

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, JULY 26, 2007, AT 9:00 A.M., NOTICE HAVING**
5 **BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JULY 5, 2007 AND**
6 **JULY 12, 2007.**
7

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

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
James Lehmann, County Planner
Carla Brothers, Recording Secretary

8
9 Mr. Nunnally - Good morning, ladies and gentlemen. We welcome
10 you to our July 26, 2007 meeting of the Board of Zoning Appeals of Henrico
11 County. Will you please stand and join us in the **Pledge of Allegiance to the**
12 **Flag of Our Country**. Thank you. Mr. Blankinship, before I ask you to read the
13 rules of the meeting, I would like to congratulate Mr. Wright for being reappointed
14 to this Board for the eighth consecutive five-year term. Somebody upstairs must
15 love you and somebody down here must like you. That's 40 years, so that's a
16 pretty good record. I don't believe I've heard of anybody serving on a committee
17 for 40 years. Of course, you haven't made it yet, but anyway, we'll give you
18 credit.

19
20 Mr. Wright - I made 35.

21
22 Mr. Nunnally - Yeah, that's right, you've got 35 behind. We're glad to
23 have you back.

24
25 Mr. Wright - If I survive today, I've made 35 years.

26
27 Mr. Nunnally - All right, Mr. Blankinship.

28
29 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
30 ladies and gentleman. The rules for this meeting are as follows. As Secretary, I
31 will announce each case and while I'm speaking, the applicant should come
32 down to the podium. We will then ask everyone who intends to speak on that
33 case to stand and be sworn in. The applicant will be given an opportunity to
34 speak and then anyone else who wishes to speak will be given the opportunity.
35 After everyone has spoken, the applicant and only the applicant will have an

36 opportunity for rebuttal. After hearing all of the evidence and asking questions,
37 the Board will take the matter under advisement and they will render all of their
38 decisions at the end of the meeting. If you wish to know their decision on a
39 specific case, you can either stay until the end of the meeting or you can check
40 the Planning Department website this afternoon—we try to get it updated within
41 about half an hour of the end of the meeting—or you can call the Planning
42 Department this afternoon. This meeting is being tape recorded, so we'll ask
43 everyone who speaks to speak directly into the microphone on the podium, state
44 your name, and please spell your last name for us. Finally, out in the foyer, there
45 is a binder containing the staff report for each case, including the conditions that
46 have been recommended by the staff. It's important that you be familiar with the
47 conditions. They were also mailed to the applicant, but it's important that you be
48 familiar with the conditions that staff has recommended.

49
50 Mr. Chairman, as you see on the desk, we have one deferral this morning, UP-
51 009-2007, the West End Assembly of God. They'll be bringing their case next
52 month rather than this month.

53
54 **UP-009-07 WEST END ASSEMBLY OF GOD** requests a
55 temporary conditional use permit pursuant to Section 24-116(c)(1) to erect a
56 temporary box office and a tent at 401 N Parham Road (Parcel 753-736-0655),
57 zoned R-1, One-family Residence District (Tuckahoe).

58
59 Mr. Nunnally - Is there anyone here against or for this case, UP-009-
60 07, West End Assembly of God? Okay. It's been deferred to next month, right?

61
62 Mr. Blankinship - Yes sir.

63
64 Ms. Harris - Do we need a motion for that?

65
66 Mr. Nunnally - Nobody showed up.

67
68 Mr. Blankinship - I don't believe so since it was the applicant's request.

69
70 After an advertised public hearing, **UP-009-07, West End Assembly of God** was
71 **deferred** until the August 23, 2007 meeting by request of the applicant.

72
73 Mr. Nunnally - Okay, will you call the first case, please.

74
75 **A-022-07 WINDSWEPT DEVELOPMENT** requests a variance
76 from Section 24-9 to subdivide property and allow a dwelling to remain at 7720
77 Harewood Lane (Parcel 844-690-6607(part)), zoned A-1, Agricultural District
78 (Varina). The public street frontage requirement is not met.

79
80 Mr. Nunnally - Is anyone else here interested in this case? If so, will
81 you please stand and be sworn in?

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

Mr. Nunnally - Please state your name for the record, sir, and tell us what you're requesting.

Mr. Shaffer - My name is Bob Shaffer. I'm here to present our case to the Board, so I appreciate the time. I'm with Windswept Development and what we'd like to do is we bought a piece of property that has an existing home on it in Varina. It is adjacent to a new subdivision that's coming online in a year or so, and it is going to be included in that new subdivision. The land associated with this home will be included in the new subdivision. What we would like to do is because the home that exists on the land is a very nice home and we feel like it could be a great place and somebody could buy it, we would like to request a variance from the public road frontage requirement. It's mainly a temporary variance because once the subdivision gets constructed, the home will then have public road frontage, so it would become part of the subdivision. So, the home will be on a parcel in the new subdivision. In the meantime, what we would like to do is we would like to sell the home, because it is ready for sale, it's in great shape. We would like to sell it because we would rather not rent it or try to let it sit vacant, for obvious reasons. Rental folks, though most are very caring, they aren't as caring as the owner. What we'd like to do is be able to sell this home prior to having the subdivision constructed so that we will not have to let it sit vacant and fall into disrepair and be subject to vandalism and that sort of thing.

The home sits at the end of Harewood Lane and it does have a deeded access to Harewood Lane by means of a gravel access road. The gravel access road is also the access for several homes there. It is not without access. It simply doesn't meet the letter of the ordinance. Again, the access is deeded and it's actually deeded to an existing right-of-way at Harewood Lane.

In addition, this is very similar to a case we brought before you in the recent past and asked for a similar variance for a home that actually is on this same access. You all were kind enough to grant us that variance to allow us to sell that home. Again, it's going to be part of the subdivision as well and will have public access and meet the requirements once the subdivision comes into existence.

Just to tell you, we have construction plans approved through the County for the subdivision and we are hiring a contractor currently and we plan on beginning to break ground on the subdivision hopefully within a month or so. We envision within a year or so, or probably two years in this case for this particular home that we're talking about, the subdivision will be there. We feel like that duration is extensive for us to leave the house vacant.

128 Mr. Nunnally - You are building the subdivision.
129
130 Mr. Shaffer - Yes sir.
131
132 Mr. Nunnally - That's Windswept Development?
133
134 Mr. Shaffer - Yes sir. We feel like that will allow us to have control,
135 to be sure that when we tell you that this will become part of the subdivision, that
136 we're going to make it happen.
137
138 Mr. Nunnally - Somebody called me the other day on the telephone
139 and said they were from Main Street Homes or something. Does that have
140 anything to do with you?
141
142 Mr. Shaffer - Main Street Homes is the homebuilder, they're not the
143 developer. Windswept Development develops land and then we sell lots to Main
144 Street Homes.
145
146 Mr. Nunnally - Well, I told him I couldn't talk to him about the case. I
147 just wondered who Main Street Homes was. They're going to build the
148 subdivision.
149
150 Mr. Shaffer - They're going to build houses in the subdivision, yes.
151
152 Mr. Nunnally - Are they going to build them all or are you going to
153 split it up?
154
155 Mr. Shaffer - The current thought is they'll build them all, but it's not
156 the rule. If some other builders are interested, we'd entertain that certainly.
157
158 Mr. Wright - Mr. Blankinship, how did the owner of the home back
159 before April when it was sold access the property?
160
161 Mr. Blankinship - If you look at the map on the screen, there is a pipe
162 stem about 50 feet wide and 1200 feet long. It goes all the way down to
163 Darbytown Road.
164
165 Mr. Wright - Yes.
166
167 Mr. Blankinship - That has been their legal public street frontage.
168
169 Mr. Wright - We granted the variance for that?
170
171 Mr. Blankinship - There was no need for a variance because they had
172 the public street frontage.
173

174 Mr. Wright - Okay.
175
176 Ms. Dwyer - And it was before—
177
178 Mr. Wright - The house wasn't built—It wasn't 50 feet width
179 necessary at the building line, though, was it?
180
181 Mr. Blankinship - I'm not sure exactly how that worked out.
182
183 Ms. Dwyer - The house was built in '86, so that was prior to the
184 stem lot, the change in the law that prohibited stem lots.
185
186 Mr. Blankinship - Right. At that time, we measured the lot width at the
187 actual building line rather than the required building line.
188
189 Mr. Wright - So, the reason for this is because they're going to sell
190 off some of this.
191
192 Mr. Blankinship - Right. They're going to cut off the house from that
193 pipe stem.
194
195 Mr. Wright - Cut that off.
196
197 Mr. Blankinship - It'll no longer be on the same lot.
198
199 Mr. Wright - I see.
200
201 Mr. O'Kelly - Mr. Shaffer, was this Jerry Liggins' homeplace?
202
203 Mr. Shaffer - He owned it previous, yes. As a matter of fact, Mr.
204 Liggins' home was the one the Board granted a variance for us to sell that home
205 as well. That one is two lots down on the picture there, the other end of the cul-
206 de-sac on the right. That's the one. Again, that one has access out to Harewood
207 Lane, so there's access to the home. It just doesn't meet the letter of the
208 ordinance until we get the subdivision in.
209
210 Mr. Wright - Have you read the conditions that have been
211 proposed for this case?
212
213 Mr. Shaffer - Yes sir.
214
215 Mr. Wright - Are you in accordance with the conditions? You
216 noticed there's a condition that once the subdivision is constructed, the access to
217 Harewood would no longer be permitted.
218

219 Mr. Blankinship - The reason for that is the concern of people driving
220 through—
221
222 Mr. Wright - Right.
223
224 Mr. Blankinship - —from Darbytown to Harewood. So, if they're going
225 to be approaching this house from the subdivision, we want it to be physically
226 blocked off from getting through to Harewood. We used that same condition on
227 the other house that you referred to.
228
229 Mr. Wright - Yes. You look like you don't understand.
230
231 Mr. Shaffer - Well, no, I guess I'm just puzzled about going from
232 Darbytown to Harewood through the access.
233
234 Mr. Blankinship - It wouldn't be convenient.
235
236 Mr. Shaffer - You'd have to go through the person's yard.
237
238 Mr. Blankinship - That's what we're saying. There has to be some
239 physical—
240
241 Mr. Shaffer - Oh, yeah, I don't have any problem with the condition,
242 I was just puzzled as to whether that would actually happen. I understand.
243
244 Ms. Dwyer - The way it's worded is the variance actually expires
245 when the subdivision is built.
246
247 Mr. Wright - That works just as well.
248
249 Ms. Dwyer - Wouldn't they need an address change?
250
251 Mr. Blankinship - Yes. Once the subdivision is built, all the houses on
252 the subdivision street will have—
253
254 Ms. Dwyer - So, the County would take care of that—
255
256 Mr. Blankinship - Yes.
257
258 Ms. Dwyer - —through some other mechanism.
259
260 Mr. Shaffer - We envision this to become part of the subdivision.
261
262 Ms. Dwyer - You're conveying the entire 12 acres to whoever
263 purchases this home and none of that 12 acres will be further subdivided?
264

