

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, JUNE 28, 2012 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JUNE 11,**
6 **2012 AND JUNE 18, 2012.**

7
Members Present: Helen E. Harris, Chairman
R. A. Wright, Vice Chairman
Greg Baka
Gentry Bell
James W. Nunnally

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

8
9 Ms. Harris - Welcome to the June 28, 2012 meeting of the
10 Henrico County Board of Zoning Appeals. Let us stand and recite the Pledge of
11 Allegiance.

12
13 Good morning, Mr. Blankinship. Please read the rules that govern this meeting.
14 And I believe we have one deferral request.

15
16 Mr. Blankinship - We have. Good morning, Madam Chairman,
17 members of the Board, ladies and gentlemen. The rules for this meeting are as
18 follows. Acting as secretary I'll call each case. And as I'm speaking the applicant
19 is welcome to come down to the podium. We'll then ask everyone who intends to
20 speak to that case to stand and be sworn in. Then the applicant will present their
21 case. Then anyone else who wishes to speak will be given the opportunity. And
22 then the applicant, and only the applicant, will have an opportunity for rebuttal.
23 After the Board has heard all the evidence on that case, they will go on to the
24 next case. And they will render all of their decisions at the end of the meeting. So
25 if you wish to hear their decision on a specific case, you can either stay until the
26 end of the meeting or you can check the Planning Department website this
27 afternoon—we update it about a half an hour after the meeting ends—or you can
28 call the Planning Department this afternoon.

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

33
34 And finally, out in the foyer there is a binder that contains the staff report for each
35 case, including the conditions that have been recommended by the staff. It's
36 particularly important that the applicants be familiar with all those conditions.

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And as you said, Madam Chairman, there is one request for deferral this morning, which is CUP2012-00005, Westhampton Memorial Park.

CUP2012-00005 WESTHAMPTON MEMORIAL PARK requests a conditional use permit pursuant to Section 24-52(h) of the County Code to expand an existing cemetery at 10000 Patterson Avenue (Parcel 744-742-5871) zoned One-Family Residential District (R-1) and Agricultural District (A-1) (Tuckahoe).

Ms. Harris - Is the applicant for this deferral here?

Mr. Hawkins - Yes. Good morning, Madam Chairperson.

Ms. Harris - Good morning.

Mr. Hawkins - I'm Dean Hawkins. That's H-a-w-k-i-n-s. I'm a landscape architect for Westhampton Memorial Park. We are asking for another deferral today—in addition to the ninety days that we have already incurred—of thirty days in deference to our neighbors, the Westhampton Glen Homeowners' Association. We've met with them and they've asked us for a thirty-day delay so that they can formulate some ideas and comments to us, and we're in agreement to that. So we would like to defer until next month's meeting.

Mr. Baka - Madam Chairman, I'll make a motion that the case, CUP2012-00005, Westhampton Memorial Park, be deferred to allow the neighbors and applicant time to address the issues.

Mr. Wright - Second.

Ms. Harris - Moved by Mr. Baka and seconded by Mr. Wright that this case be deferred until July 26, 2012. Are there questions on the motion? I have a question. Are any of the neighbors here today?

Mr. Barnett - Yes.

Ms. Harris - Would you care to address this?

Mr. Blankinship - What is the nature of the question? If they're going to actually testify on the case, we're going to have to swear on that.

Ms. Harris - What is your question?

Mr. Barnett - Oh, I'm sorry. I didn't have a question. My name is Alex Barnett. I'm one of the residents of the homeowners' association. I just wanted to confirm what Mr. Hawkins said. We've met with the representatives

83 from the cemetery. And we've asked for an additional thirty days so that we can
84 confer among ourselves and consult with the cemetery.

85
86 Ms. Harris - Thank you.

87
88 Mr. Barnett - Thanks.

89
90 Ms. Harris - Any questions by Board members? All in favor of
91 deferring this case until the July 26 meeting say aye. All opposed say no. The
92 ayes have it; the motion passes.

93
94 After an advertised public hearing and on a motion by Mr. Baka, seconded by
95 Mr. Wright, **CUP2012-00005, Westhampton Memorial Park**, has been deferred
96 until the July 26, 2012 meeting.

97
98
99 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
100 Negative: 0
101 Absent: 0

102

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104 Ms. Harris - Mr. Blankinship, please call the next case.

