out there and rock anything now, not in the front of my
1641 home.
1642

1643 Mr. Wright - Do you have a porch on the back of your house?
1644
1645 Ms. Baxter - I do. On the add-on addition, there's a screened porch.
1646
1647 Mr. Wright - Where's the sun rise and set with respect to your house?
1648
1649 Ms. Baxter - In the front.
1650
1651 Mr. Wright - It rises in the front?
1652
1653 Ms. Baxter - And it sets in the front. The back stays moist all the time. In
1654 fact, I'm getting ready to do a change-up of my siding, because in the back it stays
1655 moist, and it's presenting a rot problem.
1656
1657 Mr. Wright - Your porch is shaded in the back?
1658
1659 Ms. Baxter - Yes it is.
1660
1661 Mr. Wright - Any further questions of the Board? Is anyone here in
1662 opposition to this request? Hearing none, that concludes the case. A-80-2005.
1663
1664 Mr. Kirkland - I move we deny it. The applicant has reasonable use of the
1665 property.
1666
1667 Ms. Harris - Second the motion.
1668
1669 Mr. Wright - A-80-2005. The motion's made and seconded to deny it. Is
1670 there any discussion? Hearing none, all in favor of denial, say aye. Opposed, no. It's
1671 denied.
1672
1673 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
1674 Harris, the Board **denied** application **A-80-2005** for a variance to build a front porch at
1675 3016 Greenway Avenue (Dumbarton) (Parcel 776-745-4559).
1676
1677 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1678 Negative: 0
1679 Absent: 0
1680
1681 The Board denied your request as it found from the evidence presented that there was
1682 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
1683 Virginia to justify a variance.
1684
1685 Mr. Blankinship - Mr. Chairman, the next two cases are companions. Simons
1686 Hauling Company has had a permit for many years on one site. They got a new use
1687 permit for a different part of the same parcel, so both of these apply to the same parcel.
1688

1689 **UP-15-2005** **SIMONS HAULING COMPANY** requests a conditional use permit
1690 pursuant to Section 24-116(c)(3) to amend conditions at the
1691 existing landfill at 1820 Darbytown Road (Parcel 809-707-1585
1692 (part)), zoned M-2, General Industrial District (Varina).
1693

1694 **UP-16-2005** **SIMONS HAULING COMPANY** requests a conditional use permit
1695 pursuant to Section 24-116(c)(3) to amend conditions at the
1696 existing landfill at 1820 Darbytown Road (Parcel 809-707-1585),
1697 zoned M-2, General Industrial District (Varina).
1698

1699 Mr. Wright - Does anyone else desire to speak with reference to this
1700 case? Please stand, and everyone be sworn at the same time. Please raise your right
1701 hand and be sworn please?
1702

1703 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1704 truth, the whole truth, and nothing but the truth, so help you God?
1705

1706 Mr. Cochran - I do. My name is John Cochran; I'm with Youngblood, Tyler
1707 & Associates, representing Simons Hauling Company. These two landfill cells have
1708 been previously permitted, and to the best of my knowledge, they are in compliance
1709 with all the terms and conditions of the permit. One of the conditions restricted the area
1710 which the landfill cells could accept debris from, and this is construction materials and
1711 debris. This is not a sanitary landfill. The request is to increase the area from which
1712 debris may be accepted, and is for several different reasons. One reason is, one of
1713 Simons Hauling Company's competitors has that condition, and secondly, if you look at
1714 landfills on a regional basis, what happens is that when a demolition project must take
1715 its construction debris to a sanitary landfill, you are using up space in a sanitary landfill,
1716 you are using up space in a sanitary landfill which could otherwise be used for more
1717 efficient use of that landfill. What my client is asking for is simply an enlargement of the
1718 area from which they may accept construction debris for these two landfills.
1719

1720 Mr. Wright - I take it you want a 150-mile radius, is that what you're
1721 asking for?
1722

1723 Mr. Cochran - That's correct.
1724

1725 Mr. Nunnally - You're talking about Maryland and DC and North Carolina?
1726 It could be coming in from all three of those places.
1727

1728 Mr. Cochran - Yes, it could. I like to emphasize again, this is construction
1729 material and debris.
1730

1731 Mr. Nunnally - But you still have to bring it in on trucks, so do you have any
1732 idea how many more trucks you'd have coming in each day, down Darbytown Road?
1733

1734 Mr. Cochran - I think at the present time what we'd find is that the number

1735 of trucks would simply be diverted from another landfill that has the ability to accept this
1736 material. We don't anticipate a huge increase at this time of additional trucks. I think
1737 we'll find that this is a competitive situation, and the vehicles which are already using a
1738 landfill, which is permitted, will simply be able to have a choice of using this as
1739 competition. We're not going out and necessarily soliciting additional projects to use a
1740 landfill. It's a competitive situation.

1741
1742 Mr. Nunnally - Where is it competitive?

1743
1744 Mr. Cochran - I'm going to let Mr. Wayne Greenwood address that
1745 situation.

1746
1747 Mr. Greenwood - I'm Wayne Greenwood, with Simons Hauling. The
1748 companies that we're dealing with are basically already hauling waste to BFI, which is
1749 located right next door to us. They have more of the ability to take waste from a larger
1750 area rather than we do.

1751
1752 Mr. Wright - You don't need to amend your permit to accept their
1753 materials, do you?

1754
1755 Mr. Greenwood - Currently we're restricted to waste inside the Virginia state
1756 line. This would give us a little more area, mostly in northern Virginia and the DC area.
1757 The companies that we're dealing with are basically the same companies that cleaned
1758 up after 9/11. This is all construction and demolition waste.

1759
1760 Mr. Wright - I thought your permit permitted you to take anything that was
1761 in Virginia.

1762
1763 Mr. Nunnally - Yes it does.

1764
1765 Mr. Greenwood - That's correct.

1766
1767 Mr. Wright - That's northern Virginia, isn't it?

1768
1769 Mr. Greenwood - Yes sir, but it does not cover the western Maryland or the
1770 DC area.

1771
1772 Mr. Nunnally - Or North Carolina.

1773
1774 Ms. Dwyer - If we allow debris to come from Maryland, for example,
1775 within that 150-mile radius, does that mean debris could be hauled from New York to
1776 Maryland and then Maryland to your facility?

1777
1778 Mr. Greenwood - No ma'am. The companies we're dealing with are
1779 companies that work in those areas only. Direct demolition projects in that area.

1780

1781 Ms. Dwyer - Maybe that's something that could be clarified in the
1782 conditions. Also, there are two cases, and one case limits the debris to construction
1783 material, and the other does not. I'm looking at # 21, case UP-15, as opposed to case
1784 UP-16. Up-15 just says landfills shall be used for disposal of material from a 150-mile
1785 radius, and then condition # 21 in case UP-16 goes into more details as to the materials
1786 to be deposited shall be limited to construction, demolition, land clearing debris, such as
1787 stones, bricks, tile, etc. That language is not in the first case, unless it's somewhere
1788 else.
1789

1790 Mr. Blankinship - No, it's not. As I said in my opening remarks, these were
1791 two different cases approved several years apart, and the condition in UP-16 is a later
1792 and better developed condition. I don't know whether the applicant would have any
1793 problem with using that same language in both cases now.
1794

1795 Mr. Cochran - No problem whatsoever.
1796

1797 Mr. Blankinship - It will improve both cases, I think.
1798

1799 Ms. Dwyer - For my information, would the applicant show us on the map
1800 which case applies to which area?
1801

1802 Mr. Blankinship - That's on our map. Jim, I think it was the UP-15 site. Zoom
1803 out just a little bit so we can see both labels.
1804

1805 Ms. Dwyer - Okay, an existing landfill – is that the BFI, or is that your
1806 facility as well?
1807

1808 Mr. Greenwood - The two areas in the butterscotch color are the two areas
1809 we're looking at.
1810

1811 Mr. Blankinship - The one slightly to the north is the older permit, and the one
1812 just to the south is the newer permit.
1813

1814 Ms. Dwyer - And the gray area – is that your facility as well, or is that the
1815 competitor?
1816

1817 Mr. Greenwood - That's not our property; that's a different facility.
1818

1819 Mr. Wright - That's another case.
1820

1821 Ms. Dwyer - And the green is yours as well, but not part of this case?
1822

1823 Mr. Greenwood - The green is for future development.
1824

1825 Mr. Kirkland - How much of an increase do you see coming into these
1826 landfills from out of state? Do you see the same amount, same process, same

1827 progression, or do you see a big influx? I'm really concerned about the number of
1828 trucks.

1829
1830 Mr. Greenwood - If there's any increase in truck traffic, it would be over a large
1831 period of time. You won't see anything in the very near future.

1832
1833 Mr. Kirkland - If you had a big job here in the Richmond area, and then you
1834 had a big construction job up in northern Virginia or DC, they'd be both hitting at the
1835 same time, vs. you would have only had the one in Richmond at that time by the permits
1836 we have now. Is that correct?

1837
1838 Mr. Greenwood - That is correct.

1839
1840 Mr. Kirkland - If the big building boom took place in northern DC and
1841 Maryland, and we had a building boom here in Richmond, we would be doubling up if
1842 they used your facility.

1843
1844 Mr. Greenwood - There is a potential there for that, but we don't anticipate
1845 that. And we're already restricted by the number of trucks and the tonnage that we can
1846 take in, by our DEQ permit.

1847
1848 Ms. Harris - I come that way during the school year to pick up my
1849 granddaughter from Baker Elementary, so I'm very familiar, although this is not my
1850 specific district. Look at the conditions on page 4, # 19. I understand that these
1851 conditions are the ones that have been in effect for this permit through the years.

1852
1853 Mr. Cochran - That is correct.

1854
1855 Ms. Harris - Did you have a date of termination or a date of expiration as
1856 far as the use permit is concerned? Most of the ones that come before us, there is a
1857 time limit, and you come back for review.

1858
1859 Mr. Cochran - The initial permit was issued in 1988, and there was an
1860 expiration date. That permit was revised about 1991-92.

1861
1862 Ms. Harris - Do you know when this one needs to be – what's the
1863 termination date for this? How often do you come before this Board?

1864
1865 Mr. Cochran - There is no termination date in the current permit.

1866
1867 Mr. Wright - Is that our policy with this type of permit, Ben?

1868
1869 Mr. Blankinship - Yes sir. As far as I know, landfills are routinely done that
1870 way. I don't know whether the state permits are periodic.

1871
1872 Mr. Wright - But they submit a progress report each year.

1873
1874 Mr. Blankinship - Yes.
1875
1876 Ms. Harris - There is very heavy traffic. One day I just rode and
1877 monitored the number of trucks (I thought I would use the data at some point) that came
1878 down Darbytown Road and turned into the landfill, and I picked my granddaughter up at
1879 2:00 o'clock, and from 1:30 until 2:00, there were 11 trucks coming down Darbytown
1880 Road, turning in. Traffic was very heavy, is what I'm saying. I'm just concerned about
1881 the traffic. I have never seen a flagman or a policeman to direct any type of traffic. I
1882 just see the trucks turn in. I must say that most of them do stop before they come out
1883 on Darbytown. A few trucks get out in the intersection, and you'd better watch out,
1884 because it's really dangerous. Look at condition # 19. "No vehicles hauling to or from
1885 this site shall use Oakland" (I've seen trucks turn from Oakland into
1886 Darbytown). Maybe they were in violation, and you didn't know about it. Condition #
1887 20, "The facility shall not be used for the disposal" but I wonder who
1888 monitors this because you know the overpass, or the underpass where you come up
1889 Darbytown and you go a little bit further – whenever we have a heavy rain, there is
1890 heavy residue on both sides of Darbytown. There's stench there, and you can actually
1891 see the film, and I'm concerned about the residents who live on the right side, on the
1892 opposite side from the landfill. I'm concerned about their water, and I'm concerned as
1893 to whether or not they have well water, because I would suspect there would be strong
1894 contamination; I suspect they use County water.
1895
1896 Mr. Greenwood - Could I address each of those concerns you have?
1897
1898 Ms. Harris - Let me give them all to you, and then you can. There are
1899 only about three more. Condition # 23 – what does that mean, "monitoring of water"?
1900
1901 Mr. Greenwood - It means that we monitor the ground water under the site.
1902
1903 Ms. Harris - Who does that?
1904
1905 Mr. Greenwood - An independent firm does the testing, and the results go to
1906 the State Department of Environmental Quality on a regular basis.
1907
1908 Ms. Harris - Because I could see that film. It's a heavy film. Something
1909 is not going on right there, and I talked to Mr. Blankinship about it.
1910
1911 Mr. Wright - Condition # 26 requires them to clean it up, daily.
1912 ".....daily monitor and clean up any trash also include the removal
1913 of dust or mud found on Darbytown Road."
1914
1915 Mr. Greenwood - That is correct, and we are inspected by both the County's
1916 Inspector and the DEQ Inspector, regularly.
1917
1918 Mr. Wright - That ought to be taken care of.