265 Mr. Shaffer - No ma'am, that's a good question. The home will be
266 conveyed with approximately 1.9 acres.
267
268 Ms. Dwyer - Okay.
269
270 Mr. Shaffer - What our intent is, is to take the home and subdivide
271 the parcel and include—As one of the lots that'll be subdivided, this house will be
272 on a lot in the subdivision. That lot is essentially 1.9 acres. We've already had a
273 consultant draw up the plans. As a matter of fact, the County's reviewing them
274 now.
275
276 Ms. Dwyer - Would you explain, then, how this 12 acres is going to
277 be further subdivided? What are we looking at here? Is this the two-acre parcel?
278
279 Mr. Shaffer - Yes. I have a set of plans here. I apologize I don't
280 have it up on the screen, but I'd be happy to show you the layout of the
281 subdivision, if that would be helpful.
282
283 Mr. Blankinship - We actually have that as well.
284
285 Ms. Dwyer - It's hard for me to see. Is that a lot line?
286
287 Mr. Blankinship - There was a little discrepancy between the
288 preliminary subdivision plat that got scanned into GIS and the plan that they're
289 working from now. These things get adjusted.
290
291 Ms. Dwyer - I would like to see how you're going—This does say
292 it's a—The 12 acres includes the stem and all of that, correct?
293
294 Mr. Shaffer - Yes ma'am.
295
296 Ms. Dwyer - Okay. So, I would just like to see where the lot line
297 would be for this house.
298
299 Mr. Shaffer - This is the current home that we're talking about and
300 this is the new subdivision and cul-de-sac.
301
302 Ms. Dwyer - Okay.
303
304 Mr. Shaffer - As you can see, it becomes part of the subdivision as
305 a lot. What we would intend is that we will create this lot and sell the home on it
306 with this variance. Once the subdivision is constructed, the variance would go
307 away and it would become a lot and have frontage in the subdivision.
308
309 Ms. Dwyer - This house, as I understand it, or as I'm looking at the
310 maps that we were given, is oriented toward Harewood. You create the

311 subdivision with a cul-de-sac and you have a house on it that the rear of it faces
312 the road.
313
314 Mr. Shaffer - It is not ideal. We would create a new driveway for it
315 onto the new subdivision street.
316
317 Ms. Dwyer - And this other structure, is it a garage?
318
319 Mr. Shaffer - A garage, yes ma'am.
320
321 Ms. Harris - When was the former variance granted for the other
322 house that you referenced?
323
324 Mr. Shaffer - Yes. I believe it was 2006.
325
326 Ms. Harris - Okay. And did you also refer to this subdivision when
327 that variance was granted?
328
329 Mr. Shaffer - I'm sorry?
330
331 Ms. Harris - Did you also refer to this proposed subdivision—
332
333 Mr. Shaffer - Yes.
334
335 Ms. Harris - —when that variance was granted?
336
337 Mr. Shaffer - Yes ma'am. Same subdivision, correct.
338
339 Ms. Harris - So, the streets will not be constructed for about a year
340 or so, you're saying?
341
342 Mr. Shaffer - Right. Well, this piece, as you see on the wall, you
343 can see off to the far left there, there's a bulb cul-de-sac that's a temporary
344 turnaround. That's the portion that we're going to be building currently that we
345 have approved plans from the County to build. So, we're going to build to that
346 point. What we're anticipating is by the time we get to that point with
347 construction, we'll have the remainder of it approved by the County and we'll just
348 continue constructing it. But yes, it'll be at least a year. For this piece up here, it
349 may be 18 months to 2 years.
350
351 Ms. Dwyer - Looking at this shed in the backyard, that will then be
352 the front yard, so you'll then have a shed. I don't know if you have any other sort
353 of outbuildings in the front yard.
354
355 Mr. Shaffer - One of the things we would consider doing is when
356 we proceed to sell this home, if someone is interested in it, we're going to be very

357 careful to explain the situation, that the home will, of course, be in the
358 subdivision. If there is potential buyer and they would like something to be done
359 with that shed, we would certainly consider that and maybe remove it or
360 whatever they would like.

361
362 Ms. Dwyer - We could ask you to remove it since this is going to
363 be the front yard. Wouldn't you have to get another variance to keep an
364 outbuilding in the front yard?

365
366 Mr. Blankinship - Since it's already there, I'm not sure how we would
367 handle it.

368
369 Ms. Dwyer - Nonconforming.

370
371 Mr. Shaffer - The garage?

372
373 Ms. Dwyer - No. Well, in the picture it looks like it's not the garage
374 shown on the plans.

375
376 Mr. Shaffer - I'm trying to think, and my associate was just looking
377 over. I don't remember a shed being on the property.

378
379 Ms. Dwyer - Can you show the picture that shows the side of the
380 house?

381
382 Mr. Blankinship - Can we have control of the—

383
384 Mr. Shaffer - That's a garage.

385
386 Ms. Dwyer - That's not what I'm talking about.

387
388 Mr. Shaffer - Okay, I'm sorry.

389
390 Ms. Dwyer - There's another picture that shows the—It was in our
391 packet. It shows the side of the house. The photograph, sorry.

392
393 Mr. Blankinship - One of the photos, Jim.

394
395 Mr. Shaffer - I don't believe that's the right picture of the house.

396
397 Ms. Dwyer - You don't think that's what—

398
399 Mr. Blankinship - We've got the wrong one in the—

400
401 Mr. Shaffer - This is a County-taken photo and I believe that's not
402 the house. The one that you just showed on the screen was, in fact, the home.

403
404 Ms. Dwyer - Can I see that again?
405
406 Mr. Blankinship - Put the wrong photograph in the presentation.
407
408 Mr. Shaffer - Yeah, there. The house is to the left.
409
410 Mr. Kirkland - That's an altogether different house than the picture
411 on the other one.
412
413 Mr. Shaffer - Yes it is. Actually, I think the one we're picturing here
414 is next door. I apologize. When I looked at this—I just received this in the mail.
415
416 Ms. Dwyer - Which one's wrong, the one we're looking at now or
417 the one in our packet?
418
419 Mr. Blankinship - The one we're looking at now is the subject property.
420
421 Ms. Dwyer - Okay.
422
423 Mr. Blankinship - The other one is the other house that we've been
424 discussing, the previous variance.
425
426 Ms. Dwyer - Oh, okay.
427
428 Mr. Shaffer - The one in your packet is wrong. This one on the
429 screen is the correct one.
430
431 Ms. Dwyer - Okay. Never mind.
432
433 Mr. Shaffer - I can understand the confusion; I'm kind of confused
434 myself.
435
436 Mr. Blankinship - We really should label those photographs. I don't
437 know why we never have.
438
439 Ms. Dwyer - As far as staff knows, there are no other problems
440 with having the rear of this house now being the front yard when the subdivision
441 is built?
442
443 Mr. Blankinship - As the applicant said, it's not the ideal situation, but I
444 think on a lot this large, almost a two-acre lot, and set back as far as it is from
445 that cul-de-sac—It's either that or tear down a perfectly good house.
446
447 Ms. Dwyer - Right.
448

449 Mr. Shaffer - The view from the front is very nice. The front yard
450 and looking out, there's woods and trees. It's a very nice view. I think it still will
451 be appealing. I think we'll have no trouble selling it.

452
453 Ms. Dwyer - That's the one I was thinking about. That's the wrong
454 house. Okay. Gotcha.

455
456 Mr. Nunnally - Any other questions from the staff or the Board? I'll
457 ask again, is anyone here in opposition to this case? Hear none, that completes
458 the case. We'll let you know something later today. Thank you for coming.

459
460 Mr. Shaffer - Thank you very much.

461

462 **DECISION**

463

464 Mr. Nunnally - Do we have a motion on this?

465

466 Mr. Wright - I move it be approved.

467

468 Mr. Kirkland - Second.

469

470 Mr. Nunnally - Motion by Mr. Wright, seconded by Mr. Kirkland it be
471 approved. All in favor say aye.

472

473 Ms. Dwyer - Could we have some discussion or statement about
474 the basis for the motion?

475

476 Mr. Wright - The basis for my approval is the fact that this is,
477 basically, a temporary use until the subdivision is done, completed, and then the
478 variance would expire.

479

480 Mr. Kirkland - Mr. Blankinship, there is the documentation upon the
481 new subdivision that these two homes, the one that we're working on today and
482 the other, would be included in the subdivision, correct?

483

484 Mr. Blankinship - Yes. Everything has been coordinated.

485

486 Mr. Kirkland - It's written down somewhere, right?

487

488 Mr. Blankinship - Yes sir.

489

490 Mr. Kirkland - Okay.

491

492 Ms. Dwyer - As I understand condition six, if the property's
493 conveyed prior to recordation, the new owner must agree to sign. So, any person
494 who moves into the house will be fully apprised.

495
496 Mr. Blankinship - Right. And as you know, that's a requirement of the
497 subdivision ordinance—one person can't subdivide another person's property.
498 So, you have to have the current owner's signature at the time of recordation.
499
500 Ms. Dwyer - So, there should be no surprises.
501
502 Mr. Blankinship - That's right.
503
504 Ms. Harris - I see that they're moving towards conformity to the
505 Code in just the matter of a year or so.
506
507 Ms. Dwyer - So, they're ultimately going to be more in compliance
508 with the zoning ordinance that they are now.
509
510 Mr. Kirkland - Yes.
511
512 Ms. Dwyer - The problem is, is that the rear of the house is going
513 to face the cul-de-sac, which is very awkward, but that's what happens when you
514 have individual parcels.
515
516 Mr. Wright - It won't be sitting up like the other houses.
517
518 Mr. Blankinship - It's approximately 150 feet [unintelligible].
519
520 Mr. Wright - And I'm in accordance with him, that to let the house
521 sit vacant would be subject to vandalism. I've rented property before and
522 sometimes it's just like putting vandals in there almost.
523
524 Ms. Dwyer - I agree with Ms. Harris that we're moving toward
525 conformity with the zoning ordinance with this variance.
526
527 Mr. Nunnally - All right, are we ready for a vote? All in favor say aye.
528 All opposed say no. The motion passes; it's been approved.
529
530 After an advertised public hearing and on a motion by Mr. Wright, seconded by
531 Mr. Kirkland, the Board **approved** application, **A-022-07**, Windswept
532 Development's request for a variance from Section 24-9 to subdivide property
533 and allow a dwelling to remain at 7720 Harewood Lane (Parcel 844-690-
534 6607(part)), zoned A-1, Agricultural District (Varina). The public street frontage
535 requirement is not met. The Board granted the variance subject to the following
536 conditions:
537
538 1. This variance applies only to the public street frontage requirement. All other
539 applicable regulations of the County Code shall remain in force.
540

541 2. The owners of the property, and their heirs or assigns, shall accept
542 responsibility for maintaining the existing access drive between the property and
543 Harewood Road until public street frontage is obtained for the lot and the street is
544 accepted into the County road system

545
546 3. The applicant shall access the Property via The Oaks at Longbridge
547 subdivision once the road system is built and accepted into the County road
548 system.