105

106 **CUP2012-00020 STANTON MCCOMB** requests a conditional use
107 permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the
108 side yard at 12413 Willscott Place (Henley) (Parcel 732-775-7037) zoned
109 Agricultural District (A-1) (Three Chopt).

110

111 Ms. Harris - All persons who wish to speak to this case please
112 stand that you may be sworn in. Come forward. Raise your right hand, please.

113

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

116

117 Ms. Harris - Please come forward and state your case, the
118 applicant.

119

120 Mr. Atack - Good morning. My name is Richard Atack. I'm not the
121 applicant, but I am the owner of Pouncey Tract Properties, the adjoining property
122 owner to the left of the proposed pool and property. And I come here today to
123 show my support for it. As the adjoining property owner we're happy with the
124 landscape buffer that they have proposed and the privacy fence that they plan
125 on doing.

126

127 Ms. Harris - Okay. Would you spell your last name, please?

128

129 Mr. Atack - Yes, it's A-t-a-c-k. Richard.
130
131 Ms. Harris - All right. Any questions from Board members? Thank
132 you so very much.
133
134 Mr. Atack - Thank you.
135
136 Ms. Harris - Anyone else wish to speak to this case?
137
138 Ms. Hart - Good morning. My name is Christina Hart—H-a-r-t.
139 I'm an attorney at FloranceGordonBrown, and I represent Corey Hill Estates.
140 They're an adjacent property owner located to the rear of the McComb property.
141 We have no objection—
142
143 Mr. Blankinship - Ms. Hart, you don't represent the applicant either?
144
145 Ms. Hart - Correct.
146
147 Mr. Blankinship - Is there anyone here representing the applicant in this
148 case? And there's no one here—
149
150 Male - [Speaking off microphone.] I represent [inaudible].
151
152 Mr. Blankinship - Oh, okay.
153
154 Male - [Speaking off microphone; inaudible.]
155
156 Mr. Blankinship - Oh, okay. All right, I'm sorry. Well we will need you
157 again then.
158
159 Ms. Hart - We have no objections to the current location as
160 shown on the site plan for the proposed pool. However, if the pool is to be
161 moved to the rear of the property we would have objections to the extent any
162 improvements interfered with the twenty-five-foot natural buffer. That's all.
163
164 Mr. Blankinship - So you do not object to what's been requested, but
165 you would object essentially if they had not requested the use permit; if they had
166 put a pool where they are allowed to put it.
167
168 Ms. Hart - Yes sir, that's correct.
169
170 Mr. Blankinship - Okay.
171
172 Ms. Harris - Mr. Atack, do you want to come back and let us know
173 exactly what you want and why.
174

175 Mr. Atack - What Mr. McComb wants is shown on the board
176 there. As Ms. Hart mentioned, that little dotted line that shows a twenty-five-foot
177 natural buffer there, that separates Mr. McComb's property from the Goochland
178 line essentially. What Ms. Hart— . We thought about placing the pool in the
179 rear, but it was going to be so close to that setback that the drainage and the
180 privacy was actually going to be better on this side location. So they consulted
181 with a couple different landscape architects to come up with a plan that was
182 better than putting it in the rear, actually. Because we're dealing with one-acre
183 lots we have a lot of flexibility. This particular lot is not very deep, but it is very
184 wide.

185
186 Ms. Harris - Do you know what type of plantings he wants to use
187 as the buffer?

188
189 Mr. Atack - Yes ma'am. He would be considering nothing shorter
190 than eight feet, like Nellie Stevens Hollies, something that's evergreen. He also
191 has a retaining wall that's already in place. The plantings will go in front of that
192 retaining wall. From the street they'll be eight feet. They're not going to be eight
193 feet behind the retaining wall where you wouldn't get the effect of the privacy.

194
195 Mr. Blankinship - Miguel, would you put up the plan, please? Mr. Atack,
196 would you show where the retaining wall is on that?

197
198 Mr. Atack - Sure, Mr. Blankinship. If you look at the very front left-
199 hand corner of the home where you see that distance 34.22.

200
201 Mr. Blankinship - Yes.

202
203 Mr. Atack - There's a line that's coming to the buildable area off
204 the house there; it's about twelve feet. That is where the retaining wall is, and
205 that's where it will hold up the grade in the front yard and also keep the drainage
206 in the front yard from going into the back pool area.

207
208 Mr. Blankinship - Okay. Thank you.

209
210 Mr. Wright - Mr. Atack, have you read the conditions proposed for
211 this case?