1919
1920 Ms. Harris - Right, I'm talking about monitoring the water, so those are
1921 just some of my concerns, that I don't feel are being addressed, and I'd like to listen to
1922 your explanation.
1923
1924 Mr. Greenwood - You had a concern, first of all, about the traffic on streets
1925 other than Darbytown. We're restricted to traffic on Darbytown Road only, and to the
1926 best of my knowledge, our trucks and our traffic and our customers do come in off of
1927 Laburnum Avenue and from the city from the opposite direction on Darbytown Road.
1928 We have a Safety Officer who patrols the entrance regularly, and to the best of my
1929 knowledge, that has not been a problem.
1930
1931 You also had a concern about the entranceway and the number of trucks; there's a
1932 condition in our permit that allows Henrico County's Department of Traffic Design to
1933 work with us any way they feel it's needed to improve the entranceway. If they decide
1934 at some point in time that they want a turning lane there, we will construct it at their
1935 direction.
1936
1937 Any signs they want, they just give us a directive, and they are placed there. We pretty
1938 much have to abide by that condition that the County has placed upon us. I mentioned
1939 that ground water is tested by an independent firm regularly, and those results go to
1940 DEQ. What have I missed?
1941
1942 Ms. Harris - I think you covered most of it in your explanation. How many
1943 trucks a day do you have coming into the landfill now?
1944
1945 Mr. Greenwood - We are shut down on bad weather days, so on days when
1946 there is bad weather, there will be no traffic to the site at all. Other days, we have up to
1947 40-45-50 trucks.
1948
1949 Ms. Harris - I had heard 80, but someone needs to monitor that.
1950
1951 Mr. Greenwood - Understood.
1952
1953 Mr. Kirkland - Mr. Blankinship, have we had any complaints from our
1954 environmental people or any of the other County agencies about these two facilities?
1955
1956 Mr. Blankinship - Not until this morning. We have now, and I will communicate
1957 Ms. Harris's concerns to our inspection staff this afternoon.
1958
1959 Mr. Cochran - I'd like to point out that there is another company which uses
1960 this entrance road and Darbytown Road for their operations, and that would be the Cox
1961 Landfill. If there are violations occurring, I think my client has stated that he believes
1962 that they are not his vehicles, so there's a possibility if there are violations occurring, it
1963 would be another company.
1964

1965 Mr. Kirkland - You're stating that other trucks go in on your entrance road,
1966 trucks that belong to another landfill?
1967
1968 Mr. Blankinship - I think he means coming off of Oakland, onto Darbytown, not
1969 necessarily his customers – they could be going to Cox, but an inspector could certainly
1970 determine that, by watching.
1971
1972 Ms. Dwyer - I notice that the conditions actually are different in a number
1973 of ways between these two cases. Would you have any objection to a review of these
1974 conditions so that they are unified?
1975
1976 Mr. Cochran - No problem.
1977
1978 Ms Dwyer - So that there's no different situation from one site to the
1979 other that would require a different condition? I think UP-16 may be updated.
1980
1981 Mr. Blankinship - Yes, it was a later case.
1982
1983 Ms. Dwyer - I would like to see the updated conditions apply to both.
1984
1985 Mr. Wright - If they apply to one, they might just as well apply to both.
1986 Any further questions of members of the Board or staff? Is there anything further you
1987 wish to present? Anyone here in opposition to this request? That concludes the case.
1988
1989 Mr. Wright - UP-16-2005.
1990
1991 Mr. Nunnally - Move we deny it.
1992
1993 Ms. Harris - Second.
1994
1995 Mr. Wright - Motion's made that we deny it. Any discussion?
1996
1997 Ms. Dwyer - I would like to hear some discussion about why.
1998
1999 Mr. Nunnally - I think we've got enough of that stuff coming in, especially in
2000 Henrico County, but in the Commonwealth of Virginia, really, and as far as the debris
2001 and all that's coming in, all this building that they're going to do down in Varina in the
2002 next few years, they'll have plenty of debris coming in there without getting it from North
2003 Carolina and Maryland and Washington, DC, which they can do; they're under a 50-mile
2004 radius.
2005
2006 Mr. Kirkland - Also with the Rockett's Landing project, and all these other
2007 projects, I'm not saying this landfill would get all that business, but they will probably get
2008 a portion of it. There will be plenty here in Virginia, for them to use.
2009
2010 Ms. Harris - And you almost need to live there, in that area, to see what's

2011 going on. There are so many landfills, so many trucks. I think it's a disservice to
2012 residents who want healthy environment to rear their families. I think it's a disservice if
2013 we don't stop it when we can.

2014
2015 Ms. Dwyer - I guess I'm wondering about the fact that we allow other
2016 landfills to do this that are adjacent. That concerns me, that we allow some to do it, but
2017 we would prevent others.

2018
2019 Mr. Wright - If we take it case by case, it appears to me that one day
2020 soon or probably in the near future, that landfill will become filled up, and if we allow this
2021 type of material from other areas, we will denying the right of our people right here at it
2022 to have a place to dispose of this type of thing. That's what worries me more than
2023 anything. Is there any further discussion? All in favor of denial, say aye. Opposed, say
2024 no. It's denied.

2025
2026 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
2027 Harris, the Board **denied** application **UP-16-2005** for a conditional use permit to amend
2028 conditions at the existing landfill at 1820 Darbytown Road (Parcel 809-707-1585).

2029
2030 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2031 Negative: 0
2032 Absent: 0

2033
2034 The Board denied your request as it found from the evidence presented that approving
2035 the permit would be of substantial detriment to adjacent property or would materially
2036 impair the purpose of the zoning regulations.

2037
2038 Mr. Wright - UP-15-2005.

2039
2040 Mr. Nunnally - Move we deny it. Same reason.

2041
2042 Ms. Harris - Second.

2043
2044 Mr. Wright - Motion's made, same reason as UP-16, and it's seconded.
2045 Any further discussion?

2046
2047 Ms. Dwyer - I didn't see anything in this case that said they could not
2048 have materials other than construction debris. I think UP-16 limits itself to construction
2049 debris, but UP-15 does not.

2050
2051 Mr. Wright - I understood that we were going to get these conditions all
2052 unified, is that correct?

2053
2054 Mr. Blankinship - Not if they're denied.

2055
2056 Ms. Dwyer - They stay the same if they're denied.

2057
2058 Mr. Wright - That's true. I don't know how we can address that.
2059
2060 Mr. Blankinship - That one was approved much earlier. It may have been a
2061 sanitary landfill at the time; I'm not sure. That's really regulated by their State permit.
2062
2063 Mr. Kirkland - Could it change to another type of landfill if it was started as
2064 a sanitary? Without us knowing about it?
2065
2066 Mr. Blankinship - I imagine they could go from a sanitary to a construction
2067 debris without us knowing anything, because the one includes the other. They certainly
2068 could not take a construction debris landfill and convert it to a sanitary landfill without
2069 approval.
2070
2071 Mr. Wright - Anything further, Ms. Dwyer.
2072
2073 Ms. Dwyer - I just think it would be better to limit this to construction
2074 debris. That's a cleaner kind of fill than sanitary.
2075
2076 Mr. Wright - I don't think they could do otherwise, could they, Ben?
2077
2078 Mr. Blankinship - I don't know what their State permit is now.
2079
2080 Ms. Dwyer - These conditions don't limit it to construction debris, unless
2081 it's somewhere different.
2082
2083 Mr. Wright - If we determined that they're bringing in other materials, then
2084 we could have a Show Cause Hearing.
2085
2086 Mr. Kirkland - You see the report every year, right Ben?
2087
2088 Mr. Blankinship - Honestly, I don't remember reviewing them, but they're
2089 probably filed.
2090
2091 Ms. Dwyer - Who reviews them?
2092
2093 Mr. Blankinship - I can't say for certain whether we receive them or review
2094 them or not. I can check into that for you. If you want to go on, I can review this. I do
2095 have the groundwater monitoring test; that's the top thing there.
2096
2097 Mr. Wright - Do you need some more time to check that out?
2098
2099 Mr. Blankinship - Okay, it is licensed as a construction demolition debris
2100 landfill.
2101
2102 Mr. Wright - Any further discussion? Hearing none, all in favor of denial,

2103 say aye. Opposed, no. It's denied.

2104

2105 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
2106 Harris, the Board **denied** application **UP-15-2005** for a conditional use permit to amend
2107 conditions at the existing landfill at 1820 Darbytown Road (Parcel 809-707-1585 (part)).

2108

2109 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

2110 Negative: 0

2111 Absent: 0

2112

2113 The Board denied the request as it found from the evidence presented that approving
2114 the permit would be of substantial detriment to adjacent property or would materially
2115 impair the purpose of the zoning regulations.

2116

2117 Mr. Wright - The Board will take a five-minute recess, plus or minus.

2118

2119

2120 **A-82-2005** **ELIZE NAUDE** requests a variance from Section 24-94 to build an
2121 attached two-car garage at 8329 Fulham Court (Chickahominy
2122 Bluffs) (Parcel 795-755-8319), zoned R-2, One-family Residence
2123 District (Fairfield). The minimum side yard setback and total side
2124 yard setback are not met. The applicant proposes 3 feet minimum
2125 side yard setback and 34 feet total side yard setback, where the
2126 Code requires 15 feet minimum side yard setback and 35 feet total
2127 side yard setback. The applicant requests a variance of 12 feet
2128 minimum side yard setback and 1 foot total side yard setback.

2129

2130 Mr. Wright - Does anyone else desire to speak with reference to this
2131 case? Would you raise your right hand and be sworn please?

2132

2133 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2134 truth, the whole truth, and nothing but the truth, so help you God?

2135

2136 Ms. Naude - I do. I'm Elize Naude. We would like to build an attached
2137 garage, and unfortunately, the way the land is, it seems to me that's the only place
2138 where we can add this garage.