549
550 4. After public roads are constructed within the subdivision and accepted into
551 the County road system, there shall be no access from the proposed subdivision
552 cul-de-sac to Harewood Lane.

553
554 5. Any dwelling on the property shall be served by public water and sewer once
555 available through the adjacent subdivision.

556
557 6. If the property is conveyed prior to the recordation of the final subdivision plat
558 for the proposed subdivision, the new owner shall agree to sign the final
559 subdivision plat.

560
561 7. At the time of recordation of Section II, The Oaks at Longbridge, this variance
562 shall expire.

563
564
565 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
566 Negative: 0
567 Absent: 0

568

569

570 Mr. Nunnally - Next case, Mr. Blankinship.

571

572 **A-023-07 HERITAGE NEON, INC.** requests a variance from
573 Section 24-104(k)(5) to erect an additional detached sign at 3081 Lauderdale
574 Drive (Parcel 734-757-2001), zoned B-2C, Business District (Conditional) (Three
575 Chopt). The number of detached signs is not met.

576

577 Mr. Nunnally - Anyone here interested in this case? Come right
578 down, sir. Anyone else here interested in this case? If so, please stand and raise
579 your right hand and be sworn.

580

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

584

585 Mr. Moore - Yes sir.

586

587 Mr. Nunnally - Please state your name for the record, sir, and tell us
588 what you're requesting.
589
590 Mr. Moore - William Moore, Jr. We would like to get a pole sign at
591 the Uppy's location. It's attached to the Food Lion shopping center and we have
592 the approval from Food Lion. We can't see how business could run without a
593 pole sign by the road to let us know that we're there.
594
595 Mr. Wright - Unfortunately, the ordinance says you can.
596
597 Mr. Moore - Okay. So, we could have a pole sign?
598
599 Mr. Wright - No. I said the ordinance says you can operate it
600 without additional signs. The ordinance prescribes the number of signs and the
601 square feet that are required. To rule otherwise, we would be amending the
602 ordinance.
603
604 Mr. Kirkland - And we can't do that.
605
606 Ms. Dwyer - So, you're part of the shopping center.
607
608 Mr. Moore - Yes ma'am.
609
610 Ms. Dwyer - You might not be used to that, or your clients may not
611 be used to that. They may be used to a single parcel and a single parcel would
612 have its own sign requirements. Because you're part of the shopping center, the
613 existing signs at the shopping center count against you, so to speak.
614
615 Mr. Moore - Yes ma'am. Can we add to the shopping center
616 that's there?
617
618 Mr. Kirkland - Did you read the staff report, sir?
619
620 Mr. Wright - It says—
621
622 Mr. Kirkland - Page 2 gives you some ideas of what you can do,
623 third paragraph down.
624
625 Mr. Wright - Attach signs to the building or the gas station canopy.
626
627 Ms. Dwyer - Or you can add one to this sign, which is the shopping
628 center.
629
630 Mr. Kirkland - The shopping center sign.
631

632 Mr. Wright - What you need to do is talk to Mr. Blankinship, our
633 secretary, and he can explain to you in detail that there are some things you can
634 do.
635
636 Mr. Moore - Okay. All right.
637
638 Ms. Harris - Excuse me, are you Mr. Dawson?
639
640 Mr. Moore - No ma'am. He had a tragic emergency; he couldn't
641 make it today. William Moore, Jr.
642
643 Ms. Harris - Moore. I'm sorry. Mr. Moore, where is the other sign
644 for Lauderdale Square? I see this sign on the visual, but where is the other sign?
645
646 Mr. Moore - I don't believe there is but one.
647
648 Mr. Blankinship - I think the other one is at the corner of Lauderdale
649 and Church.
650
651 Mr. Moore - They're very small. As you can see, they're filled up
652 to the max. They have them almost sitting on the ground. I'm not sure how we
653 would add to the existing sign and make it look decent. They wanted to make
654 something real nice in that area.
655
656 Mr. Kirkland - He'd never get—
657
658 Mr. Moore - The proposed sign is very expensive and real
659 beautiful.
660
661 Ms. Dwyer - Another option would be to negotiate with the
662 shopping center owner and have them give you some of this sign square
663 footage. That's another possibility.
664
665 Mr. Moore - Okay. So, in other words, where they've got their little
666 corner there, they're still considering it part of Food Lion, or Food Lion has sold it
667 to them and has considered it theirs.
668
669 Ms. Dwyer - You're part of the shopping center.
670
671 Mr. Moore - Okay.
672
673 Ms. Dwyer - Whoever owns it. I don't know who owns it, but all I
674 know is you're part of that parcel. There's one sign ordinance that applies to the
675 entire parcel, which includes the Uppy's.
676

677 Mr. Moore - We could change the Food Lion sign. Where they
678 have two signs—
679
680 Ms. Dwyer - Right. I'm saying you could negotiate with them.
681 There's a certain amount of square footage that's allowed for the whole shopping
682 center. If they gave some of theirs up, you could gain some. Basically, there's a
683 sum total that's allowed for the whole shopping center, so I guess it can be
684 distributed in a variety of ways.
685
686 Mr. Moore - Okay.
687
688 Ms. Harris - Could we see where Church Road is and Lauderdale?
689
690 Mr. Blankinship - Can you zoom into that a little? Yeah, there you go.
691 The shopping center runs all the way from Gayton down to Church along that
692 whole frontage of Lauderdale.
693
694 Mr. Moore - They're a long ways from Food Lion, actually, how it's
695 set up.
696
697 Ms. Harris - Okay. So, one sign is at Lauderdale and Church, and
698 the other sign is right by the shopping center.
699
700 Mr. Blankinship - Yes. Right about there.
701
702 Mr. Moore - Yes ma'am.
703
704 Ms. Harris - If they elevated the sign to increase the height so that
705 you could add your business, that would be costly or do you know?
706
707 Mr. Moore - That would be an option. I'm not sure how high you
708 can go. I'm sure they put that to the max.
709
710 Mr. Wright - That's something you'd need to work with the
711 Planning Office on. We can't do that here because we don't have all that
712 information and that's not our function. The Planning Office will be glad to work
713 with you to do the best they can within the requirements of the ordinance.
714
715 Mr. Moore - Okay. It has to be attached to the canopy, is what
716 you're saying, in some sort of way.
717
718 Mr. Blankinship - Right. You're also allowed signs attached to the
719 canopy.
720
721 Mr. Nunnally - All right, sir. Any other questions? Okay, thank you
722 for coming, sir.

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767

Mr. Moore - Thank you.

DECISION

Mr. Wright - I move we deny it.

Mr. Kirkland - Second.

Mr. Wright - On the grounds that we were essentially being requested to amend the ordinance, which we are not authorized to do.

Ms. Dwyer - And they have reasonable use of the property without that sign.

Ms. Harris - And they have options with the two signs that are there.

Ms. Dwyer - Did you get a second?

Mr. Kirkland - I seconded it.

Mr. Nunnally - Motion by Mr. Wright and seconded by Mr. Kirkland. All in favor say aye. All opposed say no. The motion passes; it's been denied.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **denied** application **A-023-07, Heritage Neon, Inc.'s** request for a variance from Section 24-104(k)(5) to erect an additional detached sign at 3081 Lauderdale Drive (Parcel 734-757-2001), zoned B-2C, Business District (Conditional) (Three Chopt). The number of detached signs is not met.

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

Mr. Nunnally - Next case, Mr. Blankinship.

A-24-07 **CHURCH ROAD MANOR, LLC** requests a variance from Section 24-42 to allow a dwelling to remain at 2675 Trellis Green Circle (Church Road Commons) (Parcel 736-755-5630), zoned RTHC, Residential Townhouse District (Conditional) (Three Chopt). The front yard setback is not met.

768 Mr. Nunnally - Is anyone else here interested in this case? If so, can
769 you please stand and raise your right hand?
770
771 Mr. Blankinship - Raise your right hand, please. Do you swear the
772 testimony you're about to give is the truth and nothing but the truth so help you
773 God?
774
775 Mr. Zell - I do.
776
777 Mr. Nunnally - Please state your name for the record, sir, and tell us
778 what you're requesting.
779
780 Mr. Zell - My name is Brian Zell. I'm with D O Allen Homes, the
781 builder and developer in this community.
782
783 Mr. Nunnally - What is your last name again, sir?
784
785 Mr. Zell - Zell.
786
787 Mr. Nunnally - Thank you.
788
789 Mr. Zell - I know what Mr. Blankinship read was a variance for
790 the dwelling. It's not so much the dwelling, if we can look at the diagram we have
791 over here. I know you guys have some pictures and plans also. Just to show
792 you real quick. This is the proposed dwelling up here, [unintelligible] the one
793 that's already built. As you can see, the setback line is—
794
795 Mr. Wright - I think you're going to have to get the microphone.
796
797 Mr. Blankinship - Oh, yeah. Do we still have that handheld mike?
798
799 Mr. Zell - Oh, I can probably show you guys from here. The
800 shaded property right there, Lot 5—I'm sorry, Lot 6—has a red dashed line,
801 which is a setback line that goes in front of it. The dwelling itself is actually
802 behind the setback line. What we have is a covered front stoop on that house.
803 You can see the picture in the top left corner, or the bottom shows actually a
804 better picture. What we'd like to do is keep that stoop, the covered stoop where it
805 is. Like I said, the dwelling is actually behind the line, but we had some things
806 that were missed by our engineer when it was submitted to the County. When
807 we went back and did our condo survey, we discovered that our covered stoop
808 was outside that setback line; therefore, we brought it to your guys attention and
809 would like to get the variance to keep that covered front stoop on the dwelling.
810
811 Mr. Wright - Do you have other dwellings in there that do not have
812 the covered stoop?
813

814 Mr. Zell - No sir. This would be the only scenario on this house
815 where we would have to, basically, take off the front porch or reduce the size of
816 it. Every other house in the community falls within the setback lines where the
817 covered front stoop does not impose on that setback in the front yard.
818
819 Mr. Blankinship - Are you certain? On the plan of development, quite a
820 few of the units are marked with that same symbol.
821
822 Mr. Wright - Yes, there's a whole bunch of them.
823
824 Mr. Blankinship - The stoop can only be uncovered.
825
826 Mr. Wright - That's what our report indicates, that you have others
827 that are not covered.
828
829 Mr. Blankinship - We have a copy of the plan here, if we need to
830 confirm that.
831
832 Mr. Wright - You indicated that you had some marked without the
833 stoop, the cover and some with, didn't you, Mr. Blankinship?
834
835 Mr. Blankinship - Yes. As you see in the packet here, this has been
836 discussed with the builder/developer since, well, February 24, 2005 is one note
837 here: "The proposed front porch on all units except 410, 11, 14, 23, 24, 27, and
838 28 do not meet the required front-yard setback. Revise or eliminate the porch."
839 So, they've been on notice of that for 2-1/2 years.
840
841 Mr. Wright - Since February of this year.
842
843 Mr. Blankinship - No, of 2005.
844
845 Mr. Wright - Oh [unintelligible].
846
847 Mr. Blankinship - When they submitted the plan of development, this
848 was made clear to them in writing on a number of occasions.
849
850 Mr. Wright - Which number is this?
851
852 Mr. Blankinship - Six.
853
854 Mr. Wright - This is number—
855
856 Ms. Dwyer - The layout plan has a legend, "U" with a little, I guess
857 that's a—
858
859 Mr. Blankinship - Yes.