212
213 Mr. Atack - No sir.

214
215 Mr. Wright - Do you think he should take a look at them?

216
217 Ms. Harris - Yes.

218
219 Mr. Wright - If we approve this it will be subject to these
220 conditions. We want to ensure that the applicant would be familiar with them.

221
222 Mr. Atack - I have them here, yes.
223
224 Mr. Wright - You might just take a glance at them.
225
226 Mr. Atack - Number one I understand.
227
228 Mr. Wright - It's pretty standard.
229
230 Mr. Atack - Yes sir. Yes. Number four, can I question about
231 number four?
232
233 Mr. Wright - Yes, that one I wanted to talk about—go ahead.
234
235 Mr. Atack - I'm glad you brought this up. Yes. Number four, the
236 pool that they are proposing to use is going to have an auto-safety cover on the
237 pool. The folks want to put a fence in as part of their landscape plan, but they
238 also are going to use an automatic safety cover, which I've done with other pools
239 in the County. With that type of cover, the Building Inspections Department here
240 will allow a modified permit with this specific cover in lieu of a fence.
241
242 Mr. Wright - Tell us how that works.
243
244 Mr. Atack - How does the cover work?
245
246 Mr. Wright - Yes.
247
248 Mr. Atack - It's a neat technology. It's probably been around for
249 five years or so. I've done four or five of them. Every pool I've built in Henley
250 actually has this cover. It works with a key. You have a key, you turn it, and it's a
251 hydraulic pump that actually rolls a cover that's recessed into a well. When the
252 cover rolls out it will hold the weight of five people, a thousand pounds. It's an
253 automatic safety cover. There are certain specs. There are different
254 manufacturers for them. I know that the County only has two that they have
255 approved through the testing that they use. That's what they are planning on
256 doing. But they are also planning on putting in a fence. Now I notice that this
257 says six feet in height. There are not any proffers in Henley, but one of the
258 architectural standards in Henley is a forty-eight-inch fence. So a six-foot fence
259 would not be allowed per the architectural standards in Henley.
260
261 Mr. Wright - Mr. Blankinship, will you address this? This is
262 required by code, how can they get around that?
263
264 Mr. Blankinship - Mr. Atack has said that with that cover in place they
265 can waive the Building Code requirement for the fence.
266

267 Mr. Atack - That's correct.
268
269 Mr. Blankinship - Our intent in this condition is to make sure that the
270 applicant is aware of the Building Code requirement.
271
272 Mr. Atack - He certainly understands.
273
274 Mr. Blankinship - And tie the two together. So if it's not required by
275 Building Code, I think this would be satisfied, because it says, "as required by the
276 Building Code."
277
278 Mr. Atack - Yes sir.
279
280 Mr. Wright - See where it says, "as required by the Building Code."
281 If the Building Code doesn't require it, then you're not required to have it.
282
283 Mr. Atack - Yes sir, I understand. We'll follow that plan to the
284 letter.
285
286 Mr. Wright - So then we could leave number four in?
287
288 Mr. Atack - As required by Building Code, we will meet the
289 Building Code with what we plan on doing, yes sir.
290
291 Mr. Wright - Right.
292
293 Mr. Baka - Do we need to say, "or as required by the Building
294 Code," to clarify?
295
296 Mr. Blankinship - If you wanted to edit it, I would strike the words, "six
297 feet in height."
298
299 Mr. Baka - Yes.
300
301 Mr. Blankinship - Shall be enclosed by a fence as required by Building
302 Code.
303
304 Mr. Baka - That's clearer.
305
306 Mr. Atack - We'd be agreeable to that, yes.
307
308 Mr. Wright - Let's do that. The plantings in number five you're in
309 accord with?
310
311 Mr. Atack - Yes sir.
312