2139

2140 Mr. Wright - This garage would be on the side of your present residence?

2141

2142 Ms. Naude - Yes, that is what we would like to do, so that we can attach it
2143 and walk into the house as well.

2144

2145 Mr. Wright - How long have you been living at this residence?

2146

2147 Ms. Naude - Three and a half years. The only reason that I haven't
2148 applied earlier is I'm new in this country. I just thought anybody can attach whatever

2149 they want. I've since learned you cannot, and when we first moved in, I really did not
2150 have the money.
2151
2152 Mr. Wright - You don't have a garage at all right now?
2153
2154 Ms. Naude - Not at all, and honestly, I'm quite tired of having power tools
2155 and paint in the bedroom.
2156
2157 Ms. Harris - Do you have enough land in the rear of your lot to build a
2158 garage?
2159
2160 Ms. Naude - No ma'am, not at all. I know somebody has said they think I
2161 can build in the rear. If you do a closer inspection and just walk, you will see where a
2162 specific tree is, the land drops at 45 degrees towards the river. So two-thirds of my yard
2163 I cannot use at all.
2164
2165 Ms. Dwyer - I think we have a photo of that. Photo # 1, is that the drop-
2166 off?
2167
2168 Ms. Naude - Yes, that is Photo # 1, and that space you can see from
2169 where the steps end, that is literally about three feet.
2170
2171 Mr. Wright - This would be a two-car garage?
2172
2173 Ms. Naude - Yes, please.
2174
2175 Mr. Wright - Could they build a one-car garage, Ben, and not have to get
2176 a variance? It says only 1 foot total.
2177
2178 Mr. Blankinship - Yes, they are requesting 12 feet and 1 foot, and a one-car
2179 garage is typically twelve feet narrower than a two-car garage.
2180
2181 Mr. Wright - You possibly could build a one-car garage without even
2182 having to get the approval of this Board.
2183
2184 Ms. Naude - The whole neighborhood has two-car garages.
2185
2186 Ms. Harris - What about your neighbor next door to you? Have you
2187 spoken to them about it?
2188
2189 Ms. Naude - Yes, I spoke to her and they have no objection, and they are
2190 so far away that, with the trees in between, I don't think he's really going to mind or see
2191 it.
2192
2193 Mr. Wright - Any further questions of the Board? Is anyone here in
2194 opposition to this request? Hearing none, that concludes the case. A-82-2005.

2195
2196 Ms. Harris - I move that we deny this variance. The reason for it is, I
2197 would have felt better if we had had written consent from the next-door neighbor, who
2198 he would be just three feet from if they constructed this two-car garage. A survey might
2199 yield there, with all the land that's behind it, it might well be constructed in the rear of the
2200 property.
2201
2202 Mr. Wright - Motion's made that we deny it. Is there a second?
2203
2204 Ms. Dwyer - Second.
2205
2206 Mr. Wright - It's seconded. Any further discussion? All in favor of denial,
2207 say aye. Opposed, say no. It's denied.
2208
2209 After an advertised public hearing and on a motion by Ms. Harris, seconded by Ms.
2210 Dwyer, the Board **denied** application **A-82-2005** for a variance to build an attached two-
2211 car garage at 8329 Fulham Court (Chickahominy Bluffs) (Parcel 795-755-8319).
2212
2213 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2214 Negative: 0
2215 Absent: 0
2216
2217 The Board denied your request as it found from the evidence presented that there was
2218 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2219 Virginia to justify a variance.
2220
2221 **A-83-2005** **MIKE PINTZ** requests a variance from Section 24-94 to build a
2222 one-family dwelling at 10908 Greenwood Road (Parcel 776-769-
2223 6061), zoned A-1, Agricultural District (Brookland). The lot width
2224 requirement is not met. The applicant has 126 feet lot width, where
2225 the Code requires 150 feet lot width. The applicant requests a
2226 variance of 24 feet lot width.
2227
2228 Mr. Wright - Does anyone else desire to speak with reference to this
2229 case? Would you raise your right hand and be sworn please?
2230
2231 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2232 truth, the whole truth, and nothing but the truth, so help you God?
2233
2234 Mr. Pintz - I do. Mike Pintz is my name. I'm also with Virginia Real
2235 Estate and Development, Inc. We're very familiar with this property; we've been
2236 involved with this property before acquiring it, for probably close to five years, in trying
2237 to resolve an estate here that was rather complicated and had multiple members that
2238 went through the County court process. We were offered this land, so we acquired it.
2239 We had constantly tried, and had even been involved with assembling the property and
2240 at one time even had contracts on the property that became the school property. I'm

2241 very familiar with the total area here. The road alignment, proposed Woodman Road on
2242 the other side; I've been involved with the Schermerhorn representations and things of
2243 that nature, so I know the general development, the comprehensive plan, the desire of
2244 the County, the interest of the County for this area as a whole, I'm very well aware of
2245 that.

2246
2247 The reason that we are submitting this proposal before you is that the property has
2248 some complications, and we met with the County Public Works, and the general area is
2249 in a overlay area of potential wetland or hydrant soils, and I think your school, upon
2250 building that, had significant complications with wetland issues, and this property,
2251 towards, the rear, has more intense hydrology to it. We employed Angela Whitehead,
2252 who is working through Larry Madison Association and do a wetland walkover. We
2253 also, and it was very marginal, employed soil scientists to go in. We could not get an
2254 alternative system there in reference to doing that.

2255
2256 We had a contract at one time on the adjoining property, to the left of this property,
2257 standing in the road facing the property. We only had part of the members there; it was
2258 an estate, and we also conversed with the persons owning the corner property. We've
2259 made diligent efforts to do otherwise with the property, but I think the more convincing
2260 scenario was the building of the school, the complications of the wetlands, the
2261 acknowledgement of the County that to come in here with a sub-development in here
2262 would encounter considerable difficulties in there, so we worked with David Jannette
2263 Construction, and he has placed a contract on this property in order to build one high-
2264 end, single-family home here, and in doing that, we had, in conversing with the County,
2265 been represented that the probability of bringing a sewage easement over to the edge
2266 of this property, to the school side, would allow a public sewage there, so in doing that
2267 we felt like we could facilitate it. At the same time we had been agreeable and would be
2268 agreeable, if you saw fit, to bring an easement down the north side of this property, to
2269 Greenwood Road, which would allow the possibility of boring under it if ever at a future
2270 time, if that would be needed, in order to facilitate some of the properties of which
2271 Jannette Construction owns on the other side, and also if you wanted to go along
2272 Greenwood Road towards the present northbound exit of Woodman Road, we would
2273 allow an easement across this property before liquidating it, in order to facilitate any
2274 future land use that the County may seek to service there. There was a broadening of
2275 the road in reference to a highway easement, so some improvements have been
2276 already resolved in this area.

2277
2278 We just see this as short or long delays, possible disappointments in the end, with
2279 wetlands and issues there, as far as the Corps of Engineers, to not be able to use this
2280 land. It's higher as you approach Greenwood Road, that a nice single family, adjacent
2281 to the school, the buffering of the school, would probably serve well to go ahead and
2282 consider its highest and best use. If I thought I could get something in there, of a
2283 different magnitude in there, certainly as a developer and real estate person, we would
2284 be able to get a higher yield, equity-wise, out of this property, but I don't see it at this
2285 time. I see a very high risk and a possibility of a denial in there, even at a future time,
2286 after spending lots of money, and then being denied by the Corps.

2287
2288 Mr. Kirkland - Mr. Pintz, you said you'd tried to purchase 10900?
2289
2290 Mr. Pintz - We tried to purchase the small, 3-acre lot property, adjacent
2291 to us, and we had 9 of the 10, we thought it was 10 people who owned the property,
2292 and we had 9 of those people under contract. We've got those contracts in file; I don't
2293 know that they're here today. Upon doing a title search on this property, we found out
2294 that there were heirs to the property outside of the parameters of those 9 people. This
2295 piece that we acquired had 52 members that had to be dealt with, so we had to go
2296 through the County with a suitcase in order to allow Lloyd Jones, who was receiving the
2297 mail and so forth, in order to conduct business and be an administrator. Otherwise, the
2298 property would have gone up for auction sale. We found that in the piece adjacent,
2299 there were other issues, liens and things of that nature, outside of those 10. We were
2300 going to buy it and have 9/10ths of ownership and have a partner, with the other 1/10th,
2301 and in doing that, then we could approach the concept of putting a center road in, and
2302 you would have had enough depth to line lots up according to the comprehensive plan,
2303 to go ahead and use it as it was suggested. At that time, the school had not been built.
2304 As I said, I've been working on this property for five years.
2305
2306 I did not know the complications that were there with the wetlands. We knew it was
2307 marginal. We hadn't been in to Public Works and seen the overlay maps that
2308 represented the comprehensiveness of this property as a whole. We hadn't seen the
2309 problems and elevations that the school had to be built on, in reference to those
2310 properties too. With those things and indicators in there, we felt like we needed to look
2311 at some other alternatives.
2312
2313 Mr. Kirkland - Mr. Blankinship, does that adjacent lot have the same width
2314 problems too?
2315
2316 Mr. Blankinship - Yes sir.
2317
2318 Mr. Kirkland - So it can't be built on also?
2319
2320 Mr. Blankinship - No sir.
2321
2322 Mr. Kirkland - It's too bad the school didn't purchase that lot from you.
2323
2324 Mr. Pintz - We would have loved to have done that; they never
2325 approached us. Actually, I put the school in contact with the other property. They
2326 bought it directly. We've dealt with the County and acquisitions and so forth before. I
2327 don't think they had a need for it, and as you look at the school, this would have sort of
2328 been a rectangular piece adjacent to them. What was the purpose of that, as far as
2329 what they needed. In as far as if something happened, from a County Planning point of
2330 view, the rear of this property, obviously if we sell it at this time, we're not going to try to
2331 retain anything for any future. You'd have to go through sub-development and all of
2332 that. But if anything happened as far as education in the County, they could probably

2333 do things with the court; we couldn't.

2334

2335 Some of those rear lands in there may be more of a public attraction as opposed to
2336 trying to persevere from a private sector, in order to try to develop those. That property
2337 is extremely difficult to develop if you talk to your Public Works Department, because
2338 when you look at the overlay maps, that general area through Henrico, and we've done
2339 some other things on one of the other adjacent roads down there. We had a contract
2340 on; we did a wetland walkover on a piece on the other side of I-95, and that hydrology
2341 area is comprehensive to encounter that area also. You can ride into the school there,
2342 I'm sure you have, and if you just look at your pad that you have, and then you look over
2343 past the construction area, and look into the woods, you can see that you've got a good
2344 three-foot elevation in there.

2345

2346 Ms. Dwyer - Is part of the problem the fact that this is not served by a
2347 public sewer, and you have trouble with the drain field?

2348

2349 Mr. Pintz - That's not the reason for the variance in here. The drain
2350 field; there could not be one acquired; could not even be an alternative. We didn't even
2351 have the 12-inch minimum required by the alternative system, in order to get an
2352 alternative in there, so we had been advised along that line. Then when the school
2353 came along, we came in a met with the County, and the County was in compliance to
2354 try to address the fact that they were trying to facilitate us with sewage there, and if you
2355 study this area as a whole, where the tears are, the building with Woodman Road and
2356 Magnolia Ridge, and the elevations of the engineering of your sewage, it falls back this
2357 way, and so there's an issue on how to service this area, the Woodman Road area. It
2358 doesn't have that good fall to come from Magnolia Ridge.

2359

2360 Ms. Dwyer - So you have public sewer, is that what you're saying?

2361

2362 Mr. Pintz - It's been indicated that we would have public sewer by an
2363 easement coming from the school.

2364

2365 Ms. Dwyer - As I look at the map, Forest Trace Subdivision goes back
2366 towards I-295. Do they not have the same wetland issues that this property does?

2367

2368 Mr. Pintz - I do not know the origin of Forest Trace and wasn't around at
2369 the time of that, whether Forest Trace was prior to, I expect that it was prior to your CBA
2370 Act, Chesapeake Bay Act of 1988. I expect that some of those houses may have been
2371 back in 85 or mid-80's range. I don't know that, so I don't know what they did. Don't
2372 know the origin of Forest Trace, don't know the history of that, but in general
2373 countenance, Forest Trace presents itself as an older neighborhood. It's more than 10
2374 years old.

2375

2376 Mr. Blankinship - Just picking one house at random, it shows the year built as
2377 1995. The first house that I picked, which is toward the interstate, in Forest Trace, was
2378 built in 1995.