860
861 Ms. Dwyer - —hexagon.
862
863 Mr. Blankinship - Hexagon with a “U” in it.
864
865 Ms. Dwyer - And that “U” with a hexagon is on a number of these
866 units. What’s the status of those units? Do they have porches that violate the
867 setback or do they not have porches?
868
869 Mr. Zell - I believe all the porches are not in violation of the
870 setback on those particular units.
871
872 Ms. Dwyer - Then why is there a “U” on there?
873
874 Mr. Blankinship - How many have actually been built?
875
876 Mr. Zell - I believe there are five houses right now that have
877 been constructed.
878
879 Mr. Blankinship - Okay.
880
881 Mr. Kirkland - Do you have a copy of this plot plan in front of you?
882
883 Mr. Zell - No.
884
885 Mr. Blankinship - I can get him the big one. It is a little hard to read
886 [unintelligible].
887
888 Mr. Kirkland - I see 16, 17 right there on the other end that have a
889 “U” on them, and I see all along the bottom they’re loaded with “U’s.”
890
891 Mr. Wright - Well, 10, 11, 14, 23, 24, 27, 28 are the only ones that
892 can have covered porches.
893
894 Mr. Kirkland - Right.
895
896 Mr. Zell - The section of plot plan that I have snaps out of that
897 corner there.
898
899 Mr. Blankinship - I’m sorry, the reduction is all we have with us, but
900 yeah, that’s the one he’s discussing.
901
902 Mr. Kirkland - Only seven of them are going to be allowed to have
903 covered porches.
904

905 Mr. Zell - Okay. This is the primary one according to the lady
906 who also works with me. This is the only one that has been built, I guess, that's
907 in violation.
908

909 Ms. Dwyer - I think what we're all concerned about is that you only
910 have five built and you already have one that violates the setback. You have lots
911 labeled on our layout plan that say they cannot have covered porches, so the
912 obvious question is, are you going to be back here in the future with other
913 porches?
914

915 Mr. Zell - No. We're working with our engineer right now to
916 make sure this doesn't happen again in the future. This is kind of a one-time
917 situation.
918

919 Mr. Wright - There's a letter in our file dated July 12th, subsequent
920 to the February 24th letter, which also points this out. It's to Mr. Breed: "Clarify
921 which units will have uncovered porches. Some are labeled; however, several
922 units show a front porch encroaching the front-yard setback with no such label.
923 Revise." So, they've been alerted again.
924

925 Ms. Dwyer - We have two letters in our file and minutes from a
926 face-to-face staff developer meeting in which this issue was discussed and
927 brought to your attention. Not you personally, but your company.
928

929 Mr. Zell - Okay.
930

931 Mr. Wright - You say it was the engineer's fault?
932

933 Mr. Zell - Well, I believe it was a combination of our, D O Allen
934 Homes' fault and the engineers.
935

936 Mr. Wright - Well, you all could divide up the cost and go ahead.
937

938 Ms. Dwyer - All that would be required here without this variance is
939 to take the roof off the stoop. You could still certainly use—
940

941 Mr. Blankinship - Can we go back to the photos?
942

943 Ms. Dwyer - The townhouse is still useable, the garage, all the
944 dwelling area.
945

946 Mr. Zell - Yes. It would just be the covered stoop that would
947 have to be removed.
948

949 Ms. Dwyer - And the stoop could stay.
950

951 Mr. Zell - The stoop could stay, yes.
952
953 Ms. Dwyer - Just the roof would have to be removed. So, you
954 would have reasonable use of this lot even without the variance.
955
956 Mr. Zell - That's correct. This is for the front porch roof
957 overhang.
958
959 Mr. Blankinship - There it is.
960
961 Mr. Nunnally - All right. Any other questions from the Board or staff?
962 I ask again, is there any opposition to this? Hear none, that concludes the case.
963 Thank you, sir.
964
965 Mr. Blankinship - I'm sorry, I did not write down your name.
966
967 Mr. Zell - Brian Zell.
968
969 Mr. Blankinship - Thank you.
970
971 **DECISION**
972
973 Mr. Wright - I move we deny it.
974
975 Ms. Harris - Second.
976
977 Mr. Wright - On the grounds that they have reasonable use of the
978 property without the variance.
979
980 Ms. Harris - And other homes in the subdivision will be similar.
981
982 Mr. Kirkland - We need to keep an eye on this one.
983
984 Mr. Blankinship - Yes.
985
986 Mr. Nunnally - All right. Anyone else have any discussion on it?
987 Motion by Mr. Wright that it be denied, seconded by Ms. Harris. All in favor say
988 aye. All opposed say no. The motion carries; it's been denied.
989
990 After an advertised public hearing and on a motion by Mr. Wright, seconded by
991 Ms. Harris, the Board **denied** application **A-24-07**, Church Road Manor, LLC's
992 request for a variance from Section 24-42 to allow a dwelling to remain at 2675
993 Trellis Green Circle (Church Road Commons) (Parcel 736-755-5630), zoned
994 RTHC, Residential Townhouse District (Conditional) (Three Chopt). The front
995 yard setback is not met.
996

997
998 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
999 Negative: 0
1000 Absent: 0

1001
1002

1003 Mr. Nunnally - Next case, Mr. Blankinship.

1004

1005 **A-25-07 CAROLYNE AND THURMAN B. REGISTER, JR.,**
1006 requests a variance from Section 24-9 to build a single-family residence at 7815
1007 Saxby Road (Parcel 800-690-1018), zoned R-3, One-family Residence District
1008 (Varina). The public street frontage requirement is not met.

1009

1010 Mr. Nunnally - Anyone else here interested in this case? If so, will
1011 you please stand and be sworn.

1012

1013 Mr. Blankinship - Raise your right hand, please. Do you swear the
1014 testimony you're about to give is the truth and nothing but the truth so help you
1015 God?

1016

1017 Mr. Register - I do.

1018

1019 Mr. Blankinship - Thank you.

1020

1021 Mr. Nunnally - Please state your name for the record, sir, and tell us
1022 what you're requesting.

1023

1024 Mr. Register - I'm Thurman Register, Jr. This is my wife, Carolyn.
1025 Mr. Chairman, members of the Board, we request a variance for road frontage to
1026 build on a two-acre lot that we have owned in Varina. I was reading through the
1027 paperwork that we got from the County from you folks and I guess I'm little
1028 confused on a couple points and would like to ask questions, if I may. On the
1029 evaluation, it mentions the 35-acre parcel that's been improved with two
1030 dwellings and is currently being used for reasonable use. It also mentions that
1031 above that, the property was mostly in vacant, or in land that was farmed. Not
1032 part of that package is something I asked this morning if I could project, but was
1033 told it wouldn't project very well, so I made a few copies. Just wanted to point out
1034 that #1—and this may make no difference at all—the land is at least half in
1035 woods, that 35-acre parcel. The parcel that we own in addition to the two acres is
1036 a total of about 17 acres. More than seven acres of that is in woods and seven is
1037 in [unintelligible] land. That land has been worked for years since the '50's just to
1038 keep it from growing up. But to us, it's not a working farm; it's the other parcels
1039 around there.

1040

1041 The two acres that we have, two give you a little—

1042

1043 Mrs. Register - That's not our property. Our property doesn't start
1044 until the tree line.

1045
1046 Mr. Nunnally - You have to get to the microphone.

1047
1048 Mr. Register - She's saying that's not our property. Yes it is. The
1049 cleared property is not ours. Our property starts right where the building is. That
1050 two acres there, originally that—Where it says, "James E. and Carl Almond" and
1051 then the two acres behind that was an original five-acre parcel that was
1052 transferred in 1951. After that was transferred to my mother and stepfather, two
1053 acres was transferred to us in 1980 because it was our intention to build on those
1054 two acres. We did come before the Board then. We received a variance to build.
1055 The health of my stepfather, which is the reason we were down there—Both
1056 were in poor health. Before we got everything done that we wanted to get done,
1057 he passed away. My mother was getting a little worse. Also, my grandparents,
1058 when they died, the rest of the 35 acres, except for an acre that my sister owns,
1059 all went back to—Their three acres and the 30-some acres became one parcel,
1060 so that two acres is all that survived of the five acres that was transferred in
1061 1951, which was, of course, before the 1960 ordinance. That was just one point I
1062 wanted to make out.

1063
1064 Then as we get down to #1, it says, "There's no exceptional conditions of size,
1065 shape or topography. The two-acre lot is nearly square and is suitable for
1066 growing pasture crops." Well, maybe so, but not on its own. The same thing that
1067 makes it suitable for growing pasture also makes it suitable for building. It's a
1068 very nice lot. It's flat and has very good elevation. We actually had a soil sample
1069 done, also, back in '80 or '81, which was suitable for a septic system and well.

1070
1071 On #2, you mention the private drive is in very poor condition and I certainly
1072 agree with that. I think you have a picture of that. We have all intentions to
1073 grade that and put some gravel on it before we would start our building. Most of
1074 that road is not our property. Very little of it belongs to us. It is a deeded right-of-
1075 way. It was deeded with the original 35 acres back in the '40's. The property
1076 really hasn't changed hands other than between my mother, my grandmother,
1077 my sister, and myself. It's be rearranged a few times, but none of it has been
1078 sold off and we have no intentions of doing that certainly at this time.

1079
1080 Number 3, you were talking about a stub road, I think, from Hidden Acres. Is that
1081 #3? Yeah. It's my understanding that nothing's going to be done on that property
1082 until Wilton develops their property and puts water and sewer down there, so that
1083 may be a while. That's the road out to Saxby. Again, that's not our property, but
1084 belongs to Burt Allen on the right. I'm not sure of the owner on the left.