313 Mr. Wright - Ms. Hart was talking something about the plantings.
314 Does that satisfy what she wants?
315
316 Mr. Atack - I believe so. This is a twenty-five-foot buffer on the
317 rear of the property line. Currently all the clearing has been done. That buffer
318 had been flagged before the clearing was done and there will not be any more
319 activity. There is no activity in the buffer. They'll be satisfied. We'll maintain that
320 buffer.
321
322 Mr. Wright - Do you think we need a condition?
323
324 Mr. Blankinship - I don't think so. I think everyone understands the
325 situation.
326
327 Mr. Wright - Okay.
328
329 Ms. Harris - Did you say, Mr. Atack, why Mr. McComb is not here?
330
331 Mr. Atack - He had a prior commitment. He's a president of
332 McKesson. He was out of town and did not want to defer the case because of
333 the construction schedule.
334
335 Ms. Harris - So he sent you as the person who is going to—
336
337 Mr. Atack - Yes ma'am. I'm building his home for him and I'll be
338 getting the permit for this.
339
340 Mr. Blankinship - We have listed as the representative a John W.
341 Mock. Do you know who that is?
342
343 Mr. Atack - Yes. Mr. Mock is here. Mr. Mock has provided all the
344 documents. He's provided all of the drawings and the documents, so he can
345 answer any questions on sizes and such.
346
347 Mr. Blankinship - I just wanted to make sure my records are correct.
348
349 Mr. Atack - Oh yes sir. Yes.
350
351 Ms. Harris - Are there any other questions by Board members?
352 I'm hearing two things. I thought I heard a twenty-five-foot buffer, then I see in
353 the evaluation that the applicant has indicated he will install a thirty-foot-wide
354 landscape buffer. So which is it?
355
356 Mr. Atack - I can explain that. There are two different buffers
357 there. The twenty-five-foot buffer is the one Ms. Hart spoke of, which is along the
358 rear of the property. The thirty-foot buffer is a buffer that would be part of his

359 landscape plan. That would be referred to as the property line of the lot that we
360 own, Lot 33 to the left. And on that board right there where it says, "New
361 landscape buffer," that's where the McComb's want to install this thirty feet of
362 landscaping to give them the privacy from our property, Lot 33 at 12409 Willscott
363 Place. So there are actually two different landscape buffers we're speaking of.
364

365 Mr. Wright - One is to the rear, which is a natural buffer. The other
366 one is to the side between the pool and the other lot.
367

368 Ms. Harris - I understand. Thank you. The Pouncey Tract
369 Properties property that is adjacent to this site, have you heard anything from the
370 owner?
371

372 Mr. Attack - Yes ma'am. I'm one of the owners of that property.
373

374 Ms. Harris - I thought you said "our" lot, so I wanted to be sure
375 that was made clear.
376

377 Mr. Attack - Yes ma'am. I'm here on their behalf.
378

379 Ms. Harris - Okay. I think that answers my questions. Are there
380 any more questions by Board members? Thank you so very much.
381

382 Mr. Attack - Thank you very much.
383

384 Ms. Harris - Is there anyone else who wishes to speak to this
385 case? If not that concludes this case.
386

387 **[After the conclusion of the public hearings, the Board discussed the case**
388 **and made its decision. This portion of the transcript is included here for**
389 **convenience of reference.]**
390

391 Ms. Harris - What is the pleasure of the Board?
392

393 Mr. Wright - Madam Chairman, I move that we approve this
394 application on the grounds it will not adversely affect the health, safety, and
395 welfare of persons on the premises or in the neighborhood. It will not increase
396 congestion in the streets. And it will be in substantial accordance with the
397 general purpose and objectives of this chapter.
398

399 Mr. Nunnally - Second.
400

401 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Nunnally that
402 this case be approved. For questions, I do have a question. Did we say in
403 Condition 4 that we would—
404

405 Mr. Wright - We changed it. We have to modify Condition 4 to
406 take out the six-foot fence. I meant to mention that.

407
408 Ms. Harris - All right. So we want the motion to state that that
409 would be deleted.

410
411 Mr. Wright - Yes, thank you.

412
413 Ms. Harris - Okay. Any other questions on this motion? All in favor
414 say aye. All opposed say no. The ayes have it; the motion passes.

415
416 After an advertised public hearing and on a motion by Mr. Wright, seconded by
417 Mr. Nunnally, the Board **approved** application **CUP2012-00020, STANTON**
418 **MCCOMB's** request for a conditional use permit pursuant to Section 24-95(i)(4)
419 of the County Code to allow a pool in the side yard at 12413 Willscott Place
420 (Henley) (Parcel 732-775-7037) zoned Agricultural District (A-1) (Three Chopt).
421 The Board approved the conditional use permit subject to the following
422 conditions:

423
424 1. This conditional use permit applies only to the construction of a swimming
425 pool in the side yard. All other applicable regulations of the County Code shall
426 remain in force.

427
428 2. Only the improvements shown on the plot plan filed with the application may
429 be constructed pursuant to this approval. Any additional improvements shall
430 comply with the applicable regulations of the County Code. Any substantial
431 changes or additions to the design or location of the improvements will require a
432 new use permit.