2379
2380 Ms. Dwyer - So it was after the Chesapeake Bay Act.
2381
2382 Mr. Pintz - It was after, but there were some more lenient terms in the
2383 beginning of the CBA that may have allowed some flexibility, but I can't speak for Forest
2384 Trace and those properties.
2385
2386 Mr. Wright - I want to get right to the point. If this request for a variance
2387 is denied, what reasonable, beneficial use would you have for this property?
2388
2389 Mr. Pintz - Nothing on the short term. The only thing that we would look
2390 at would be that we would do a wait-and-see type of development scenario. I really feel
2391 like the County has an interest in realigning the proposed Woodman Road on the other
2392 side because of the school now coming, and the alignment of Woodman Road. The
2393 alignment in the north is going to create engineering issues in reference to turns coming
2394 in and out of those three sections in the short term. All of those things you folks
2395 certainly know better than I. In reference to that, and people sense that something's
2396 coming, the corner piece there, adjacent to the Woodman Road North, we contacted
2397 those folks; I think they lived in Texas at the time. We haven't contacted them in
2398 several years – they say that someday that's going to be commercial on that corner.
2399 You know how everybody gets to doing their own planning, short of the comprehensive
2400 plan. Everybody else plans what they're going to do with their land, and it doesn't make
2401 sense. There's no reasoning to that.
2402
2403 We didn't pay a lot of money for this land in reference to what it is, so we're not hurt by
2404 it, and we're not hurt if you feel like it serves the interests of the County that we hold
2405 onto it. We're not being damaged by this property. I do have an elderly partner in
2406 there, but it's not at a point that it causes any issues or hardships. We'll just hold onto
2407 it; it's in a viable concentrated area of growth and transition and development, and that's
2408 why it was attractive to us, to take a chance on it. We knew it had issues. If it didn't
2409 have issues, either estate-wise, title-wise, or building-wise, it would have been
2410 liquidated before the contracts didn't go through that we had before, because people
2411 came in on that piece and the school piece, and they'd do a feasible study, and they'd
2412 come back to us and they would relinquish their contract, and I'm sure it was from
2413 service and utilities and other issues that they had encountered in their studies.
2414
2415 Ms. Harris - Mr. Blankinship, if the zoning were residential instead of
2416 agricultural, would that affect the width that would be required to make it a buildable lot?
2417
2418 Mr. Blankinship - Yes ma'am, if they could also extend water and sewer to the
2419 property, then it would become buildable.
2420
2421 Ms. Harris - Had you considered seeking rezoning?
2422
2423 Mr. Pintz - We had not because of the complications, the time line of
2424 rezoning, and then if you rezone it, the lot size you probably have to have a variance,

2425 because then it would be something else. There would be a different expectancy to it.
2426 Rezoning also is going to have to be accommodated by a site plan or a project plan,
2427 and then that project plan is going to have to be accompanied by the public
2428 departments of your Public Works and other kinds of things, so it's going to raise those
2429 issues that we've already done studies on, the County's already admitted to. The
2430 County gave us those overlay maps that showed this as a hydrology area, and they
2431 informed us that they had significant issues with the school. The purpose in this
2432 variance was to avoid what that was going to bring to the table, that you may wind up
2433 with this property not being able to be used in any form at all. You see in your overlay,
2434 your aerial, as you approach Greenwood Road, the other side of that, you can see
2435 yards and things of that nature that have been cultivated, so you can see a little bit of
2436 elevation close to your Greenwood Road areas that enables some building adjacent
2437 there. It just begins to taper, as you get back, even looking at the school side, you can
2438 see towards the rear of that, it's real barren and thins out significantly, and you can see
2439 some pockets in the subject property, as well as the adjacent property to the opposite
2440 side of the school. You can see some dark pockets in there, etc., so you don't have the
2441 green matter in there. You've got some little dried ponds that you see in woods, and
2442 those kind of things, sort of black that dry up in the summertime, in the wintertime have
2443 got a little standing water in them, so it's very marginal.

2444
2445 Mr. Wright - Anything further that you wish to present?

2446
2447 Mr. Pintz - Not that I have. I think that I've made you aware of what's
2448 there.

2449
2450 Mr. Wright - Any further questions of members of the Board or staff? I
2451 think we'll hear from this gentleman if you'll be seated. Do you desire to speak? In
2452 other words, he concurs with what you've said. Is anyone here in opposition to this
2453 request? Hearing none, that concludes the case.

2454
2455 Mr. Wright - A-83-2005.

2456
2457 Mr. Kirkland - I make a motion we deny it.

2458
2459 Ms. Dwyer - Second.

2460
2461 Mr. Wright - All right. Motion's made and seconded that we deny it. Any
2462 discussion?

2463
2464 Mr. Kirkland - The applicant pretty well stated in his testimony that he could
2465 sit on it, and it really didn't affect him one way or the other, and I think it kind of would
2466 not work out right.

2467
2468 Mr. Wright - The question is whether he will have a beneficial use of this
2469 property. He indicated that he probably would, eventually, in the future. That's the key.
2470 We've got to decide, if there was no reasonable, beneficial use of this property other

2471 than to grant the variance, I think we'd have to grant the variance, but I think he pretty
2472 well testified that there is possibly reasonable, beneficial use in the future.

2473
2474 Ms. Dwyer - And also, it's zoned Agricultural at this point. He could
2475 harvest the trees, or there are other possible agricultural uses, I suppose. It's even
2476 clear that this was just a speculative purchase, and he realized that there were a
2477 number of problems with the property. I'm not sure it's the job of the Board of Zoning
2478 Appeals to correct or to allow building when there are existing problems with it.

2479
2480 Mr. Wright - Any further discussion? Hearing none, all in favor of denial,
2481 say aye. Opposed, no. It's denied.

2482
2483 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
2484 Dwyer, the Board **denied** application **A-83-2005** for a variance to build a one-family
2485 dwelling at 10908 Greenwood Road (Parcel 776-769-6061).

2486
2487 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2488 Negative: 0
2489 Absent: 0

2490
2491 The Board denied the request as it found from the evidence presented that there was
2492 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2493 Virginia to justify a variance.

2494
2495 Mr. Wright - Next case.

2496
2497 Mr. Blankinship - Mr. Chairman, I'm going to call the next five cases together,
2498 A-84, 85, 86, 87, and 88-2005.

2499
2500 **A-84-2005** **AUSTIN-DAVIDSON, INC.** requests a variance from Sections 24-
2501 94 and 24-95(i) to build a one-family dwelling at 4605 Cobblestone
2502 Landing Terrace (Cobblestone Landing at Twin Hickory) (Parcel
2503 742-766-5207), zoned R-3C, One-family Residence District
2504 (Conditional) (Three Chopt). The rear yard setback, rear yard
2505 setback for deck, and total side yard setback are not met. The
2506 applicant proposes 28 feet total side yard setback, 30 feet rear yard
2507 setback and 20 feet rear yard setback for a deck, where the Code
2508 requires 30 feet total side yard setback, 40 feet rear yard setback
2509 and 30 feet rear yard setback for a deck. The applicant requests a
2510 variance of 2 feet total side yard setback, 10 feet rear yard setback
2511 and 10 feet rear yard setback for a deck.

2512
2513 Mr. Wright - A-84-2005.

2514

2515 Ms. Dwyer - I move we deny A-84 because, again, the lot provides
2516 sufficient square footage to build a house that meets the Zoning Ordinance, so the
2517 applicant has, as in all these cases, reasonable use.

2518
2519 Mr. Wright - Is there a second?

2520
2521 Ms. Harris - Second.

2522
2523 Mr. Wright - Motion's made and seconded. Any further discussion? All
2524 in favor of denial, say aye. Opposed, say no. It's denied.

2525
2526 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms.
2527 Harris, the Board **denied** application **A-84-2005** for a variance to build a one-family
2528 dwelling at 4605 Cobblestone Landing Terrace (Cobblestone Landing at Twin Hickory)
2529 (Parcel 742-766-5207)

2530
2531 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2532 Negative: 0
2533 Absent: 0

2534
2535 The Board denied your request as it found from the evidence presented that there was
2536 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2537 Virginia to justify a variance.

2538
2539 **A-85-2005** **AUSTIN-DAVIDSON, INC.** requests a variance from Sections 24-
2540 94 and 24-95(i) to build a one-family dwelling at 11400 Country
2541 Oaks Court (Cobblestone Landing at Twin Hickory) (Parcel 742-
2542 765-9828), zoned R-3C, One-family Residence District
2543 (Conditional) (Three Chopt). The rear yard setback and rear yard
2544 setback for deck are not met. The applicant proposes 26 feet rear
2545 yard setback and 25 feet rear yard setback for a deck, where the
2546 Code requires 40 feet rear yard setback and 30 feet rear yard
2547 setback for a deck. The applicant requests a variance of 14 feet
2548 rear yard setback for the house and 5 feet rear yard setback for a
2549 deck.

2550
2551 Mr. Wright - A-85-2005. Do I hear a motion?

2552
2553 Ms. Harris - I move that we deny this case.

2554
2555 Mr. Wright - Is there a second:

2556
2557 Ms. Dwyer - Second.

2558
2559 Mr. Wright - Any further discussion? Would you state a reason, Ms.
2560 Harris.

2561
2562 Ms. Harris - The Cochran case here, and I feel that we have enough of a
2563 variation to apply the Cochran case.

2564
2565 Ms. Dwyer - It seems to me again that he has plenty of space to build a
2566 house that will meet the required square footage of the Zoning Ordinance.

2567
2568 Mr. Wright - Any further discussion? Hearing none, all in favor of denial,
2569 say aye. Opposed, no. It's denied.

2570
2571 After an advertised public hearing and on a motion by Ms. Harris, seconded by Ms.
2572 Dwyer, the Board **denied** application **A-85-2005** for a variance to build a one-family
2573 dwelling at 11400 Country Oaks Court (Cobblestone Landing at Twin Hickory) (Parcel
2574 742-765-9828)

2575
2576 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2577 Negative: 0
2578 Absent: 0

2579
2580 The Board denied your request as it found from the evidence presented that there was
2581 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2582 Virginia to justify a variance.

2583
2584 **A-86-2005** **AUSTIN-DAVIDSON, INC.** requests a variance from Sections 24-
2585 94 and 24-95(i) to build a one-family dwelling at 11505 Country
2586 Oaks Way (Cobblestone Landing at Twin Hickory) (Parcel 742-765-
2587 5402), zoned R-3C, One-family Residence District (Conditional)
2588 (Three Chopt). The rear yard setback and rear yard setback for a
2589 deck are not met. The applicant proposes 38 feet rear yard
2590 setback and 27 feet rear yard setback for a deck, where the Code
2591 requires 40 feet rear yard setback and 30 feet rear yard setback for
2592 a deck. The applicant requests a variance of 2 feet rear yard
2593 setback and 3 feet rear yard setback for a deck.

2594
2595 Mr. Wright - A-86-2005.

2596
2597 Ms. Harris - I move that we approve this variance; it's so close, the 2 feet
2598 and 3 feet are so close to the setback requirements, and I think that sometimes we have
2599 to be practical about our decisions.

2600
2601 Mr. Wright - Is there a second to that motion? Hearing no second, then
2602 the motion dies. Do I hear another motion?

2603
2604 Mr. Kirkland - I make a motion we deny it, based on the Cochran case and
2605 the reasonable use of the property, a home can be built there, and I think all these
2606 cases stem from monetary gains as well as aesthetics. A home can be built there and

2607 sell for a good price, so reasonable use will take place.

2608
2609 Ms. Dwyer - Second. I think the problem with all these cases is they want
2610 to take the existing plans that they have and make them fit these lots, and the lots are
2611 unusually shaped. They just need to design a house that will fit all the way around.
2612 **(Unintelligible, too many voices at one time)**

2613
2614 Mr. Wright - This all could have been determined when they laid out the
2615 subdivision.