1085
1086 There was also a mention in 3, I think, on the property being 200 feet of the
1087 public portion of Wilton Road. Well, if you look at the back end of that property,
1088 you would see that those two, three acres belong to the Englehart's. We could

1089 not get across their property or the creek that's at the bottom of this property to
1090 get to Wilton Road, nor could we really get to the elevation of it since they put the
1091 overpass there on Pocahontas Parkway. It's a pretty severe elevation, so it would
1092 take a bridge to get up high enough to get to Wilton Road if you went down there.
1093 Englehart actually goes around the side and the County built a place for them to
1094 get up.
1095
1096 Mr. Blankinship - That's already there in the right-of-way. There is a
1097 little access road.
1098
1099 Mr. Register - For Englehart's, yes.
1100
1101 Mr. Blankinship - And that comes within a couple hundred feet of your
1102 property, which it's not like your property borders that.
1103
1104 Mr. Register - Right. And again—
1105
1106 Mr. Blankinship - But it is there.
1107
1108 Mr. Register - Unless you have questions, we certainly respectively
1109 request your approval on this variance. I'd like to build a house there. In our
1110 write-up, we put some of the reasons we want to build. We're in a house now that
1111 all the living quarters are upstairs. We're getting to the point we'd like to have
1112 our living quarters downstairs. The existing house on this property, on the 15-
1113 acre part of it, we want to put our son and his daughter in, which is a 12 year old.
1114 This has been more her mother than her mother, 'cause he's been a single
1115 parent most of her life.
1116
1117 Ms. Harris - Mr. Register, I do have a question.
1118
1119 Mr. Register - Yes.
1120
1121 Ms. Harris - Could you point out where Hidden Haven is? You
1122 said that has been approved for a subdivision? I'd like to know how close that is
1123 to your property.
1124
1125 Mr. Register - Yes. See the dotted lines there? Does this work?
1126 Okay. This dotted line is a proposed road and a proposed stub road. The two
1127 acres we're requesting the variance for are here. This property also belongs to
1128 us. Hidden Acres would be over here.
1129
1130 Mr. Blankinship - The house just above the word, "Saxby," there is the
1131 house that you'd like to move your son and his daughter into?
1132
1133 Mr. Register - That's correct.
1134

1135 Mr. Blankinship - Okay.
1136
1137 Mr. Register - And this is the right-of-way road here, the dirt road
1138 that goes all the way up to Saxby. Must be an old photograph. That track is no
1139 longer there. That was that horse track down next to Burt Allen's. It's kind of
1140 grown over. It hasn't been used in years.
1141
1142 Mr. Blankinship - It's 2003.
1143
1144 Mr. Register - Okay. But—
1145
1146 Ms. Dwyer - Mr. Register—
1147
1148 Mr. Register - I'm sorry.
1149
1150 Ms. Dwyer - Did you have something else?
1151
1152 Mr. Register - No, I thought you were going to ask a question.
1153
1154 Ms. Dwyer - I am, but I didn't want to interrupt you.
1155
1156 Mr. Register - No, go ahead.
1157
1158 Ms. Dwyer - Okay. The two acres that you want to build a house
1159 on, when—This was lot created was in '79 or '80.
1160
1161 Mr. Register - Yes.
1162
1163 Ms. Dwyer - You said '80 and our records say originally '79.
1164 Before this lot was created, it was part of the five-acre parcel that includes the
1165 house that we were just speaking of—
1166
1167 Mr. Register - Right.
1168
1169 Ms. Dwyer - —that on this map, is right beside the words, "Saxby
1170 Road."
1171
1172 Mr. Register - Yes.
1173
1174 Ms. Dwyer - That was a five-acre parcel with a home on it and
1175 then in '79, this two acres was divided.
1176
1177 Mr. Register - Right. The five acres was taken off the 35 acres in
1178 '51. That house was built in '52.
1179

1180 Ms. Dwyer - The key time for us is when the lot was created, what
1181 was it created from and what were the ordinances in existence at that time. I
1182 wanted to make sure I had that straight. You mentioned that the access drive is
1183 in bad shape. What do you plan to do, if anything, to correct that?
1184

1185 Mr. Register - We certainly want to grade it. I've already received
1186 prices and people to do it. It would just be graded and graveled. It would cost me
1187 more to pave it than it would—Plus it's not my property.
1188

1189 Ms. Dwyer - What's the width of your easement there?
1190

1191 Mr. Register - Twenty feet.
1192

1193 Ms. Dwyer - Thank you, that's all.
1194

1195 Mr. Register - I have one other thing I just wanted to clear up here.
1196 In the suggested conditions, it was talking about a deeded access to the two
1197 acres. I think you were speaking of me granting access to myself or through that
1198 from the—
1199

1200 Mr. Blankinship - They will need a legal recorded easement or
1201 something showing that whoever lives in that house has the right, the legal right
1202 to go all the way—
1203

1204 Mr. Register - [Unintelligible] the rest of the right-of-way. Sure.
1205 Okay.
1206

1207 Mr. Blankinship - However many properties that crosses.
1208

1209 Mr. Register - Since there is an existing right-of-way there, I can
1210 give right-of-way from the two acres to that right-of-way.
1211

1212 Mr. Blankinship - Yes.
1213

1214 Mr. Register - Okay. Any other questions for me?
1215

1216 Mr. Nunnally - Any other questions?
1217

1218 Mr. Wright - Yeah. I'm confused as to the access. On this plat
1219 that we have that shows a straight access all the way to Saxby Road, that's not
1220 the access you're going to be using?
1221

1222 Mr. Blankinship - Saxby Road is not a public street.
1223

1224 Mr. Wright - I understand that. I see it at right angles going back
1225 from what you call Saxby Road. There's those little dotted things back.

1226
1227 Mr. Blankinship - We're on the site map, Jim.
1228
1229 Mr. Wright - Site map. There it is. Is that the access that we're
1230 talking about?
1231
1232 Mr. Register - The part here all the way to Saxby Road.
1233
1234 Mr. Wright - No. I'm talking about from there back to the house.
1235
1236 Mr. Register - Yes, this part right here.
1237
1238 Mr. Wright - Is that the access?
1239
1240 Mr. Register - That's a proposed access that we would deed or a
1241 driveway that we would deed to this right-of way.
1242
1243 Mr. Wright - You're not going over the old access that we're talking
1244 about.
1245
1246 Mr. Register - This never was. This is—
1247
1248 Mr. Wright - Something new.
1249
1250 Mr. Register - This would be new because the two acres is by itself.
1251 We're always going to have a driveway from this right-of-way right here to here.
1252
1253 Mr. Wright - How wide would that access be?
1254
1255 Mr. Register - Whatever we need. Twenty feet or—It's just a
1256 driveway.
1257
1258 Mr. Kirkland - Just a fire truck needs to get back there.
1259
1260 Mr. Register - Sure. We own the piece we're going across, so we
1261 could deed as much as we needed to.
1262
1263 Ms. Dwyer - We have to think far into the future. At some point,
1264 someone may move or the hands may change, so it's important to make sure
1265 that all the legalities of assuring access to a lot that is created are taken care of
1266 forever.
1267
1268 Mrs. Register - I have a question. [Unintelligible.]
1269
1270 Mr. Nunnally - Come up to the microphone, please.
1271

1272 Mrs. Register - When Hidden Haven is developed and the stub road
1273 then touches our property, we will then have road frontage. So, does that mean
1274 that the variance would not be a permanent always thing, that it could very
1275 possibly be done away with at that time?
1276

1277 Ms. Dwyer - Actually, this two-acre parcel doesn't touch that stub
1278 road.
1279

1280 Mr. Register - We own the piece between the two acres and the
1281 stub road. We could deed that—
1282

1283 Ms. Dwyer - Road frontage? You could build a road from the stub
1284 road to your home. You could build a public road and extend it to your two-acre
1285 lot and then the variance wouldn't be necessary.
1286

1287 Mrs. Register - Does it have to be a road or could it just be deeded
1288 property? How do people do that?
1289

1290 Ms. Dwyer - The County policy is that all dwellings are to have 50
1291 foot of public road frontage.
1292

1293 Mrs. Register - Okay.
1294

1295 Ms. Dwyer - That's the County ordinance.
1296

1297 Mrs. Register - So, if 50 feet was deeded to those two acres from the
1298 stub road, that would qualify?
1299

1300 Ms. Dwyer - Well, it would need to be built.
1301

1302 Mr. Blankinship - At that point, you'd have a lot of options.
1303

1304 Mrs. Register - Okay.
1305

1306 Mr. Blankinship - Future owners of the property may want to sell it or
1307 divide it, I mean develop it. We would be allowing for the flexibility in the future to
1308 do what appears to be best at that time.
1309

1310 Mr. Nelson - I'm Bill Nelson.
1311

1312 Mr. Nunnally - Have you been sworn, sir?
1313

1314 Mr. Nelson - No sir.
1315

1316 Mr. Blankinship - Will you raise your right hand, please? Do you swear
1317 the testimony you're about to give is the truth and nothing but the truth so help
1318 you God?
1319

1320 Mr. Nelson - Yes sir. I'm Bill Nelson. My parents own the
1321 adjoining property around them. I have part ownership in the property behind
1322 them and we're also the developers of Hidden Haven. This stub road is
1323 tentatively placed. I believe, if it would help them, we could work that out to
1324 move it to align it. We put it there not knowing what was going to be done with
1325 the adjoining property, but to service it. If it would help to move it, we can work
1326 with that. After we got the tentative approval, Wilton Development, they laid their
1327 plans out and they're bringing sewer and water to the base of our property. For
1328 the environment and a better situation, we're waiting for that to be done for our
1329 development.
1330

1331 Mr. Blankinship - Right.
1332

1333 Mr. Nelson - We don't have any objection to what they want to do
1334 and we'll try to work with them to provide access.
1335

1336 Mr. Blankinship - Great.
1337

1338 Mr. Register - Thank you, Bill.
1339

1340 Mr. Nunnally - Any other questions?
1341

1342 Ms. Harris - Did you receive any objections from the other
1343 neighbors?
1344

1345 Mr. Register - No ma'am.
1346

1347 Mr. Blankinship - We have not heard anything at the office.
1348

1349 Ms. Harris - Okay.
1350

1351 Mr. Nunnally - All right, that concludes the case. Thank you for
1352 coming, sir.
1353

1354 Mr. Register - Thank you very much for considering it.
1355

1356 **DECISION**
1357

1358 Ms. Harris - I move that we grant this variance in as much as the
1359 Hidden Haven subdivision has been approved and I believe the developer has
1360 agreed to provide a stub road for this family. I believe we will shortly be in
1361 conformity with this parcel.

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1407

Mr. Wright - Second.

Mr. Nunnally - Motion by Ms. Harris, seconded by Mr. Wright. Any other discussion?

Ms. Dwyer - Well, I'm going to have to discuss this. This is the kind of case that makes this job hard because on a personal level, there is every reason to grant this variance. But on a legal level, as I see it, there's only reason to deny it. As I see it, we're sworn to uphold the law and not to substitute our personal feelings. I would love to vote to grant this variance, but I can't really bring myself to do that because when this parcel was separated, this two-acre parcel was separated from the five-acre parcel in 1979, the 50-foot road frontage was required, was in existence at that time. At that time, there was also reasonable use of the property and still is, because there is a house on that original five-acre parcel. There is reasonable use of the property in question, that is the five acres at the time this lot was created. Secondly, this is a recurring issue and under 24-116(b)(3), we have to be able to state that this is not a recurring issue, that this is a unique situation in which a failure to grant the variance would, in fact, deny a person's constitutional rights. As difficult as it is, I don't think this case meets that legal requirement.

Mr. Nunnally - All right, thank you.

