

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**  
2 **HENRICO COUNTY HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**  
3 **HENRICO COUNTY GOVERNMENT COMPLEX ON THURSDAY, MARCH 23, 2000,**  
4 **AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**  
5 **DISPATCH ON MARCH 2 AND 9, 2000.**  
6

Members Present: Richard Kirkland, Chairman  
Daniel Balfour, Vice-Chairman  
Gene L. McKinney, C. P. C., C.B.Z.A.  
James W. Nunnally  
R. A. Wright

Also Present: Benjamin Blankinship, Secretary  
Susan W. Blackburn, County Planner II  
Priscilla M. Parker, Recording Secretary

7  
8 Mr. Kirkland - Welcome, ladies and gentlemen, to the March meeting of the  
9 Board of Zoning Appeals. Before we get started, I'll have the Secretary read the rules.

10  
11 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
12 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will  
13 call each case. Then the applicant will come to the podium to present the case. At that  
14 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will  
15 be sworn in. The applicants will then present their testimony. When the applicant is  
16 finished, anyone else will be given an opportunity to speak. After everyone has spoken,  
17 the applicant, and only the applicant, will be given the opportunity for rebuttal. After  
18 hearing the case, and asking questions, the Board will take the matter under  
19 advisement. They will render a decision at the end of the meeting. If you wish to know  
20 what their decision is, you may stay until the end of the meeting, or you may call the  
21 Planning Office at the end of the day. This meeting is being tape recorded, so we will  
22 ask everyone who speaks, to speak directly into the microphone on the podium, and to  
23 state your name for the record. Out in the foyer, there is a binder, which has the staff  
24 report for each case, including the conditions suggested by the staff. Mr. Chairman?

25  
26 Mr. Kirkland - Thank you sir. Do we have any requests for withdrawals or  
27 deferrals?

28  
29 Mr. Blankinship - No sir.

30  
31 Mr. Kirkland - Okay, call the first case.  
32

33 **A - 19-2000** Rebecca Goins requests a variance from Sections 24-94 of  
34 Chapter 24 of the County Code to build a single family dwelling at  
35 2237 Darbytown Road (Tax Parcels 193-A-16 and -16A), zoned A-  
36 1, Agricultural District (Varina). The front yard setback and total lot  
37 area are not met. The applicant has 45 feet front yard setback and  
38 .985 acre total lot area, where the Code requires 50 feet front yard  
39 setback and 1.0 acre total lot area. The applicant requests a  
40 variance of 5 feet front yard setback and 0.015 acre total lot area.  
41

42 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
43 raise your right hand and be sworn in by the Secretary, please.  
44

45 Mr. Blankinship - Do you swear the testimony you are about to give is the  
46 truth, the whole truth, and nothing but the truth, so help you God?  
47

48 Mr. Kirkland - Would you state your name for the record, please.  
49

50 Ms. Goins – Yes. My name is Rebecca Goins.  
51

52 Mr. Kirkland - Have all your notices been turned in according to the County  
53 Code.  
54

55 Ms. Goins - All except the one from Whitehall-Robins.  
56

57 Mr. Kirkland - Do you have that with you?  
58

59 Ms. Goins - Yes sir.  
60

61 Mr. Kirkland - If you would, turn that in to the Secretary. Ma'am, state your  
62 case.  
63

64 Ms. Goins - I don't really know what I'm supposed to say, it's just that my  
65 house, that is over there, they say is 5 feet too close to the highway. As for the reason,  
66 Bill can answer those questions; they just told me that I had to notify all my neighbors  
67 and come up here today for the meeting, because it was 5 feet too short.  
68