2616
2617 Ms. Dwyer - Precisely. And when they purchased the lot, it was clear
2618 what the shape of the lot was.

2619
2620 Mr. Wright - Did we get a second to your motion?

2621
2622 Mr. Blankinship - Yes, Ms. Dwyer seconded it.

2623
2624 Mr. Wright - Any further discussion? All in favor of denial, say aye.
2625 Opposed, no.

2626
2627 Ms. Harris - No.

2628
2629 Mr. Wright - Okay, one "no."

2630
2631 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
2632 Dwyer, the Board **denied** application **A-86-2005** for a variance to build a one-family
2633 dwelling at 11505 Country Oaks Way (Cobblestone Landing at Twin Hickory) (Parcel
2634 742-765-5402).

2635
2636 Affirmative: Dwyer, Kirkland, Nunnally, Wright 4
2637 Negative: Harris 1
2638 Absent: 0

2639
2640 The Board denied your request as it found from the evidence presented that there was
2641 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2642 Virginia to justify a variance.

2643
2644 **A-87-2005** **AUSTIN-DAVIDSON, INC.** requests a variance from Sections 24-
2645 94 and 24-95(i) to build a one-family dwelling at 11600 Cobblestone
2646 Landing Court (Cobblestone Landing at Twin Hickory) (Parcel 742-
2647 764-4968), zoned R-3C, One-family Residence District
2648 (Conditional) (Three Chopt). The rear yard setback and rear yard
2649 setback for a deck are not met. The applicant proposes 33 feet
2650 rear yard setback and 22 feet rear yard setback for a deck, where
2651 the Code requires 40 feet rear yard setback and 30 feet rear yard
2652 setback for a deck. The applicant requests a variance of 7 feet rear

2653 yard setback and 8 feet rear yard setback for a deck.

2654

2655 Mr. Wright - A-87-2005. Do I hear a motion?

2656

2657 Ms. Dwyer - I move that we deny this case as well. There is again ample
2658 room to place a home and reasonably use the property in accordance with the Zoning
2659 Ordinance, and under Cochran, they have reasonable use.

2660

2661 Mr. Wright - All right. Any second?

2662

2663 Ms. Harris - Second.

2664

2665 Mr. Wright - It's been seconded. Any discussion? Hearing none, all in
2666 favor, say aye. Opposed, no. It's denied.

2667

2668 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms.
2669 Harris, the Board **denied** application **A-87-2005** for a variance to build a one-family
2670 dwelling at 11600 Cobblestone Landing Court (Cobblestone Landing at Twin Hickory)
2671 (Parcel 742-764-4968).

2672

2673 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

2674 Negative: 0

2675 Absent: 0

2676

2677 The Board denied your request as it found from the evidence presented that there was
2678 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
2679 Virginia to justify a variance.

2680

2681

2682 **A-88-2005** **AUSTIN-DAVIDSON, INC.** requests a variance from Section 24-94
2683 to build a one-family dwelling at 11500 Country Oaks Way
2684 (Cobblestone Landing at Twin Hickory) (Parcel 742-764-7093),
2685 zoned R-3C, One-family Residence District (Conditional) (Three
2686 Chopt). The rear yard setback and total side yard setback are not
2687 met. The applicant proposes 29 feet total side yard setback and 29
2688 feet rear yard setback, where the Code requires 30 feet total side
2689 yard setback and 40 feet rear yard setback. The applicant requests
2690 a variance of 1 foot total side yard setback and 11 feet rear yard
2691 setback.

2692

2693 Mr. Wright - Does anyone else desire to speak with reference to this
2694 case? Would you raise your right hand and be sworn please?

2695

2696 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2697 truth, the whole truth, and nothing but the truth, so help you God?

2698

2699 Mr. Burgess - I do. My name is John Burgess; I'm with Austin-Davidson,
2700 the builder of these and the owner of the said properties. What it amounts to, is we took
2701 all of our plats that we had for the subdivision and put all of the houses that we had.
2702 We've gotten down to, I believe it's five or six lots, that none of the houses will fit, to
2703 maintain the same architectural value that's in the subdivision. The only other choice
2704 we had was to apply for variances, and some, two houses that we've applied for, for the
2705 lots, we've been able to reduce to a certain level to try to not impact the setbacks but so
2706 much. We're trying to maintain the same square footage as out there, so as not to hurt
2707 the values also.

2708
2709 Mr. Wright - I think you've got a POD approval on all these lots, is that
2710 correct?

2711
2712 Mr. Burgess - Subdivision.

2713
2714 Mr. Wright - My understanding is that you could build a house on each
2715 one of these lots that would satisfy the requirements of the POD.

2716
2717 Mr. Burgess - Yes sir, I can do that. The square footage is going to be
2718 considerably less than what is out in the subdivision, not just by us, but by the other
2719 builder in that same section.

2720
2721 Mr. Wright - The POD requires a minimum of 2,000 square feet.

2722
2723 Mr. Burgess - Yes sir, and the average out there now is 3,200 to 3,300
2724 square feet.

2725
2726 Mr. Wright - That's the size that you're putting on the other houses?

2727
2728 Mr. Burgess - Yes sir, that's what I'm trying to do, stay in the same, in fact I
2729 think we've been able to reduce them to 3,100 to try to minimize the setback problems.

2730
2731 Mr. Wright - What is the largest house square footage that you could put
2732 on these lots without getting a variance?

2733
2734 Mr. Burgess - Because of the shape of some of these lots, I'm not even
2735 really sure, because they're so oddly shaped. You do have a couple of the lots that are
2736 hurting me on my setback problems, but they're so oddly shaped, that I'm guessing
2737 probably 2,500, 2,400 square feet, tops, without even having an attached garage to the
2738 house either.

2739
2740 Mr. Blankinship - We've determined that, case by case, and they're in the staff
2741 reports.

2742
2743 Mr. Wright - I just wanted to have it in the record, whatever it is, so let's
2744 go through them.

2745
2746 Ms. Dwyer - Maybe we should look at each one.
2747
2748 Mr. Wright - Let's take a look. Let's go back to A-84.
2749
2750 Ms. Dwyer - Sir, was your company aware of the shape of these lots
2751 when they were purchased?
2752
2753 Mr. Burgess - It was all done by a lottery. In other words, we were the
2754 other builder with Centex Homes. The lots come available in the entire section. They
2755 take one, we take one, and it just goes on. We didn't know about the buildable area
2756 footprint at the time.
2757
2758 Ms. Dwyer - But you're a builder, so you know if you have a trapezoidal
2759 lot, it's going to present a little different challenge than if you have a square or
2760 rectangular-shaped lot.
2761
2762 Mr. Burgess - True. Yes ma'am.
2763
2764 Ms. Dwyer - And I understand that your existing floor plans may not fit
2765 these unusual lots, but couldn't you redesign your houses and maybe have a slight wing
2766 on one end to take advantage of a little buildable space on one area of a lot, where you
2767 may not have it on another. You could custom design a floor plan that would fit these
2768 buildable spaces.
2769
2770 Mr. Burgess - Yes ma'am, I can do that. Very true. They would not blend
2771 with the architecture of the rest of the houses, and that's something that's going to have
2772 to go in front of the developer, which is HHHunt, and that has nothing to do with me.
2773
2774 Ms. Dwyer - I'm not talking about building materials; I'm talking about the
2775 footprint.
2776
2777 Mr. Burgess - Yes ma'am, if you look at the plats, in the case of the first
2778 one you're referring to, it's lot 8. Yes ma'am, I can probably design something to go
2779 there, but it's not going to maintain the same architectural styles of the houses that are
2780 in that subdivision. Yes, it would be a custom-designed house.
2781
2782 Ms. Dwyer - I guess I'm wondering if you change the footprint, why does
2783 that necessarily change the architectural style?
2784
2785 Mr. Burgess - Most people don't put two-story houses, like you see in the
2786 picture, and then put a ranch-style house in the middle of it.
2787
2788 Ms. Dwyer - If you change the footprint, why would that prevent you from
2789 having a two-story house instead of a one-story house?
2790

2791 Mr. Burgess - I can design a new house to go there; I don't think it's going
2792 to match the square footage minimum that's out there, is what I'm trying to tell you.
2793
2794 Mr. Kirkland - But you will meet the minimum requirements.
2795
2796 Mr. Burgess - I'll meet the 2,000 square feet, but right now your house sale
2797 prices out there are running in the \$500,500 to \$500,580, we just sold another one
2798 yesterday for \$580,000. If I put a 2,000 square foot house out there when your average
2799 square footage is 3,300, with people not even finishing their attics, it brings them up to
2800 4,000, I'm going to have a lot of complaints. That's why I went door-to-door, checking
2801 with the homeowners out there now.
2802
2803 Mr. Wright - I'm going to get back to my question. A-84, Mr. Blankinship,
2804 show me in there where you have a statement to what size house could be built on that
2805 lot.
2806
2807 Mr. Blankinship - The buildable area varies from 53 feet wide
2808
2809 Mr. Wright - I know that, but that doesn't tell me what square footage the
2810 house could be built on the lot. That's what I'm looking at.
2811
2812 Mr. Blankinship - That would depend a lot on the specific design and whether
2813 it's two stories or two and a half. I'm sorry, I didn't answer that question.
2814
2815 Mr. Wright - All we know then is that a minimum of 2,000 square foot
2816 house could be put on the lot, but the testimony is somewhere around 2,400 to 2,500.
2817
2818 Mr. Burgess - Probably the most that I'm going to be able to do, the
2819 minimum is 2,000 square feet, but the average is – we're just trying to maintain what is
2820 out there without impacting the other residents that are out there, financially, is what
2821 we're trying to do.
2822
2823 Ms. Dwyer - For example, you could add a basement, and that would add
2824 square footage.
2825
2826 Mr. Burgess - Yes, but on some of the lots, certain lots are prone to having
2827 basements; others are not really. A flat lot is really not conducive to putting a basement
2828 in. Yes, they can be done.
2829
2830 Mr. Wright - For purposes of the record, A-84, the buildable area of the
2831 lot is 53 to 72 feet width, and depth from 32 to 37 feet, that's what you're saying.
2832
2833 Mr. Blankinship - Right, so 32 by 50 would be a little over 1500 square feet,
2834 and if you built that in two stories, it would be about 3,000. If you look at A-86, Jim
2835 would you project the site plan for A-86, you can see there that only very minor
2836 adjustments would have to be made to get that house to fit on this lot. That's probably

2837 the closest of the five to being in compliance. All they have to do there is adjust their
2838 floor plan to being a foot and a half narrower. We probably went to A-85; A-86 is what
2839 we should be looking at.

2840
2841 Mr. Wright - I've actually taken that into consideration with our plats and
2842 shrunk them. It's not going to serve a purpose in a \$500,000 neighborhood, to have a
2843 12 by 12 dining room. I have to look at the size of certain rooms also. I did reduce it,
2844 and hopefully, in this particular case, I kicked the bay window out on the side in the
2845 breakfast area, because I reduced the size of the kitchen.

2846
2847 Ms. Dwyer - You could actually put a room off to the side; you have
2848 enough space to do that.

2849
2850 Mr. Burgess - Yes, and here again, you'll notice that all the plans, I've only
2851 picked two plans, a Savoy and a Portsmouth. They were the least restrictive on the
2852 setbacks of all the plans that we had.

2853
2854 Ms. Dwyer - I guess what I'm suggesting is that if you look at A-86, for
2855 example, there is buildable area that you're not using with this plan, so what might be
2856 required for you to boost your square footage?

2857
2858 Mr. Burgess - Well, I reduced the main body of the house to 3,200; it was
2859 originally 3,400.

2860
2861 Ms. Dwyer - For example, you could add a room on the back and use
2862 some of that buildable space that's not being shown here.