433
434 3. At the time of building permit application, the applicant shall submit the
435 necessary information to the Department of Public Works to ensure compliance
436 with the requirements of the Chesapeake Bay Preservation Act and the code
437 requirements for water quality standards.

438
439 4. [Amended] The swimming pool shall be enclosed by a fence as required by
440 the building code.

441
442 5. The plantings in the new landscape buffer shall meet or exceed the standards
443 of the zoning ordinance ten foot transitional buffer. These shall be installed by
444 the time of the final inspection for the swimming pool.

445
446
447 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
448 Negative: 0
449 Absent: 0
450

451 [At this point, the transcript continues with the public hearing on the next
452 case.]
453

454 **CUP2012-00021** **ROBERT WAYNE SMITH** requests a conditional use
455 permit pursuant to Section 24-95(i)(4) of the County Code to allow an accessory
456 structure in the side yard at 5000 Kelly Jane Court (Jenkins Bluff) (Parcel 859-
457 708-0713) zoned Agricultural District (A-1) (Varina).
458

459 Ms. Harris - All persons who wish to speak to this case please
460 stand and raise your right hand so that you may be sworn in.
461

462 Mr. Blankinship - Do you swear the testimony you're about to give is
463 the truth, the whole truth and nothing but the truth so help you God?
464

465 Mr. Smith - I do.
466

467 Ms. Harris - Please identify yourself, spell your last name, and
468 state your case.
469

470 Mr. Smith - My name is Robert Wayne Smith and the usual
471 spelling there on *Smith*. The documentation the County provided is very accurate
472 as far as the description of the property and so forth. As they mentioned in the
473 report we have a very shallow back yard. The shed would fit in there, but then we
474 would have no backyard left. We would like to place the shed over in the side of
475 the yard, which is surrounded by woods. There is a clearing large enough—a
476 space large enough within the woods at that spot to accommodate the shed. And
477 it would be screened from the abutting property, as well as the street. The
478 property in the back is very narrow behind the yard area itself, and slopes off into
479 ravines on each side. So this would actually be the only practical location for that
480 structure.
481

482 Mr. Nunnally - You've read the conditions on this, haven't you?
483

484 Mr. Smith - Yes sir, I did.
485

486 Mr. Nunnally - And you agree with them?
487

488 Mr. Smith - Yes sir.
489

490 Mr. Nunnally - The trees will kind of hide the shed anyway, won't
491 they.
492

493 Mr. Smith - Yes sir. It's pretty thickly wooded in there.
494

495 Mr. Nunnally - Yes.
496

497 Ms. Harris - Could you estimate how wide the buffer is?
498
499 Mr. Smith - Between the back of the shed and the abutting
500 property?
501
502 Ms. Harris - Yes.
503
504 Mr. Smith - I'd have to look here for a moment. It's quite a
505 distance. It's fifty feet, I believe, from here. But that's in the bottom of a ravine.
506 And the actual property, the house—if a house was every built on there it would
507 be up one street over actually. It's a bit of a hike even to get down there.
508
509 Ms. Harris - So there is actually a lot between you and the next
510 neighbor.
511
512 Mr. Smith - Yes ma'am.
513
514 Ms. Harris - A vacant lot.
515
516 Mr. Smith - Yes.
517
518 Ms. Harris - Are there other questions by Board members?
519
520 Mr. Nunnally - I know I asked you if you approve of these conditions,
521 but number three particularly, that new construction will match the existing
522 dwelling as nearly as practical and the material in color.
523
524 Mr. Smith - Yes. That's actually a requirement of our
525 neighborhood covenants. Besides, my wife wouldn't be happy if it didn't match.
526
527 Ms. Harris - Thank you so much. We'll see if anyone else wishes
528 to speak to this case.
529
530 Mr. Smith - Okay, thank you very much.
531
532 Ms. Harris - Is there anyone else who wishes to speak to this
533 case? If not, that concludes this case.
534
535 **[After the conclusion of the public hearings, the Board discussed the case**
536 **and made its decision. This portion of the transcript is included here for**
537 **convenience of reference.]**
538
539 Ms. Harris - What is the pleasure of the Board?
540
541 Mr. Nunnally - Madam Chairman, I move we approve this request as
542 it will not impair the health and welfare of the persons on the premises or the

543 neighborhood, and will not change the character of the neighborhood. That's my
544 motion.