Mr. Wright - In my opinion, I think it's been a recurring situation for 40 years. We called it to the Board of Supervisor's attention years ago and we've recently done it again. To me, it indicates the Board of Supervisors hasn't been in a mood to do anything about it or to correct it. In the meantime, we're causing undue hardship to some families for the use of their property. I still have a question about Cherrystone, because in Cherrystone, the statute at that time, which was—let me get the section number here—15.2-2309(2), specifically stated the basis upon which they were applying was narrowness of the lot, and the statute at that time specifically stated that the narrowness issue has to be in effect at the time of the effective date of the ordinance. The ordinance that we have for zero road frontage does not say it has to be in effect at the time of the ordinance. I think this is distinguishable. I think there's a question there. I certainly don't want to do something I think is not legal, but I think this is a shady area, a question there, and I believe that all the facts and circumstances here would support the application.

Mr. Nunnally - Okay. I have a motion by Ms. Harris, seconded by Mr. Wright it be approved. All in favor say aye. All opposed say no. The motion carries; it's approved 4 to 1.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Wright, the Board **approved** application **A-25-07**, Carolyne and Thurman B.

1408 Register, Jr.'s request for a variance from Section 24-9 to build a single-family
1409 residence at 7815 Saxby Road (Parcel 800-690-1018), zoned R-3, One-family
1410 Residence District (Varina). The public street frontage requirement is not met.
1411 The Board granted the variance subject to the following conditions:

- 1412
- 1413 1. This variance applies only to the public street frontage requirement for one
1414 dwelling only. All other applicable regulations of the County Code shall remain in
1415 force.
 - 1416
 - 1417 2. Approval of this request does not imply that a building permit will be issued.
1418 Building permit approval is contingent on Health Department requirements,
1419 including, but not limited to, soil evaluation for a septic drainfield and reserve
1420 area, and approval of a well location.
 - 1421
 - 1422 3. At the time of building permit application, the applicant shall submit the
1423 necessary information to the Department of Public Works to ensure compliance
1424 with the requirements of the Chesapeake Bay Preservation Act and the code
1425 requirements for water quality standards.
 - 1426
 - 1427 4. The applicant shall present proof with the building permit application that a
1428 legal access to the property has been obtained.
 - 1429
 - 1430 5. The owners of the property, and their heirs or assigns, shall accept
1431 responsibility for maintaining access to the property until such a time as the
1432 access is improved to County standards and accepted into the County road
1433 system for maintenance.

1434

1435			
1436	Affirmative:	Harris, Kirkland, Nunnally, Wright	4
1437	Negative:	Dwyer	1
1438	Absent:		0

1439
1440

1441 Mr. Nunnally - Next case, Mr. Blankinship.

1442

1443 **A-26-07** **KINDRED HEALTHCARE** requests a variance from
1444 Section 24-104(g)(3)e.4. to install an attached sign at 2220 Edward Holland Drive
1445 (Parcel 775-740-2527), zoned O-3C, Office District (Conditional) (Brookland).
1446 The sign area requirement is not met.

1447

1448 Mr. Nunnally - Anyone else here interested in this case? All right,
1449 sir.

1450

1451 Mr. Blankinship - Raise your right hand, please. Do you swear the
1452 testimony you're about to give is the truth and nothing but the truth so help you
1453 God?

1454
1455 Mr. Markiewicz - I do.
1456
1457 Mr. Nunnally - Please state your name for the record, sir, and tell us
1458 what you're requesting.
1459
1460 Mr. Markiewicz - Michael Markiewicz here representing Kindred
1461 Healthcare. The intent of the sign ordinance is to permit maximum legibility and
1462 effectiveness of signs along with promoting traffic safety. Our entrance to the
1463 hospital is on the north elevation. We currently have a wall sign on that north
1464 elevation that can only be viewed from the actual parking lot of the hospital. The
1465 sign is obstructed from any kind of traffic traveling along Edward Holland Drive.
1466 Typically, in order to promote traffic safety, a business or hospital would have a
1467 wall sign and a monument sign addressing traffic along the main road passing by
1468 that business or hospital or commercial building. We currently only have a small
1469 monument sign addressing Edward Holland Drive that is partially obstructed by
1470 trees while traveling southbound on Edward Holland Drive. We are seeking a
1471 wall sign on our front elevation to help our monument sign address traffic and
1472 promote traffic safety in front of the hospital. This sign that we're requesting is
1473 aesthetically pleasing and will only have a positive impact to the surrounding
1474 properties. I'd be more than happy to answer any of your questions.
1475
1476 Ms. Dwyer - You have a monument sign that clearly identifies your
1477 business and the entrance to your facility beside the road. Is that correct?
1478
1479 Mr. Markiewicz - That's correct. It is partially obstructed by trees,
1480 landscaping that had been there.
1481
1482 Ms. Dwyer - Okay. I guess branches could be cut. This is what
1483 I'm talking about, yeah, the one that's on our screen, the picture of the man
1484 standing beside it.
1485
1486 Mr. Markiewicz - Correct.
1487
1488 Ms. Dwyer - For the purposes of identifying your business and
1489 making it clear to passing motorists what this building is, this sign suffices.
1490
1491 Mr. Markiewicz - My only counter to that would be that typically you
1492 would have a wall sign and a freestanding monument that would address the
1493 roadway.
1494
1495 Ms. Dwyer - I read that. I was interested because I drove by St.
1496 Mary's and Henrico Doctor's and they have a similar monument style sign, but
1497 they don't really have these very large signs, as you're proposing, on their
1498 buildings. In fact, St. Mary's has a very similar situation to you where the "St.
1499 Mary's," is written at their entrance, which is inside the parking lot and not visible

1500 at all from the roadway. I think maybe what you're thinking is that a business in a
1501 different zoning might be entitled to more signs, but I'm not sure your argument is
1502 sufficient, particularly when I look at other hospitals. Henrico Doctor's, as well as
1503 St. Mary's don't have these kinds of signs attached to their buildings.
1504
1505 Mr. Markiewicz - I don't know if it's a different zoning, but the building
1506 across the street does have two larger wall signs.
1507
1508 Ms. Dwyer - Okay.
1509
1510 Mr. Markiewicz - They appear to be larger than 20 square feet. I don't
1511 know if they happen to be in a different zoning district.
1512
1513 Ms. Dwyer - It varies with the zoning designation.
1514
1515 Mr. Blankinship - It's M-2, actually. The property across the street is M-
1516 2.
1517
1518 Ms. Dwyer - I see. Big difference.
1519
1520 Mr. Blankinship - It (M-2) would allow about the biggest signs that we
1521 would allow anyway.
1522
1523 Ms. Harris - Mr. Blankinship, are there codes for regular hospital
1524 signage or do they just refer to the zoning?
1525
1526 Mr. Blankinship - The section that's referred to there is specific to
1527 hospital complexes in the O-3 District.
1528
1529 Ms. Dwyer - So, you have reasonable use of your property without
1530 this sign. You're able to use it as a hospital; people are able to find it. Is that
1531 correct?
1532
1533 Mr. Markiewicz - I guess the concern would be if people are able to find
1534 it or not.
1535
1536 Mr. Blankinship - It's worth noting what kind of a hospital this is. They
1537 don't do emergency care of anything like that. It's all—What's the word for it?
1538
1539 Mr. Markiewicz - It's long-term care.
1540
1541 Mr. Blankinship - Long-term. There's another word in the definition.
1542 You're going to have mostly people who are familiar with the location returning,
1543 not like emergency patients.
1544

1545 Ms. Dwyer - Is the other word "nursing home"? Is it like a nursing
1546 home?
1547
1548 Mr. Markiewicz - I don't believe so.
1549
1550 Mr. Blankinship - It's more than that. Acute?
1551
1552 Mr. Kirkland - It's like a hospice?
1553
1554 Mr. Blankinship - Let me just read it. "Long-term acute care." I thought
1555 there was one word missing.
1556
1557 Mr. Wright - So, the people that are your patients are there over a
1558 longer period of time? Is that correct?
1559
1560 Mr. Markiewicz - Correct.
1561
1562 Mr. Wright - How long do they stay there minimum?
1563
1564 Mr. Markiewicz - I only deal with the signs, so I don't know exactly how
1565 long they stay there. I'm assuming if it's long-term care, the patients are not
1566 going to need the signage to actually find the hospital. It would be more their
1567 relatives or someone coming from out of state or possibly visiting them.
1568
1569 Mr. Wright - Do you have a number on the building?
1570
1571 Mr. Markiewicz - Address?
1572
1573 Mr. Wright - Yes.
1574
1575 Mr. Markiewicz - Yes.
1576
1577 Mr. Blankinship - We have a photo of that, I think, don't we, Jim?
1578
1579 Ms. Dwyer - You have two number signs, I think, on the front of the
1580 building.
1581
1582 Mr. Blankinship - It doesn't come out too well in this photograph.
1583
1584 Mr. Kirkland - I don't see any reason for this.
1585
1586 Ms. Dwyer - Couldn't you move the sign that's facing the parking
1587 lot to the roadway, if that's what you wanted to do?
1588

1589 Mr. Markiewicz - You could, but I don't know if you wouldn't want to
1590 have a sign above your entrance. Kind of a typical rule to always have the sign
1591 above your entrance.

1592
1593 Ms. Dwyer - Right.

1594
1595 Mr. Nunnally - Any other questions from the Board or staff? Hear
1596 none, that completes the case. Thank you for coming, sir.

1597
1598 Mr. Markiewicz - Thank you.

1599
1600 **DECISION**

1601
1602 Mr. Kirkland - I move we deny it.

1603
1604 Ms. Dwyer - Second.

1605
1606 Mr. Kirkland - The reason being the zoning ordinance on the
1607 property does not interfere with the reasonable beneficial uses of the property
1608 taken as a whole.

1609
1610 Ms. Harris - I have a question on this. There is another zoning
1611 ordinance concerning detached signs. This request is for installing an attached
1612 sign.

1613
1614 Mr. Blankinship - Yes ma'am. They are allowed a detached sign and an
1615 attached sign.

1616
1617 Ms. Harris - Okay. Just want to clarify that. When you're driving
1618 by the emergency hospital facilities, even though we said this is not an
1619 emergency facility, we do see a lot of detached signs.

1620
1621 Mr. Kirkland - I'm really thinking more along the lines that Ms. Dwyer
1622 said, that this is a nursing home, basically more of an acute nursing home where
1623 a lot of the residents won't leave there. People should know where it is. If you're
1624 visiting somebody that's going to be in a long-term staying facility, you will know.

1625
1626 Ms. Dwyer - I drove by St. Mary's and Henrico Doctor's on my way
1627 in this morning and I was so busy looking at it, I missed my turn. Shouldn't
1628 admit that, I might get fined. Henrico Doctor's has one monument sign at the
1629 corner of Skipwith and Forest, and they don't have any of these large name signs
1630 on the building itself. They do have directional signs.

1631
1632 Mr. Kirkland - They have one sign that says, "Emergency."