2863
2864 Mr. Burgess - I guess I could add it off the corner of that house, yes ma'am
2865 I could, but then I'd have to look at how does that look for the house. That's why we
2866 went ahead and added a bay window here; that will give me some square footage and
2867 try to reconfigure the inside, because the Savoy typical plan, that's the kitchen, so I've
2868 moved the kitchen to the middle of the house, redesigned it and put the breakfast area
2869 over there with the bay window.

2870
2871 Mr. Wright - Do we need to take each one of these separately, Mr.
2872 Blankinship, to get the information in the record?

2873
2874 Mr. Blankinship - It would probably be safe to do so, yes.

2875
2876 Mr. Wright - I'm looking at A-85, with 48 to 71 feet, and varies in depth
2877 from 29 to 41 feet.

2878
2879 Mr. Blankinship - The plan that they've shown clearly is not going to fit on that
2880 lot, but if they took off the front porch and just made that a stoop, they could bring the
2881 whole house forward several feet.

2882

2883 Mr. Burgess - I don't have a problem doing that, but what I'm looking at is if
2884 I do that, my outside corners, my right and left front corners are going to be outside the
2885 buildable area.
2886

2887 Mr. Blankinship - You might have to make an adjustment there as well.
2888

2889 Mr. Burgess - Here again, it's the Savoy; I've already cut off two feet off of
2890 that house just to get me inside the front and back. I'm not against the uncovered stoop
2891 area. But I'm starting to reduce it too much in width, and I can't go any further in depth.
2892

2893 Ms. Dwyer - I think what you're assuming is that you need to use your
2894 existing plans, and what we're suggesting is that when you have a very odd-shaped lot,
2895 you might have to have a custom plan instead of trying to fit a square peg into a round
2896 hole.
2897

2898 Mr. Burgess - Very true. Because we are builders and developers and
2899 designers, I have been looking and looking and trying to design a plan that's going to fit
2900 on these lots and not that's not going to throw the architecture out in the entire
2901 subdivision.
2902

2903 Mr. Blankinship - You want to go to A-87, Jim. There again, if you remove the
2904 stoop and pull the whole building forward, then you just have the issue with the corners.
2905 You'd just have to find some way to adjust those front corners, but it looks, just
2906 eyeballing it, like you'd bring the rear into compliance.
2907

2908 Mr. Burgess - I even looked at trying to take the house and shifting the
2909 house in that buildable area. Then it sits so you're looking at the left front corner of the
2910 house

2911

2912 Mr. Wright - You're looking at A-87 now, 47 to 86 feet in width and 40 to
2913 51 feet in depth.
2914

2915 Ms. Dwyer - So this house also meets the minimum 2,000 square foot
2916 requirement of the Zoning Ordinance?
2917

2918 Mr. Blankinship - Oh, yes, these are all under 3,200 square feet.
2919

2920 Mr. Burgess - They're actually reduced, because my houses now are
2921 hitting at 3,000, instead of the average that's out there, but yes, it is over the larger
2922 minimum that I have to have.
2923

2924 Ms. Dwyer - Do they have finished attics?
2925

2926 Mr. Burgess - The Savoy does have a portion of attic that can be finished,
2927 yes ma'am.
2928

2929 Mr. Blankinship - Do you want to go to A-88? It's difficult.
2930
2931 Mr. Wright - A-88, width 48 to 75 feet, varies in depth from 35 to 68 feet.
2932
2933 Mr. Blankinship - This is a very awkward-shaped lot, but there again, as Ms.
2934 Dwyer was saying, it's just a matter of starting with the lot and designing the house to fit
2935 it, rather than starting with the house plan and trying to find a way to get it on that lot.
2936
2937 Mr. Wright - That's all of them, isn't it. A-88 is the last one. All right, I
2938 think we've got the problem surrounded.
2939
2940 Mr. Burgess - I actually sought, because of the impact, we sent letters to
2941 every one of the homeowners out there, which you'll see you have copies of. There
2942 were a couple of people who were against it, and one of them backed up to I-295.
2943 There's a big berm there. Everybody else was for it. They just don't want to be building
2944 smaller houses.
2945
2946 Ms. Harris - So for these homes, you are advocating the Savoy or the
2947 Portsmouth plan; that's the problem.
2948
2949 Mr. Burgess - Yes ma'am, of the houses that we've built out there, which is
2950 seven styles, those were the least restrictive, or the least going against the setback
2951 requirements. And even those I actually reduced down some, so they are hitting less
2952 than the actual standard Savoy plan that was built out there. So I have made some
2953 changes to those.
2954
2955 Mr. Wright - Any further questions of the Board? Is anyone here in
2956 opposition to this request? Hearing none, that concludes the case. Let's take these
2957 separately, so there won't be any question. A-88-2005. Do I hear a motion?
2958
2959 Ms. Dwyer - I move that A-88 be denied because it's undeveloped
2960 property, there's sufficient space to build a home that more than meets the
2961 requirements of the Zoning Ordinance.
2962
2963 Ms. Harris - Second the motion.
2964
2965 Mr. Blankinship - There's a motion to deny by Ms. Dwyer, seconded by Ms.
2966 Harris.
2967
2968 Mr. Wright - Any discussion? All in favor, say aye. Opposed, no. It's
2969 denied.
2970
2971 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms.
2972 Harris, the Board **denied** application **A-88-2005** for a variance to build a one-family
2973 dwelling at 11500 Country Oaks Way (Cobblestone Landing at Twin Hickory) (Parcel
2974 742-764-7093).

2975
 2976 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
 2977 Negative: 0
 2978 Absent: 0

2979
 2980 The Board denied the request as it found from the evidence presented that there was
 2981 no "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
 2982 Virginia to justify a variance.

2983
 2984 Mr. Wright - Next case.

2985
 2986 **A-89-2005 ST. JAMES BAPTIST CHURCH** requests a variance from Section
 2987 24-104(d)(2) to install a larger sign at 2169 New Market Road
 2988 (Parcel 811-690-3827), zoned A-1, Agricultural District (Varina).
 2989 The sign area requirement is not met. The applicant proposes 40
 2990 square feet of sign area, where the Code allows 20 square feet of
 2991 sign area. The applicant requests a variance of 20 square feet sign
 2992 area.

2993
 2994 Mr. Wright - Does anyone else desire to speak with reference to this
 2995 case? Would you raise your right hand and be sworn please?
 2996

2997 Ms. Harris - Mr. Chairman, I'd like to disqualify myself from this case.
 2998

2999 Mr. Blankinship - Do you swear that the testimony you are about to give is the
 3000 truth, the whole truth, and nothing but the truth, so help you God?
 3001

3002 Rev. Redmond - I do. I'm Wayne Redmond, the Minister of Business
 3003 Administration for St. James Baptist Church. We are requesting to replace our current
 3004 marquee with a larger marquee. Since 1984 we've added two structures to our
 3005 property, which is now extended to a campus style. We're requesting that we be able to
 3006 place a 5 by 8 sign, which will allow for 4-inch letters, versus 2-inch letters, and we feel
 3007 that this is reasonable because, 1) of the increased traffic flow on Route 5. Route 5 is a
 3008 two-lane highway, and because of the building in the Varina District, there has been a
 3009 significant increase in traffic. There also remains to be a 55-mile per hour speed limit
 3010 out there, so therefore to read 2-inch letters or less, it's very difficult at that speed. We
 3011 also want to maintain the high standards that have been set as that being a Virginia
 3012 Byway, and as we've constructed the two other buildings, we've worked very closely
 3013 with the County and the Beautification Committee to make sure that those buildings are
 3014 aesthetic. We also feel that the larger sign in a different place will be more aesthetically
 3015 placed, versus the three buildings that we have now, versus when it was placed there
 3016 when we had only the one earlier structure. We've looked at the surrounding areas,
 3017 and there would be no immediate impact to our neighbors on either side or in front of
 3018 the church, because there is a considerable distance from the houses that are
 3019 immediately in front of the church, and the property beside us is basically vacant and we
 3020 use it as parking.

3021
3022 Mr. Wright - How long have you been at this location?
3023
3024 Rev. Redmond - One hundred and twenty-seven years. I've been there for
3025 twenty-seven years.
3026
3027 Mr. Wright - This facility, however has been updated. When was the last
3028 time you had new construction?
3029
3030 Rev. Redmond - The last building was 1996.
3031
3032 Mr. Wright - So the building that is there now, was built in 1996? All the
3033 buildings?
3034
3035 Rev. Redmond - The last building, yes sir. The third building that you can see
3036 up here, the kind of odd-shaped building, that was the last building. The middle building
3037 is our sanctuary, and then the first building on my left is the original building that was
3038 constructed.
3039
3040 Mr. Wright - Have you had any problems with anyone complaining about
3041 the fact that they didn't know where the church was, or couldn't find the church, or
3042 anything like that?
3043
3044 Rev. Redmond - People tend to pass by, and then they have to either turn
3045 around and come back or because of the original sign that's out there now.
3046
3047 Mr. Wright - Of course your members know where your church is.
3048
3049 Rev. Redmond - Yes, but not the people that we would like to entice.
3050
3051 Ms. Dwyer - There are two signs. Mr. Blankinship, what's the total
3052 square footage that's allowed?
3053
3054 Mr. Blankinship - The Code allows 20 square feet for a church, and an
3055 additional sign of 12 square feet if there is a child care or a school in the church
3056 building.
3057
3058 Ms. Dwyer - So in any event, the Code doesn't allow a sign larger than 20
3059 square feet, but does allow the two?
3060
3061 Mr. Blankinship - Right.
3062
3063 Ms. Dwyer - The new sign would be taller than the existing sign, as I look
3064 at the diagram?
3065
3066 Rev. Redmond - Yes, the new sign would be approximately ten feet tall. It's

3067 on a pedestal, and the sign itself is 5 by 8, and there's a pedestal that elevates it.
3068
3069 Ms. Dwyer - You're proposing a five-foot pedestal, and a five-foot sign?
3070
3071 Mr. Kirkland - This is illuminated?
3072
3073 Rev. Redmond - Yes.
3074
3075 Mr. Kirkland - No lights on the ground shining up; it's inside lighting?
3076
3077 Rev. Redmond - It's inside light.
3078
3079 Mr. Kirkland - Looks like to me in the picture, you've got a banner up there
3080 too. Is that part of yours too?
3081
3082 Rev. Redmond - Yes, we use the banners for special occasions, so the
3083 banner that might be out there now, I believe is for the enrollment of our summer camp
3084 program.
3085
3086 Mr. Kirkland - So this new sign with the marquee that changes, you won't
3087 need banners any more, will you?
3088
3089 Rev. Redmond - We could possibly not use banners, if that would be
3090 objectionable, but primarily the banner tends to draw attention, even outside of the
3091 regular signage. Most of the churches out there use banners for special occasions.
3092
3093 Mr. Nunnally - Do they have any limit on those banners, Mr. Blankinship?
3094
3095 Mr. Blankinship - I was just looking that up. Actually, in the commercial
3096 districts we allow banners for ten days a quarter in the A-1 and R districts. I'm not sure
3097 that's actually allowed except for temporary real estate signs.
3098
3099 Mr. Wright - But those are just up for a short period of time, like vacation
3100 bible school, and then when it's over, you take the banner down.
3101
3102 Ms. Dwyer - Till the next special function. All churches do it.
3103
3104 Mr. Nunnally - If we approved it, we could put a time limit on it, couldn't we,
3105 on a banner, thirty days or two weeks or something like that?
3106
3107 Mr. Blankinship - I think the Board could do that, yes sir.
3108
3109 Mr. Wright - Any further questions of the Board? Anything further you
3110 wish to present, sir? Is anyone here in opposition to this request? Hearing none, that
3111 concludes the case. A-89-2005?
3112