545
546 Mr. Baka - Second.

547
548 Ms. Harris - Moved by Mr. Nunnally, seconded by Mr. Baka that
549 this case will be approved. Are there questions on this motion? All in favor say
550 aye. All opposed say no. The ayes have it; the motion passes. This case has
551 been approved.

552
553 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
554 Mr. Baka, the Board **approved** application **CUP2012-00021, ROBERT WAYNE**
555 **SMITH's** request for a conditional use permit pursuant to Section 24-95(i)(4) of
556 the County Code to allow an accessory structure in the side yard at 5000 Kelly
557 Jane Court (Jenkins Bluff) (Parcel 859-708-0713) zoned Agricultural District (A-1)
558 (Varina). The Board approved the conditional use permit subject to the following
559 conditions:

560
561 1. This conditional use permit applies only to the placement of a storage shed
562 in the eastern side yard. All other applicable regulations of the County Code shall
563 remain in force.

564
565 2. Only the improvements shown on the plot plan and building design filed with
566 the application may be constructed pursuant to this approval. Any additional
567 improvements shall comply with the applicable regulations of the County Code.
568 Any substantial changes or additions to the design or location of the
569 improvements will require a new use permit.

570
571 3. The new construction shall match the existing dwelling as nearly as practical
572 in materials and color.

573
574 4. At the time of building permit application, the applicant shall submit the
575 necessary information to the Department of Public Works to ensure compliance
576 with the requirements of the Chesapeake Bay Preservation Act and the code
577 requirements for water quality standards.

578
579
580 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
581 Negative: 0
582 Absent: 0

583
584
585 **[At this point, the transcript continues with the public hearing on the next**
586 **case.]**

587

588 **VAR2012-00004** **SAVANNAH OLIVER ESTATE** requests a variance
589 from Section 24-94 of the County Code to build a one-family dwelling at 230
590 Twin Pine Road (Parcel 846-714-0519) zoned Agricultural District (A-1) (Varina).
591 The lot width requirement is not met. The applicant proposes 138 feet lot width,
592 where the Code requires 150 feet lot width. The applicant requests a variance of
593 12 feet lot width.

594
595 Ms. Harris - All persons who wish to speak to this case please
596 stand and raise your right hand.

597
598 Mr. Blankinship - Do you swear the testimony you're about to give is
599 the truth, the whole truth and nothing but the truth so help you God?

600
601 Ms. Oliver - I do.

602
603 Ms. Harris - Okay.

604
605 Ms. Johnson - Good morning. My name is Marianna Oliver
606 Johnson—J-o-h-n-s-o-n.

607
608 Ms. Harris - Thank you. Please state your case.

609
610 Ms. Johnson - I am the executor of the Savannah Oliver Estate. And
611 as indicated in her will, I am to sell the property on Twin Pine Road. I'm
612 requesting a variance for that property. I have a buyer. The property does not
613 meet Henrico County's requirements. The County requires a 150-foot lot and it's
614 lacking 12 feet. It's a 138-foot lot.

615
616 Mr. Wright - The width requirement.

617
618 Ms. Johnson - Width, yes.

619
620 Ms. Harris - Do you want to give us a little history of that property?

621
622 Ms. Johnson - The property was owned by my mother's great-
623 grandmother. It was divided, sort of chopped up among the grandchildren and
624 the children. And she just inherited it. As a result of her inheritance it was left to
625 me and a sibling.

626
627 Ms. Harris - I thought we saw something about the County taking
628 part of that land for a purpose. And then I understand that the rules for building
629 changed, too. Let's see if we can look at that.

630
631 Mr. Wright - The problem is this, Ms. Harris. Under the old code
632 the width was determined by where the house would be located. They changed
633 the code to say the width has to be back from the road, how many feet you have

634 to have the house from the road. In this case you can't build a house up there
635 because it's not appropriate. I mean the lot doesn't accommodate that. So they
636 have to move the house back. So that's the technicality.

637

638 Ms. Harris - Right.

639

640 Mr. Wright - Where the house should be built is what, fifty feet
641 back from the road, isn't it.

642

643 Mr. Blankinship - Yes sir.

644

645 Mr. Wright - Fifty feet back from the road the width doesn't sustain
646 it. It sustains it back where it is, but it doesn't sustain it where it would be
647 required. And they can't build it up there because of the shape of the lot. That's
648 the difference.