69 Mr. McKinney- Ms. Goins, who put the foundation in?  
70

71 Mr. Kirkland - If you would, sir, state your name, and you need to come to  
72 the mike.  
73

74 Mr. Jones - Bill Jones. Clayton Homes.  
75

76 Mr. McKinney Who are you with, Mr. Jones?  
77

78 Mr. Jones - Clayton Mobile Homes.

79  
80 Mr. McKinney - Who staked the foundation for this house?  
81  
82 Mr. Jones - We did. After we contacted the County, they told us to stay  
83 off the road by 50 feet, and that was where we needed to be. We contacted the County  
84 twice on it, and Ms. Goins also contacted the County to verify that it was 50 feet off the  
85 edge of the road, and we exceed that by 5 feet on that. I have drawings and pictures of  
86 the houses and property around it, if the council would like to see that. If we go back  
87 any farther from where it is right now, we'd be encroaching on the septic field; it's a non-  
88 conforming lot. We were very specific about trying to make sure where, how far the  
89 setback was off that road because I was even concerned about the porches and  
90 everything. They said you had to be off the road by 50 feet, and now they say, no, you  
91 have to be off your property line, minus the easement. This house is actually 56 feet  
92 from the right, left edge, 54 feet from the right edge to the edge of the road. From  
93 center line on left side is 78 feet, from the right side, it's 73 feet from center line.  
94  
95 Mr. Nunnally -- Who told you that you had to be 50 feet off the road instead  
96 of the property line, Mr. Jones?  
97  
98 Mr. Jones - We called the County Administration, the Zoning.....  
99  
100 Mr. Nunnally- Who was the person?  
101  
102 Mr. Jones - That I don't know. We talked to, I talked to two different  
103 people there, and Ms. Goins talked to one person.  
104  
105 Mr., Kirkland- Do you have any documentation on this?  
106  
107 Mr. Jones - That I don't, sir, that I don't, wish I did.  
108  
109 Mr. McKinney - Was there a variance issued on this lot to build this house?  
110  
111 Mr. Blankinship - Mr. McKinney, the lot was determined to be, it had a house  
112 on it previously, and it was determined to be non-conforming with that previous house,  
113 and so they were told that they could remove and replace that house as long as they  
114 built within the same footprint, but the previous house was not too close to the right-of-  
115 way.  
116  
117 Mr. McKinney - So they didn't build within the same footprint?  
118  
119 Mr. Blankinship - Right, they built it farther toward the road.  
120  
121 Mr. Jones - That is not true. We built the house actually, we put the  
122 house farther back. If we'd have put that house in the same place where the old house  
123 was, we'd have been twenty-some feet off the road. You can see by the plat where the  
124 septic tank is. The old house was in front of the septic tank, and that was in no way

125 going to meet the setbacks, because that's why we had to move the house from where  
126 we wanted to put it, over to the side and back.

127  
128 Mr. Blankinship - That's not what I was told, but I don't have the research in  
129 front of me.

130  
131 Mr. Jones - The septic tank is to the left hand side of the house, it is 10  
132 feet off the back corner. And if we had come out in front of the septic tank, 10 foot that  
133 house would have been 10 feet closer to the road than it is.

134  
135 Mr. McKinney - I am looking at this plat, this is drawn by hand, and it shows  
136 it 45 feet off of Darbytown road.

137  
138 Ms. Goins - That is the one that when I went back to apply for the  
139 variance that the County told me I had to put what the setback was now in order to  
140 resubmit it to get a variance.

141  
142 Mr. McKinney - Why is the septic system in the side yard and the drain field  
143 in the rear of the lot?

144  
145 Mr. Jones- They were there when she bought the lot. When she  
146 purchased the lot, the drain field and septic tank were from the old house and she had  
147 to use them.

148  
149 Mr. McKinney - Are you on County water?

150  
151 Mr. Jones- Yes, we just hooked up to it because the well was no good.

152  
153 Mr. Balfour- Where was the old house in relation to the new dwelling?  
154 You said something about the old house being in front of the septic system. That being  
155 the case, I guess the drain field would not have been under the house.

156  
157 Mr. Jones- Where you see the house now, the septic system, the old house  
158 was in front of that.

159  
160 Mr. Balfour- Towards Darbytown?

161  
162 Mr. Jones- Yes sir. And we had to move it over to the side, she had to  
163 do more clearing. And we couldn't go back any farther.

164  
165 Mr. McKinney - But you said you called the county and they said the setback  
166 was 50 feet from the road?

167  
168 Mr. Jones- Twice I did it, and Ms. Goins called also and was told the  
169 same thing.