3113 Mr. Nunnally - I move we approve it.
3114
3115 Mr. Wright - Do I hear a second?
3116
3117 Mr. Kirkland - Second, but I'd like to discuss one thing, to make sure that
3118 the banners that are placed meet the requirements of the County Zoning Ordinance.
3119
3120 Mr. Wright - That the banners be included in the sign?
3121
3122 Mr. Kirkland - No, that the banners on the property meet the requirements
3123 of the Zoning Ordinance, whether it's a 10-day thing per quarter, that's what it does; if
3124 they're not allowed at all, they can't be there. I want that as a condition with the sign.
3125
3126 Mr. Wright - Any further discussion?
3127
3128 Ms. Dwyer - I just had a concern that we're putting a 10-foot tall, a 10 by
3129 8 foot structure sign along this historic quarter, among what really is a residential area.
3130 Doubling the size of the allowable sign is of concern to me. I hate to go against the
3131 church in any way, but we do have to look at the impact of this on the community, and it
3132 can tend to set a precedent, and this is a fairly undeveloped area, so I have concerns
3133 about the size of the sign.
3134
3135 Mr. Kirkland - Mr. Blankinship, how far off the road will this sign be? Do
3136 you have any idea?
3137
3138 Mr. Blankinship - I don't believe we have any precise location.
3139
3140 Mr. Kirkland - We don't have a plot plan of anything here.
3141
3142 Mr. Blankinship - No, what they submitted was diagrammatic, illustrative.
3143
3144 Mr. Wright - Could we require it? It's got to be near enough so people
3145 can see it, if it's going to be there at all.
3146
3147 Ms. Dwyer - The object of a sign is to get attention, so for it to function, I
3148 guess it can't be but so far back.
3149
3150 Mr. Kirkland - That's what I was saying – it's going to be illuminated.
3151
3152 Mr. Wright - They can't put it in the easement area, can they? It would
3153 have to be on their property.
3154
3155 Mr. Blankinship - It would have to be on their property.
3156
3157 Mr. Wright - That will get it back off the road.
3158

3159 Mr. Kirkland - Are the signs that are there now on their property?
3160
3161 Mr. Blankinship - I presume so; I don't have a survey or anything.
3162
3163 Mr. Wright - Any further discussion? All in favor, say aye. Opposed, no.
3164 It's approved.
3165
3166 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
3167 Kirkland, the Board **granted** application **A-89-2005** for a variance to install a larger sign
3168 at 2169 New Market Road (Parcel 811-690-3827). The Board granted the variance
3169 subject to the following conditions:
3170
3171 1. This variance applies only to the sign area requirement. All other applicable
3172 regulations of the County Code shall remain in force.
3173
3174 2. [ADDED] There shall be no banners or temporary signs on the site, except as
3175 allowed by the Henrico County Code.
3176
3177 Affirmative: Kirkland, Nunnally, Wright 3
3178 Negative: Dwyer 1
3179 Abstain: Harris, 1
3180
3181 The Board granted this request, as it found from the evidence presented that, due to the
3182 unique circumstances of the subject property, strict application of the County Code
3183 would produce undue hardship not generally shared by other properties in the area, and
3184 authorizing this variance will neither cause a substantial detriment to adjacent property
3185 nor materially impair the purpose of the zoning regulations.
3186
3187 Mr. Wright - We've got one more. Next case.
3188
3189 **UP-17-2005** **PIERCE PROMOTIONS** requests a temporary conditional use
3190 permit pursuant to Section 24-116(c)(1) to hold a car show at
3191 11400 W Broad Street (Parcel 740-762-9925), zoned B-3C,
3192 Business District (Conditional) and WBSO, West Broad Street
3193 Overlay District (Three Chopt).
3194
3195 Mr. Wright - Does anyone else desire to speak with reference to this
3196 case? Would you raise your right hand and be sworn please?
3197
3198 Mr. Blankinship - Do you swear that the testimony you are about to give is the
3199 truth, the whole truth, and nothing but the truth, so help you God?
3200
3201 Ms. Payne - Yes I do. My name is Belinda Payne, representing Wal-
3202 Mart. They said that someone had to represent the store if there were any questions
3203 pertaining to the case.
3204

3205 Mr. Wright - It's not a matter of questions. You've got to present your
3206 case. Tell us what you're requesting. This has to be recorded, and it's part of the
3207 record.
3208
3209 Ms. Payne - Pierce Promotions has requested a conditional use permit to
3210 have this car show in our parking lot. It's going to be a promotional type thing for Coca
3211 Cola, Kellogg's. It's going to have a 10-foot pop-up tent that will take up approximately
3212 30 to 40 parking spaces in our parking lot.
3213
3214 Mr. Wright - Has this ever been done before at this location?
3215
3216 Ms. Payne - I believe we have had one. We had a Star Wars one that we
3217 had to come through the County to get permission for.
3218
3219 Mr. Wright - Where is this to be located in the parking lot.
3220
3221 Ms. Payne - It's going to be, I'm guessing, up near the Wendy's
3222
3223 Ms. Dwyer - You're guessing?
3224
3225 Ms. Payne - I'm looking at the - I'm trying to see the picture.
3226
3227 Mr. Wright - There's Wendy's, Jiffy Lube, and it looks from the diagram
3228 that it's going to be opposite Wendy's and Jiffy Lube, on that access road.
3229
3230 Ms. Payne - Yes, it's going to be at the top part of our parking lot.
3231
3232 Ms. Dwyer - And that's the last drive aisle, is that correct. There's
3233 parking where the arrow is now, there's a drive aisle, and then there's the access road
3234 to the entrance road. My concern is that it's too close. It's a very congested area, with
3235 people coming from all those drive aisles trying to get out of, not only the Wal-Mart, but
3236 out of that whole shopping center onto Pouncey Tract, so you have traffic from the Jiffy
3237 Lube, a lot of traffic generally coming from the Wendy's, and then all the traffic from
3238 Wal-Mart funneling into that one point, right where this is supposed to be. It's often a
3239 back-up, trying to get onto the entrance road to the shopping center from Pouncey
3240 Tract, so I think maybe that's not the best place to have it, because there's so much
3241 traffic congestion in that area already.
3242
3243 Ms. Payne - We can move it and put it anywhere in that parking lot that
3244 you see fit.
3245
3246 Mr. Wright - Looks like to me that it would be better to move it north,
3247 away from Wendy's and up in that area, beyond the access road.
3248
3249 Ms. Dwyer - Toward the Jiffy Lube?
3250

3251 Mr. Wright - Beyond the access road, do you know what I'm saying?
3252
3253 Ms. Payne - Going towards the Captain D's?
3254
3255 Mr. Wright - That area is not very busy because there's not a lot of traffic
3256 coming and going outside going to Wal-Mart, if you go past that turn-in there. I go by
3257 there quite frequently, and very rarely are there any cars parked in that area.
3258
3259 Mr. Kirkland - Mr. Wright, are you saying that you want it at the yellow line?
3260
3261 Mr. Wright - The yellow line, yes
3262
3263 Mr. Kirkland - Right where the arrow's jumping up and down?
3264
3265 Ms. Dwyer - Somehow we need to quantify that for our conditions.
3266
3267 Mr. Kirkland - That area, right there, because I think on the other side of
3268 that line, that belongs to the next trust, doesn't it Mr. Blankinship, or the next owner?
3269
3270 Mr. Blankinship - Yes, that would be a property line. That yellow boundary is
3271 a property line.
3272
3273 Mr. Wright - But it could be inside that line.
3274
3275 Mr. Blankinship - Up against the northern end of this parcel, on the outside of
3276 the drive aisle.
3277
3278 Mr. Wright - You see, there's an access road back down near where
3279 they've got the green thing there. If you have it beyond that access road, there's not a
3280 whole lot of traffic.
3281
3282 Ms. Dwyer - I would say as far beyond as possible, where the arrow was,
3283 to the extreme northern boundary of the Wal-Mart property as it's shown on our map
3284 here.
3285
3286 Mr. Wright - What is the duration of this request?
3287
3288 Mr. Blankinship - There are two separate events; one was August 11 and 12,
3289 and the other is September 10.
3290
3291 Mr. Wright - So it's one day and two days.
3292
3293 Ms. Dwyer - The staff report says that you do not advertise this event – is
3294 that true?
3295
3296 Ms. Payne - We do not advertise it, no.

3297
3298 Ms. Dwyer - Does anyone advertise it?
3299
3300 Ms. Payne - If anyone advertises it, it's going to be Pierce Promotions.
3301
3302 Ms. Dwyer - Because that was one of the statements made that indicated
3303 they do not advertise the event, and I took that to mean no one advertises the event.
3304 It's just intended to be for regular Wal-Mart shoppers. I think that would make a
3305 difference; I think if it were advertised, you might have a lot more traffic problems. I
3306 would like to see that as a condition.
3307
3308 Ms. Harris - What is the size? Are you renting car space sizes – I see 70
3309 by 100 on one page and then 40 by 80.
3310
3311 Mr. Blankinship - There are two different events.
3312
3313 Mr. Wright - One takes 20 parking spaces; the other takes 60, but they've
3314 put in many more parking spaces than they needed. Our records show that POD
3315 approved, required 1,062 parking spaces, and they actually put in 1,507, so it appears
3316 they have plenty of additional parking.
3317
3318 Mr. Kirkland - I would assume that the event on September 10 must
3319 coincide with NASCAR being here in Richmond.
3320
3321 Mr. Blankinship - Yes sir.
3322
3323 Mr. Wright - Is it possible, Mr. Blankinship, to detail the area if we were to
3324 approve this, to change it and detail the area that it would take place in?
3325
3326 Mr. Blankinship - Yes sir, I think you've made that clear, and we can convey
3327 that to Wal-Mart as well as to Pierce Promotions.
3328
3329 Mr. Wright - It's a minimum of one event for two days, and then the big
3330 event is only one day.
3331
3332 Mr. Blankinship - Yes sir.
3333
3334 Ms. Dwyer - And the maximum number of parking spaces that would
3335 need to be taken up would be 20 in August and 60 in September? That could also be a
3336 condition, since it's been represented.
3337
3338 Mr. Wright - Is that in the conditions – let me take a look.
3339
3340 Ms. Dwyer - I didn't see it in there.
3341
3342 Mr. Wright - Have you looked at the conditions that have been proposed

3343 for this, if this is approved?
3344
3345 Ms. Payne - I don't have any conditions.
3346
3347 Mr. Wright - Mr. Blankinship will give them to you. If we approve this, we
3348 establish certain conditions that must be complied with, and I want to be sure that you
3349 understand those.
3350
3351 Ms. Payne - Yes sir.
3352
3353 Mr. Wright - See the times of operation, the hours of operation, the fact
3354 that all tents and accessory structures shall be removed by August 15, and September
3355 12, with respect to the second, at which time this permit will expire, so it's for that limited
3356 period. We have certain requirements for the Henrico County Division of Police that
3357 have to be complied with, and if we want to add another condition, Ms. Dwyer, what was
3358 it?
3359
3360 Ms. Dwyer - Actually a couple. One was no advertisement as
3361 represented by anyone, Wal-Mart or the promoter, or anyone else. The location would
3362 be moved as we've discussed, to the northwest corner of the Wal-Mart lot, as we see it
3363 on our plan.
3364
3365 Mr. Wright - I don't know if that would be a condition or that would be
3366 substance of approval if we put it in a certain place. I don't know how we would handle
3367 that, Ben. How would that be?
3368
3369 Mr. Blankinship - We can work that out. I think your intent is clear.
3370
3371 Ms. Dwyer - The third thing would be the number of parking spaces that
3372 would be taken up.
3373
3374 Mr. Wright - Yes, put the number that we've set forth, 20 for August and
3375 60 for September.
3376
3377 Ms. Dwyer - So no more than those.
3378
3379 Mr. Wright - And no advertising.
3380
3381 Mr. Wright - Any further questions of the Board? Is anyone here in
3382 opposition to this request? Hearing none, that concludes the case.
3383
3384 Mr. Wright - Do I hear a motion?
3385
3386 Mr. Nunnally - I move we approve it.
3387