649

650 Ms. Harris - Right.

651

652 Mr. Nunnally - You have tried to purchase the land from the
653 neighbors adjoining you?

654

655 Ms. Johnson - We've inquired about it, but they do not wish to give
656 us the amount needed.

657

658 Ms. Harris - I see that in 1969—this is what I was referring to—the
659 County acquired a fifty-foot swath of property from the area to construct what is
660 now Twin Pine Road. That was in 1969. That was long before your time. I did
661 drive by there yesterday; I met Mr. Nunnally on the road. We really wanted to
662 see the property so I could see exactly what this case was stating. Are there any
663 more questions from Board members?

664

665 Mr. Wright - Actually, the new road helped them because it gave
666 them the road frontage they didn't have before.

667

668 Ms. Johnson - Yes.

669

670 Mr. Baka - The only question I have is the people you asked
671 about to buy the property, is that the Melvin and Ollie Marrow with the sharp
672 angle?

673

674 Ms. Johnson - No. They are property owners adjacent to that
675 property. The person who is interested in buying the property is Raymond
676 Manuel, whose home place is I think to the left of the Oliver Estate Property.

677

678 Mr. Baka - To the left. The Lightfoot, you mean?

679

680 Ms. Johnson - You have Melvin Marrow and Merles Manuel, Roberta
681 Manuel. And Raymond Manuel is a resident of Maryland. He is the family
682 member whose home place is on the opposite side of the property.
683
684 Mr. Baka - Okay. So just to clarify, as you stand on Twin Pine
685 Road and face your lot, your property, the people that you asked to buy from was
686 that sharp angle that says 234 Twin Pine Road?
687
688 Ms. Johnson - Yes.
689
690 Mr. Baka - To the right?
691
692 Ms. Johnson - Yes.
693
694 Mr. Baka - Okay. And then lastly, I guess as more of an
695 incidental question, that small triangle on the opposite side of Twin Pine Road,
696 are there any plans to try to sell or convey that to the property owner across the
697 street so they can use that? How does that work?
698
699 Ms. Johnson - No.
700
701 Mr. Baka - It's separated by the road; there's no use for that land
702 now currently, correct?
703
704 Ms. Johnson - To be perfectly honest with you I wouldn't think so,
705 but I would have to check with the person who is purchasing it. I mean I don't
706 know what his intent is other than he plans to build a single-family dwelling on
707 that property.
708
709 Mr. Baka - All right, thank you.
710
711 Mr. Wright - That's all we're doing is authorizing that. They're
712 going to have to file the necessary permits and all that.
713
714 Mr. Baka - I just didn't know if there was any way the County
715 looks at cleaning up remnant—I call them remnants—remnants like that through
716 cases like this. Thanks.
717
718 Ms. Harris - I noticed yesterday when I drove by there that there
719 were surveyors there. Are you familiar with that?
720
721 Ms. Johnson - Yes. They were testing the soil.
722
723 Ms. Harris - They were testing the soil? Okay. And I did see the
724 church a few sites down?
725

726 Ms. Johnson - Exactly.
727
728 Ms. Harris - Mr. Baka, do you have a statement?
729
730 Mr. Baka - At this time no. I'm fine, thanks.
731
732 Ms. Harris - Okay. Are there any more questions? Okay. Thank
733 you, Ms. Johnson. Is there anyone else who wishes to speak to this case? If not
734 that concludes the case.
735

736 **[After the conclusion of the public hearings, the Board discussed the case**
737 **and made its decision. This portion of the transcript is included here for**
738 **convenience of reference.]**
739

740 Ms. Harris - What is the pleasure of the Board?
741

742 Mr. Wright - Madam Chairman, I move we approve this request for
743 a variance on the grounds that it will clearly relieve a demonstrable hardship and
744 strict application of the ordinance would produce undo hardship relating to the
745 property. It's not generally shared by other properties in the same district. And
746 the variance would not be of substantial detriment to adjacent property.
747

748 Mr. Bell - I'll second the motion.
749

750 Ms. Harris - Okay. Moved by Mr. Wright, seconded by Mr. Bell
751 that this case be approved. Are there any questions on this motion? All in favor
752 say aye. All opposed say no. The ayes have it; the motion passes. This case has
753 been approved.
754