1633

1634 Ms. Dwyer - To the emergency room. I think that's probably
1635 permitted.

1636
1637 Mr. Blankinship - There is a separate paragraph for that.
1638

1639 Ms. Dwyer - Those are directional signs directing people to the
1640 emergency room. But they don't have big "Henrico Doctor's" signs displayed
1641 across the top of the building. All they have is that little monument sign and then
1642 directional signs. Even a big hospital with an emergency room doesn't have
1643 what they're asking for.

1644
1645 Mr. Kirkland - Right.
1646

1647 Mr. Wright - If you're looking for a property, you have a street
1648 address, you have a number. You go along and you check the numbers as you
1649 go. It's right there.

1650
1651 Ms. Dwyer - There's a big monument sign right on the roadway.
1652

1653 Mr. Nunnally - All right. I hear a motion to deny it by Mr. Kirkland,
1654 seconded by Ms. Dwyer. All in favor say aye. All opposed say no. The motion
1655 carries; it's been denied.

1656
1657 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by
1658 Ms. Dwyer, the Board **denied** application **A-26-07**, Kindred Healthcare's request
1659 for a variance from Section 24-104(g)(3)e.4. to install an attached sign at 2220
1660 Edward Holland Drive (Parcel 775-740-2527), zoned O-3C, Office District
1661 (Conditional) (Brookland). The sign area requirement is not met.

1662
1663
1664 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1665 Negative: 0
1666 Absent: 0

1667

1668

1669 Mr. Nunnally - Next case, Mr. Blankinship.

1670

1671 **UP-010-07** **GILLIES CREEK INDUSTRIAL RECYCLING LLC**
1672 requests a conditional use permit pursuant to Sections 24-103 and 24-52(d) to
1673 extract materials from the earth at 2980 Meadow Road (Parcel 843-720-7272),
1674 zoned A-1, Agricultural District (Varina).

1675

1676 Mr. Nunnally - Is anyone else here interested in this case?

1677

1678 Mr. Blankinship - Do you swear the testimony you're about to give is
1679 the truth and nothing but the truth so help you God?

1680
1681 Mr. Bryant - I do.
1682
1683 Mr. Nunnally - Please state your name for the record, sir, and tell us
1684 what you're requesting.
1685
1686 Mr. Bryant - My name is Lou Bryant. I'm with Gillies Creek
1687 Industrial Recycling, and we are requesting a renewal of our permit to continue
1688 the filling operation at 2980 Meadow Road.
1689
1690 Ms. Dwyer - Mr. Bryant, could you address the statement in the
1691 staff report that in spite of the fact that this Board asked that the fill not exceed
1692 the existing level or elevation of the land, that the site's been filed as high as 150
1693 feet above MSL even though the property was supposed to be filled no more
1694 than 140 feet?
1695
1696 Mr. Bryant - I believe that at our last meeting in December, we first
1697 addressed that issue and my recollection of what we stated was we could not fill
1698 any higher than we were at, at the Board's last inspection in December, which we
1699 have not. We were required to maintain a slope, I think, of less than 3 to 1 and
1700 then tie-in with the adjacent property on the northern boundary of the filling
1701 operation. We have not filled any higher. In the areas you see on you plans
1702 where it says, "existing filled area," we have not filled any higher there since we
1703 last met in December. The existing grades are shown in the lighter broken lines
1704 and then the proposed finished grades are shown in the solid lines. As you can
1705 see, it tapers gradually down to the limits of filling on the north side of the
1706 property. I believe the reason that this permit was only renewed for six months at
1707 the last meeting was to address these issues. I believe I asked Mr. Kirkland, and
1708 his response [unintelligible] clear that we would not have to extract or lower the
1709 levels we had filled to prior to the December meeting; we were only not allowed
1710 to go higher than we were currently.
1711
1712 Mr. Blankinship - On this plan, which is your February 13th topo, just
1713 below the "existing filled area" label, there's a 150 contour.
1714
1715 Mr. Bryant - Yes sir, that's correct.
1716
1717 Mr. Blankinship - And that was that way in December.
1718
1719 Mr. Bryant - That is correct. We have not filled in this area for quite
1720 some time. We have been working here on this northern end of the pit for the
1721 last several months. This area has not been filled, that is correct. That area has
1722 not been filled since our last meeting in December, I'm sure of that.
1723
1724 Mr. Blankinship - That's not consistent with my memory, but my
1725 memory's not what it used to be.

1726
1727 Ms. Dwyer - Do we have the previous report that would state the—
1728
1729 Mr. Blankinship - Well, we didn't have a topography shot at that time. I
1730 was going back to the 2003 topography, which, of course, is badly out of date, in
1731 trying to recall, and looking at the photographs, too, but it's very difficult to read
1732 grades off of photographs because it's not perfectly level. If he's willing to testify
1733 to that under oath, I'll take his word for it, but I'm surprised to hear it. The point
1734 is, what is the final grade going to be under the reclamation plan.
1735
1736 Mr. Bryant - All the grade lines you see on here in the existing
1737 filled area, that's going to be the finished grade. These lines here represent as of
1738 February where we were with the fill operation. That's the existing slope at that
1739 time. These are the proposed grades moving this way north on the property. At
1740 this time—
1741
1742 Mr. Wright - I can't make those out. Can you make them out? Is
1743 this the thing that's in our—All right.
1744
1745 Mr. Kirkland - Yes, I had to do the same thing.
1746
1747 Mr. Bryant - In the last four months, we are approximately here
1748 with the current filling operation.
1749
1750 Mr. Kirkland - You're at 124, roughly? That line that says 124?
1751
1752 Mr. Bryant - I would say [unintelligible] between the 130 and 124
1753 grade.
1754
1755 Mr. Kirkland - Okay.
1756
1757 Mr. Bryant - In terms of where we're filling at this point.
1758
1759 Ms. Dwyer - So, you're making the slope more gradual to the
1760 north. As I see the northern topo lines, as you say, you're going to tie into those,
1761 which are at 112, 110.
1762
1763 Mr. Bryant - About 116. I think the tree line at the northern end of
1764 the property is approximately 116.
1765
1766 Ms. Dwyer - Okay. So the only change from December is that you
1767 are making the north slope more gradual and tying it into the existing grade?
1768
1769 Mr. Bryant - I think the problem in December was the plans that
1770 had been approved by the County and what we were working on really had no

1771 defined grade plan. As I understood it, the Board's major request of us was that
1772 we define a grade plan—
1773
1774 Mr. Blankinship - Right.
1775
1776 Mr. Bryant - —and show the County what the site will look like with
1777 slopes when it's done, which is what we tried to do here. You also said we
1778 couldn't fill higher, and we haven't. This is our representation to you of what
1779 things are going to look like when we're done and what our finished elevation
1780 should be.
1781
1782 Mr. Wright - Those elevations are within our guidelines. Is that
1783 right, Mr. Blankinship?
1784
1785 Mr. Blankinship - Well, that's part of this issue, I guess, is that we don't
1786 really have guidelines. We just have the question of what is the property going to
1787 be used for in the future and what should they do to make it most amenable to
1788 that proposed use.
1789
1790 Mr. Wright - You said 138 was what you were looking for and
1791 they're progressing to get down below that.
1792
1793 Mr. Blankinship - Well, yes, they're showing the existing contour there
1794 at 150.
1795
1796 Mr. Wright - Yes, I understand, but that was already there.
1797
1798 Mr. Blankinship - Yes. Yes sir, that's correct.
1799
1800 Mr. Wright - Okay.
1801
1802 Ms. Dwyer - Could this be used for rural residential as it says in
1803 the long-range plan?
1804
1805 Mr. Blankinship - It can be, yes.
1806
1807 Ms. Dwyer - Do you think houses could be built on this?
1808
1809 Mr. Bryant - I don't know what the County's guidelines are for
1810 home construction. It is a fill site so I don't know what the County's going to
1811 allow to be built.
1812
1813 Mr. Blankinship - You need engineered footings, but it can be done.
1814
1815 Mr. Bryant - Okay. Then the answer would be yes, in my opinion.
1816

1817 Ms. Dwyer - You've read all of the conditions?
1818
1819 Mr. Bryant - Yes ma'am, I have. I didn't see any changes except
1820 where it appears that the bond requirement's gone up by \$1,000 per acre, from
1821 2,000 to 3,000. Is that correct?
1822
1823 Mr. Blankinship - That's correct.
1824
1825 Ms. Dwyer - You're in agreement with those.
1826
1827 Mr. Bryant - Yes ma'am. It's the conditions we've been operating
1828 under for the last several years.
1829
1830 Ms. Dwyer - I just need you to state it.
1831
1832 Mr. Bryant - Yes. I agree.
1833
1834 Mr. Nunnally - Any other questions from the Board or staff? Hear
1835 none, that completes the case. Thank you for coming, sir.
1836
1837 Mr. Bryant - Thank you.
1838
1839 **DECISION**
1840
1841 Ms. Dwyer - I move that it be approved. I was a little disappointed
1842 about the elevation of this, but apparently, that was preexisting, that was existing
1843 prior to our December meeting. The only change here is that the applicant is
1844 modifying the grade from the highest point of this fill area to the existing grade to
1845 the north and making that slope much more gradual. That seems to be a positive
1846 thing. They have agreed to all the conditions that the County has suggested, so I
1847 move that this special use permit be granted.
1848
1849 Mr. Wright - Second.
1850
1851 Mr. Nunnally - Motion by Ms. Dwyer, seconded by Mr. Wright it be
1852 approved. All in favor say aye.
1853
1854 Ms. Harris - I have a question.
1855
1856 Mr. Nunnally - Excuse me, Ms. Harris.
1857
1858 Ms. Harris - To avoid the problem that we had today with the 150
1859 feet being the highest point, should we put that somewhere in the motion or how
1860 would we insure that—
1861

1862 Mr. Kirkland - He submitted a plan. I assume in December, we
1863 didn't have a plan.
1864
1865 Mr. Blankinship - Right. And in the past files, there was no specific plan;
1866 there was just a statement, "Area to be graded."
1867
1868 Mr. Kirkland - So we used a visual from the photographs as that
1869 being, we thought at that time, probably 142, I guess? Is that what you're
1870 saying?
1871
1872 Mr. Blankinship - Right.
1873
1874 Mr. Kirkland - So, we just came up with that, I assume.
1875
1876 Mr. Blankinship - Right.
1877
1878 Mr. Kirkland - We didn't really have a cross-section.
1879
1880 Ms. Dwyer - What we've accomplished is—
1881
1882 Mr. Kirkland - He's penned in now.
1883
1884 Ms. Dwyer - We said show us what you're going to do—
1885
1886 Mr. Kirkland - Right.
1887
1888 Ms. Dwyer - —for your reclamation. That's what we saw today.
1889
1890 Mr. Kirkland - He did.
1891
1892 Ms. Dwyer - We saw what he's already done and what they're
1893 going to do in terms of grading, and that's information we didn't have before.
1894
1895 Mr. Kirkland - Right. Exactly.
1896
1897 Ms. Dwyer - I think that's very important information for us to have.
1898
1899 Mr. Kirkland - Oh yes.
1900
1901 Ms. Dwyer - Obviously, because we didn't realize there was even
1902 150 feet already.
1903
1904 Mr. Kirkland - Obviously.
1905
1906 Ms. Harris - We're sure now in the reclamation plan that it will be
1907 no higher than 150 feet. The part that's already there.