3388 Mr. Kirkland - Second. And that's with all the changes and conditions and
3389 the location.

3390
3391 Mr. Blankinship - Moved by Mr. Nunnally, seconded by Mr. Kirkland.
3392

3393 Mr. Wright - Any further discussion? Hearing none, all in favor, say aye.
3394 Opposed, no. It's approved.
3395

3396 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
3397 Kirkland, the Board **granted** application **UP-17-2005** for a temporary conditional use
3398 permit to hold a car show at 11400 W Broad Street (Parcel 740-762-9925). The Board
3399 granted the variance/use permit subject to the following conditions:

3400
3401 1. This approval is only for two events scheduled for August 11-12 and September
3402 10, 2005.
3403

3404 2. The applicant shall satisfy all requirements of the Henrico County Division of
3405 Police concerning the security of the site and the patrons of the event. The applicant
3406 shall employ off-duty police officers for each of the three days.
3407

3408 3. The applicant shall satisfy all requirements of the Henrico County Department of
3409 Health and the Henrico County Department of Building Inspections.
3410

3411 4. Hours of operation shall be limited to 12:00 Noon to 6:00 PM August 11-12, 2005
3412 and 11:00 AM to 5:00 PM September 10, 2005.
3413

3414 5. All tents and accessory structures shall be removed from the site by August 15,
3415 2005, and again on September 12, 2005, at which time this permit shall expire.
3416

3417 6. [ADDED] The August event shall occupy no more than 20 parking spaces. The
3418 September event shall occupy no more than 60 parking spaces.
3419

3420 7. [ADDED] Both events shall be located in the northwest corner of the parking lot
3421 and away from the entrance drives into the parking lot.
3422

3423 8. [ADDED] The events shall not be advertised except to customers on the Wal-
3424 mart premises.
3425

3426 Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
3427 Negative:		0
3428 Absent:		0

3429
3430 The Board granted the request because it found the proposed use will be in substantial
3431 accordance with the general purpose and objectives of Chapter 24 of the County Code.
3432

3433 Mr. Wright - All right, you want to start from the back and go forward,

3434 since we have some folks here. Let's start with UP-17-2005.
3435
3436 Mr. Wright - That concludes the Agenda. We've already ruled on UP-9-
3437 2005, and A-58-2005 was withdrawn.
3438
3439 Minutes – let's start with the April 28, 2005, minutes – I have page 29, line 1295 – it
3440 says at the end of that sentence, "there's to need for me to cross the line," and I think it
3441 should have been "no need." Page 43, top of the page, "The reason the Board denied
3442 the request is that it found from evidence presented, that authorizing this variance would
3443 be of substantial detriment to adjacent property or would materially impair the purpose
3444 of the Zoning Ordinance." I had a question about that Ben, "or would materially" –
3445 shouldn't it be and if you're going to have both of those?
3446
3447 Mr. Blankinship - Yes, if you believe both are present.
3448
3449 Mr. Wright - Either one or the other.
3450
3451 Mr. Blankinship - It's not actually testimony, so whatever you want it to read.
3452
3453 Mr. Wright - What the Board thinks, but I just, it looks like to me it can't be
3454 one or the other, it can't be both, or we ought to state one. That was my concern. I
3455 think if it reads
3456
3457 Ms. Dwyer - Are we saying that it would violate the zoning regulation, and
3458 it would impair the application of the zoning ordinance in an even-handed way if we
3459 granted this exception to it. That takes care of the second part of the sentence, and I
3460 think we did find that the garage would be detrimental to the adjacent property owners,
3461 so both would be true.
3462
3463 Mr. Wright - So why don't we say and instead of or – that's my point.
3464
3465 Mr. Blankinship - What's the line number?
3466
3467 Ms. Dwyer - 1923.
3468
3469 Mr. Wright - Does anybody else have any corrections.
3470
3471 Ms. Harris - Page 16, line 722, "thought" instead of "though." Also
3472 "based on the fact that everyone thought." Page 27, line 1197, this is questionable.
3473 Should this be "to be insured"?
3474
3475 Mr. Wright - It should be "to be sure." Any other corrections to these
3476 minutes?
3477
3478 Ms. Dwyer - I have two. Page 15, line 635, "where," instead of "were."
3479 On page 52, it looked like we were missing something, maybe missing some lines. Line

3480 2343, it's the answer's not responsive, and that may be just the way it was. "So you've
3481 used this property for 20 years as a home," and then the response is, "We've got to
3482 meet Mr. Stringer this afternoon; it may not perk." It just seemed to me that maybe we
3483 were missing something there.

3484

3485 Mr. Wright - I think a line got left out.

3486

3487 Ms. Dwyer - Or maybe he was just ignoring my question, but it might be
3488 worth checking.

3489

3490 Mr. Kirkland - A little nod in the control room back there.

3491

3492 Mr. Wright - The first question, "how long have you lived in this house,"
3493 he says "20 years," "so you've used this property for 20 years as a home," – I imagine
3494 his answer was "yes."

3495

3496 Ms. Dwyer - Maybe, but it's odd that he would respond in that way,
3497 because his answer looks like he's responding

3498

3499 Mr. Kirkland - He's gone from the home to the septic tank real quick.

3500

3501 Mr. Blankinship - We'll check.

3502

3503 Mr. Wright - Any other corrections to the April 28th meeting? Do I hear a
3504 motion we approve these minutes as corrected?

3505

3506 Ms. Harris - I so move.

3507

3508 Mr. Wright - Second?

3509

3510 Ms. Dwyer - I second.

3511

3512 Mr. Wright - Discussion? All in favor say aye. Approved.

3513

3514 On a motion by Ms. Harris, seconded by Ms. Dwyer, the Board **approved as**
3515 **corrected**, the Minutes of the **April 28, 2005**, Henrico County Board of Zoning Appeals
3516 meeting.

3517

3518 Mr. Wright - Next let's take June 16, first the 7:00 pm Tidewater Quarries,
3519 Inc. Show Cause Hearing Minutes.

3520

3521 Mr. Kirkland - Page 31, line 1345, "mind" should be "mine." Then on page
3522 52, line 2313, "I believe we were at the evening hour when this was discussed, which
3523 were left on the table for you this evening." Isn't this the night meeting?
3524

3525 Mr. Blankinship - I probably said "morning." The record should show what I
3526 said.
3527
3528 Mr. Wright - That's not crucial though.
3529
3530 Ms. Dwyer - You can put "sic" beside it though.
3531
3532 Ms. Harris - Page 6, line 242, "not much" instead of "now."
3533
3534 Mr. Wright - While we're on that page, that's okay, I just underlined that
3535 for emphasis. It's hard to prove. That's no problem.
3536
3537 Ms. Harris - Page 32, line 1415, "they were looking." Page 35, line 1542,
3538 what should that be? "Each of these grafts," should be "graphs." Page 43, 1890, did
3539 we say Petersburg, that's a type of granite, right? Okay, I found it out later. Page 48,
3540 2115, I think that was meaningful, should be one word, instead of meaning full.
3541
3542 Ms. Dwyer - It's not necessarily going to be grammatically correct if they
3543 didn't say it right.
3544
3545 Ms. Harris - Line 787, page 18, there's something wrong with that I also,
3546 when a blast occurs
3547
3548 Ms. Dwyer - I think it was just a sentence fragment.
3549
3550 Ms. Harris - Okay, he was getting ready to say something and changed
3551 his mind? That's okay?
3552
3553 Mr. Wright - Interesting when people – I find myself saying things I didn't
3554 think I said.
3555
3556 Ms. Dwyer - We decided there was no error.
3557
3558 Ms. Harris - The final one I have for this set of minutes, page 25, line
3559 1068, "don't know where it's coming from," instead of form. The second line here.
3560
3561 Mr. Wright - I have a few. I think you caught all the ones I caught.
3562 Anybody have any others? Motion we approve the minutes of the 7:00 o'clock meeting
3563 on June 16, 2005?
3564
3565 Ms. Dwyer - So moved.
3566
3567 Ms. Kirkland - Second.
3568
3569 Mr. Wright - Any further discussion? All in favor, say aye. It's approved.
3570

3571 On a motion by Ms. Dwyer, seconded by Mr. Kirkland, the Board **approved as**
3572 **corrected**, the Minutes of the **June 16, 2005, 7:00 pm, Show Cause Hearing for**
3573 **Tidewater Quarries, Inc.**, Henrico County Board of Zoning Appeals meeting.
3574

3575 Mr. Wright - Now let's do June 16, 2005, at 6:00 pm. I have several. Let
3576 me get mine out of the way first. Page 1, at the bottom, line 30, "set forth in the
3577 ordinance," not audience. Page 9, line 376, "where an ordinance application to a
3578 particular property is not, should be unconstitutional, not uncommon. Page 9, line 379,
3579 "it didn't have an impact on the neighborhood," instead of unintelligible. Page 9, line
3580 386, "I think there is going to be an uproar." Page 10, up at the top, line 402, "I think it is
3581 going to cause a hue and cry," not unintelligible. Line 411, it should be affect. Line 421,
3582 "could adopt an amendment and changes the ordinance." Line 425, "could you go
3583 down," not do down. Page 12, I think this is line 523, who is Ms. Hill?
3584

3585 Ms. Harris - That should be Ms. Harris.
3586

3587 Mr. Wright - Page 13, line 555, I think it should be "are there conditions
3588 you want to impose," – it's spelled right. Page 14, line 586, I think it should be "anything
3589 that would impose on the rear yard setback." That's all I have.
3590

3591 Ms. Harris - Page 11, line 470, what was "unintelligible"? Those are your
3592 words. We don't know, do we.
3593

3594 Mr. Blankinship - That's what happens when you lean away from your
3595 microphone; you become "unintelligible."
3596

3597 Mr. Wright - Any other corrections that anyone has to the 6:00 o'clock
3598 meeting? Do I hear a motion we approve them as amended?
3599

3600 Mr. Kirkland - So moved.
3601

3602 Ms. Harris - Second.
3603

3604 Mr. Wright - Any discussion? Hearing none, all in favor, say aye.
3605

3606 On a motion by Mr. Kirkland, seconded by Ms. Harris, the Board **approved as**
3607 **corrected**, the Minutes of the **June 16, 2005, 6:00 pm, Cochran v. Fairfax County**
3608 **BZA Case**, Henrico County Board of Zoning Appeals meeting.
3609

3610 Mr. Blankinship - We appreciate having help from other staff in the
3611 Department to handle those minutes. We're happy that Ms. Parker didn't have to type
3612 those herself.
3613

3614 Ms. Harris - Was she taking shorthand?
3615

3616 Mr. Blankinship - She does take shorthand, but she didn't do these minutes.

3617
3618 Mr. Wright - Now we've got to approve the 2006 calendar. November 16
3619 and December 21, for 2006.

3620
3621 Ms. Dwyer - I move we meet on those days, change the calendar.

3622
3623 Mr. Kirkland - Second.

3624
3625 Mr. Wright - Motion's made and seconded we approve those dates. Any
3626 discussion. Hearing none, all in favor, say aye. Opposed, no.

3627
3628 On a motion by Ms. Dwyer, seconded by Mr. Kirkland, the Board **approved the**
3629 **proposed changes in meeting dates for 2006 to November 16 and December 21.**

3630
3631 There being no further business, and on a motion by Ms. Dwyer, seconded by Mr.
3632 Nunnally, the Board adjourned until **August 25, 2005**, at 9:00 am.

3633
3634
3635
3636
3637
3638 Russell A. Wright, Esq.

3639 Chairman

3640

3641

3642 Benjamin Blankinship, AICP

3643 Secretary

3644