755 After an advertised public hearing and on a motion by Mr. Wright, seconded by
756 Mr. Bell, the Board **approved** application **VAR2012-00004, SAVANNAH**
757 **OLIVER ESTATE's** request for a variance from Section 24-94 of the County
758 Code to build a one-family dwelling at 230 Twin Pine Road (Parcel 846-714-
759 0519) zoned Agricultural District (A-1) (Varina). The lot width requirement is not
760 met. The Board granted the variance subject to the following conditions:
761

762 1. This variance applies only to the lot width requirement for one dwelling only.
763 All other applicable regulations of the County Code shall remain in force.
764

765 2. The applicant shall provide a minimum 50 foot front yard building setback
766 taken from the ultimate right-of-way width on Twin Pine Road.
767

768 3. The proposed home shall incorporate similar design elements and exterior
769 materials used by adjacent homes in order to preserve and augment the existing
770 architectural character of the area.
771

772 4. Approval of this request does not imply that a building permit will be issued.
773 Building permit approval is contingent on Health Department requirements,
774 including, but not limited to, soil evaluation for a septic drain field and reserve
775 area, and approval of a well location.

776
777 5. At the time of building permit application, the applicant shall submit the
778 necessary information to the Department of Public Works to ensure compliance
779 with the requirements of the Chesapeake Bay Preservation Act and the code
780 requirements for water quality standards.

781
782
783 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
784 Negative: 0
785 Absent: 0

786
787
788 Ms. Harris - Let's go now to the minutes for the last meeting. Are
789 there any corrections to the minutes?

790
791 Mr. Wright - I move the minutes be approved as submitted.

792
793 Ms. Harris - Is there a second?

794
795 Mr. Baka - Second.

796
797 Ms. Harris - Okay. Motion by Mr. Wright, seconded by Mr. Baka
798 that these minutes be approved as submitted. Are there any questions on the
799 motion? All in favor say aye. All opposed say no. The ayes have it; the motion
800 passes. So the minutes have been approved.

801
802 On a motion by Mr. Wright, second by Mr. Baka, the Board **approved as**
803 **submitted the Minutes of the May 24, 2012**, Henrico County Board of Zoning
804 Appeals meeting.

805
806
807 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
808 Negative: 0
809 Absent: 0

810
811
812 Ms. Harris - We have one more thing on the agenda. Thanks to
813 Mr. Blankinship the amendments to the Rules of Procedure—the General
814 Assembly has amended the code regarding the procedure to be followed by the
815 Board when considering an appeal. Also thanks to Mr. Blankinship, you'll notice
816 in our Rules of Procedure he has placed that amendment in position so that we

817 can see how—if you look at Number Ten how it would impact the reading of item
818 ten. Article 2, Item 10. Have you all had a chance to look at this?

819

820 Mr. Wright - I have. I think Mr. Blankinship did an excellent job of
821 incorporating this in. I have reviewed it very carefully and I haven't found
822 anything at odds with it.

823

824 Ms. Harris - Okay. We know that this does change what we
825 normally do. If we have a tie vote the applicant loses normally.

826

827 Mr. Blankinship - Yes ma'am. If you remember a couple years ago we
828 had several votes that were two to two. It's very unusual, but we had several in a
829 row there.

830

831 Mr. Wright - It only occurs when somebody is absent.

832

833 Mr. Blankinship - Yes, right. Or someone recuses.

834

835 Mr. Wright - And we always offer the person the right to defer it to
836 the next meeting if we don't have a member.

837

838 Ms. Harris - Yes.

839

840 Mr. Wright - So we always do that. But this does take care of it
841 automatically.

842

843 Ms. Harris - Okay? So we do need a motion to—

844

845 Mr. Wright - I move we approve the changes to our rules as
846 presented.

847

848 Ms. Harris - Is there a second to this motion?

849

850 Mr. Nunnally - Second.

851

852 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Nunnally that
853 we will include this change that has been presented in our Rules of Procedures.
854 Are there questions on the motion? All in favor say aye. All opposed say no. The
855 ayes have it; the motion passes. The changes in the Rules of Procedure have
856 been approved.

857

858 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

859 Negative: 0

860 Absent: 0

861

862 Ms. Harris -
863 adjourn the meeting.

Our next meeting is July 26. We need a motion to

864
865 Mr. Baka -

Motion to adjourn.

866
867 Ms. Harris -
868 adjourned.

This does not require a second. The meeting is

869

870

871

872

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882

883



Helen E. Harris
Chairman



Benjamin Blankinship, AICP
Secretary