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Ms. Dwyer - He has committed to this reclamation plan.

Mr. Nunnally - Okay. Motion by Ms. Dwyer, seconded by Mr. Wright it be approved. All in favor say aye. All opposed say no. The motion passes; it's been approved.

After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr. Wright, the Board **approved** application **UP-010-07**, Gillies Creek Industrial Recycling, LLC's request for a conditional use permit pursuant to Sections 24-103 and 24-52(d) to extract materials from the earth at 2980 Meadow Road (Parcel 843-720-7272), zoned A-1, Agricultural District (Varina). The Board granted the conditional use permit subject to the following conditions:

1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of the County Code.
2. Before beginning any work, the applicant shall provide a financial guaranty in an amount of \$3,000 per acre for each acre of land to be disturbed, for a total of \$40,170, guaranteeing that the land will be restored to a reasonably level and drainable condition. This permit does not become valid until the financial guaranty has been approved by the County Attorney. The financial guaranty may provide for termination after 90 days notice in writing to the County. In the event of termination, this permit shall be void, and work incident thereto shall cease. Within the next 90 days the applicant shall restore the land as provided for under the conditions of this use permit. Termination of such financial guaranty shall not relieve the applicant from its obligation to indemnify the County of Henrico for any breach of the conditions of this use permit. If this condition is not satisfied within 90 days of approval, the use permit shall be void.
3. Before beginning any work, the applicant shall submit erosion control plans to the Department of Public Works for review and approval. Throughout the life of the operation, the applicant shall continuously satisfy the Department of Public Works that erosion control procedures are properly maintained, and shall furnish plans and bonds that the department deems necessary. The applicant shall provide certification from a licensed professional engineer that dams, embankments and sediment control structures meet the approved design criteria as set forth by the State. If this condition is not satisfied within 90 days of approval, the use permit shall be void.
4. The applicant shall maintain a mine license from the Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied within 90 days of approval, the use permit shall be void.

- 1952 5. The areas approved for mining under this permit shall be delineated on the
1953 ground by five-foot-high metal posts at least five inches in diameter and painted
1954 in alternate one foot stripes of red and white. These posts shall be so located as
1955 to clearly define the area in which the mining is permitted.
1956
- 1957 6. In the event that the Board's approval of this use permit is appealed, all
1958 conditions requiring action within 90 days will be deemed satisfied if the required
1959 actions are taken within 90 days of final action on the appeal.
1960
- 1961 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1962 state and local regulations administered under such act applicable to the
1963 property, and shall furnish to the Planning Office copies of all reports required by
1964 such act or regulations.
1965
- 1966 8. Hours of operation shall be from 7:00 a.m. to 5:30 p.m. Monday through
1967 Friday and 7:00 a.m. to 12:00 noon on Saturday.
1968
- 1969 9. No operations of any kind are to be conducted at the site on Sundays, New
1970 Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or
1971 Christmas Day.
1972
- 1973 10. All means of access to the property shall be from the established entrance
1974 onto Meadow Road. All truck traffic to the site shall approach from Williamsburg
1975 Road north on Drybridge Road, then east on Meadow Road. All truck traffic
1976 leaving the site shall travel west on Meadow Road, then south on Drybridge
1977 Road to Williamsburg Road.
1978
- 1979 11. The applicant shall maintain gates at all entrances to the property. These
1980 gates shall be locked at all times, except when authorized representatives of the
1981 applicant are on the property.
1982
- 1983 12. The applicant shall maintain a sign at the entrance to the mining site stating
1984 the name of the operator, the use permit number, the mine license number, and
1985 the telephone number of the operator. The sign shall be 12 square feet in area
1986 and the letters shall be three inches high.
1987
- 1988 13. The applicant shall maintain "No Trespassing" signs every 250 feet along the
1989 perimeter of the property. The letters shall be three inches high. The applicant
1990 shall furnish the Chief of Police a letter authorizing the Division of Police to
1991 enforce the "No Trespassing" regulations, and agreeing to send a representative
1992 to testify in court as required or requested by the Division of Police.
1993
- 1994 14. Standard "Truck Entering Highway" signs shall be maintained on Meadow
1995 Road on each side of the entrances to the property. These signs will be placed
1996 by the County, at the applicant's expense.
1997

- 1998 15. The applicant shall maintain a standard stop sign at the entrance to Meadow
1999 Road. The operator shall cooperate with the Division of Police to enforce this
2000 stop sign.
2001
- 2002 16. At the request of the Division of Police, the applicant shall provide a flagman
2003 to control traffic from the site onto the public road, with the flagman yielding the
2004 right of way to the public road traffic whenever present.
2005
- 2006 17. All roads used in connection with this use permit shall be effectively treated
2007 with calcium chloride or other wetting agents to eliminate any dust nuisance. The
2008 operator shall take the necessary steps to prevent mud from being tracked onto
2009 Meadow Road. The road shall be maintained by washing in addition to sweeping.
2010
- 2011 18. The operation shall be so scheduled that trucks will travel at regular intervals
2012 and not in groups of three or more.
2013
- 2014 19. Trucks shall be loaded in a way to prevent overloading or spilling of
2015 materials of any kind on any public road.
2016
- 2017 20. The applicant shall maintain the property, fences, and roads in a safe and
2018 secure condition indefinitely, or convert the property to some other safe use.
2019
- 2020 21. If, in the course of its preliminary investigation or operations, the applicant
2021 discovers evidence of cultural or historical resources, or an endangered species,
2022 or a significant habitat, it shall notify appropriate authorities and provide them
2023 with an opportunity to investigate the site. The applicant shall report the results of
2024 any such investigation to the Planning Office.
2025
- 2026 22. If water wells located on surrounding properties are adversely affected, and
2027 the extraction operations on this site are suspected as the cause, the effected
2028 property owners may present to the Board evidence that the extraction operation
2029 is a contributing factor. After a hearing by the Board, this use permit may be
2030 revoked or suspended, and the operator may be required to correct the problem.
2031
- 2032 23. Open and vertical excavations having a depth of 10 feet or more, for a period
2033 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to
2034 protect the public safety.
2035
- 2036 24. Topsoil shall not be removed from any part of the property outside of the
2037 area in which mining is authorized. Sufficient topsoil shall be stockpiled on the
2038 property for respreading in a layer with five inches of minimum depth. All topsoil
2039 shall be stockpiled within the authorized mining area and provided with adequate
2040 erosion control protection. If the site does not yield sufficient topsoil, additional
2041 topsoil shall be brought to the site to provide the required five-inch layer of cover.
2042 All topsoil shall be treated with a mixture of seed, fertilizer, and lime as
2043 recommended by the County after soil tests have been provided to the County.

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25. All offsite-generated materials deposited on the mining site shall be documented in a monthly report to the Director of Planning. The operator shall submit a report stating the origin, nature and quantity of material deposited, and certifying that no contaminated or hazardous material was included. The material deposited on the site shall be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any hazardous materials as defined by the Virginia Hazardous Waste Management Regulations.

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

27. A progress report shall be submitted to the Board on June 30, 2008. This progress report must contain information concerning how much property has been mined to date of the report, the amount of land left to be mined, how much rehabilitation has been performed, when and how the remaining amount of land will be rehabilitated, and any other pertinent information about the operation that would be helpful to the Board.

28. Excavation shall be discontinued by June 30, 2009, and restoration accomplished by not later than June 30, 2010, unless a new permit is granted by the Board of Zoning Appeals.

29. The property shall be rehabilitated consistent with the reclamation plan submitted with the application. The rehabilitation of the property shall take place simultaneously with the mining process. Rehabilitation shall not be considered completed until the mined area is covered completely with permanent vegetation. The applicant shall submit a complete restoration plan showing finish grading of the site.

30. All drainage and erosion and sediment control measures shall conform to the standards and specifications of the Mineral Mining Manual Drainage Handbook. Any drainage structures in place prior to October 14, 1992 and which do not conform to the Mineral Mining Manual Drainage Handbook may remain in place until such time as any reconstruction is required at which time said structures shall be brought into conformance with the Mineral Mining Manual Drainage Handbook.

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

2090	Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
2091	Negative:		0
2092	Absent:		0
2093			
2094	Mr. Nunnally -	All right. Let's see, approval of the June 28, 2007	
2095	minutes.		
2096			
2097	Ms. Harris -	I just have two things. On page 23, line 1008. The	
2098		motion was seconded by Mr. Kirkland. If you read back on page 22, you'll see	
2099		that on line 984, Mr. Kirkland says, "I'll second the motion." Then on the next	
2100		page, they have the second by Ms. Harris, but it was seconded by Mr. Kirkland.	
2101		Then on page 15, line 658. "We should not discriminate against."	
2102			
2103	Mr. Nunnally -	What line was that?	
2104			
2105	Ms. Harris -	Line 658. Instead of the two words, "to our,"	
2106	substitute, "against."		
2107			
2108	Mr. Nunnally -	Anything else?	
2109			
2110	Ms. Harris -	That's all I have.	
2111			
2112	Mr. Nunnally -	Do we have a motion for approval as corrected?	
2113			
2114	Ms. Harris -	I so move.	
2115			
2116	Mr. Kirkland -	Second.	
2117			
2118	Mr. Nunnally -	Motion by Ms. Harris, seconded by Mr. Kirkland the	
2119	minutes be approved. All	in favor say aye. All opposed say no. The motion	
2120	carries.		
2121			
2122	Mr. Nunnally-	Okay. Approval of the 2008 meeting schedule.	
2123			
2124	Mr. Wright -	I move it be approved as submitted.	
2125			
2126	Ms. Dwyer -	Second.	
2127			
2128	Mr. Nunnally -	Motion by Mr. Wright, seconded by Ms. Dwyer it be	
2129	approved. All in favor say	aye. All opposed say no. The motion carries; it's been	
2130	approved.		
2131			
2132	Mr. Wright -	We don't have election until the next meeting?	
2133			
2134	Mr. Blankinship -	Yes. The next meeting will be election of officers.	
2135			

2136 Mr. Nunnally - Do I have a motion for adjournment?
2137
2138 Ms. Dwyer - I do.
2139
2140 Ms. Harris - Second.
2141
2142 Mr. Nunnally - Motion by Ms. Dwyer, seconded by Ms. Harris. All in
2143 favor say aye. All opposed say no. The motion carries; we're adjourned.
2144
2145 There being no further business, the Board adjourned until the **August 23, 2007**
2146 meeting at 9:00 a.m.
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2153 James W. Nunnally
2154 Chairman
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2160
2161 Benjamin Blankinship, AICP
2162 Secretary