170

171 Mr. McKinney - And you didn't set it back 50 feet?  
172  
173 Mr. Wright- He said it was 50 feet from the road, not the property line.  
174 That is where the misunderstanding comes from.  
175  
176 Mr. Jones- We came 50 feet from the edge of the road and the house  
177 sits right now from the edge of the road 56 feet. We actually exceeded what the County  
178 said by 6 feet.  
179  
180 Mr. Wright Is this the first house you have put in Henrico County?  
181  
182 Mr. Jones- There is not much manufactured housing that goes into  
183 Henrico County. No, this is not the first one. I have never had a problem before.  
184  
185 Mr. Wright Do you understand that the setback is from the property line  
186 and not the road?  
187  
188 Mr. Jones- I specifically asked that, and was told it was from the edge of  
189 the road. Some counties measure it from the center line of pavement, some counties  
190 measure from the edge of the road, and some measure from the property line. I was  
191 concerned about the decks, so we specifically asked about it.  
192  
193 Mr. McKinney -- I would suggest in the future, for the County Officials, that  
194 you get names ,times and dates and everything else.  
195  
196 Mr. Jones- I won't make that mistake again.  
197  
198 Mr. Nunnally- When did you purchase this property, Ms. Goins?  
199  
200 Ms. Goins- I purchased the property in November of 1999.  
201  
202 Mr. Nunnally - Thank you.  
203  
204 Mr. McKinney - - Is this a double wide trailer?  
205  
206 Mr. Jones - It is a 2000 square foot home.  
207 Mr. Kirkland- Any other questions? Any one else wish to speck on this  
208 case? If not that concludes the case, You can get your answer this afternoon from the  
209 Planning office or wait until the end of the meeting.  
210  
211 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
212 Wright, the Board **granted** the case **A-19-2000**.  
213  
214 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
215 Negative: 0  
216 Absent: 0

217  
218 The Board of Zoning Appeals **granted** your request for a variance to build a single  
219 family dwelling at 2237 Darbytown Road (Tax Parcel 193-A-16A). The Board **granted** a  
220 variance of 5 feet front yard setback and 0.015 acre total lot area, subject to the  
221 following conditions:

222  
223 1. Only the dwelling shown on the plan filed with the application may be constructed  
224 pursuant to this approval. Any additional improvements shall comply with the applicable  
225 regulations of the County Code.

226  
227 2. Approval of this request does not imply that a building permit will be issued.  
228 Building permit approval is contingent on Health Department requirements, including,  
229 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
230 of a well location.

231  
232 The Board **granted** this request, as it found from the evidence presented, that  
233 authorizing this variance will not be of substantial detriment to adjacent property and will  
234 not materially impair the purpose of the zoning regulations.

235  
236 **UP- 4-2000** **Cindy Johnson** requests a temporary use permit pursuant to  
237 Section 24-116(c)(1) of Chapter 24 of the County Code to park two  
238 temporary storage trailers at 401 North Parham Road (Tax Parcel  
239 112-A-52), zoned R-1, One-family Residence District (Tuckahoe).

240  
241 Mr. Kirkland- Any one else wish to speak on this case? If not will you  
242 raise your right hand and be sworn in.

243  
244 Mr. Blankinship - Do you swear the testimony you are about to give is the  
245 truth, the whole truth, and nothing but the truth, so help you God?

246  
247 Ms. Johnson - I do.

248  
249 Mr. Kirkland - Would you state your name for the record?

250  
251 Ms. Johnson - Cindy Johnson.

252  
253 Mr. Kirkland - Have you turned in all of your notices, according to the County  
254 Code?

255  
256 Ms. Johnson - Yes sir.

257  
258 Mr. Kirkland - We have them in the file, proceed with your case.

259  
260 Mr. Johnson - Each year we have a yard sale in May and this year the sale  
261 is on May the 20<sup>th</sup>. Because of limited storage space at the facility, for the last 2 years  
262 we have rented semi trailers that are parked behind the building, They are not visible

263 from Parham Road traffic or from our neighbors, because of the privacy fence and the  
264 trees behind us. And to my knowledge, there have not been any complaints from our  
265 neighbors. We use those for storage for the yard sale items. They are there for 30  
266 days, and the 2 restrictions that have been placed on us are, that they be there for not  
267 longer than that period of time, and they not be visible from Parham Road, are certainly  
268 acceptable to us. And we would like to do this again this year.

269  
270 Mr. Kirkland - Any questions?

271  
272 Mr. Blankinship- Mr. Chairman, I have one question. One of the suggested  
273 conditions is that the trailer will be removed from the property by May 24<sup>th</sup>.

274  
275 Ms. Johnson - No problem.

276  
277 Mr. Blankinship - That was the date in your application but it wasn't really clear  
278 whether that was the last day you were going to use them or whether you could have  
279 them removed by then.

280  
281 Ms. Johnson - That is when they can be removed.

282  
283 Mr. Kirkland - Any other questions? That concludes the case.

284  
285 After an advertised public hearing, and on a motion by Mr. Balfour, seconded by Mr.  
286 Wright, the Board **granted** the case **UP-4-2000**.

287  
288 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
289 Negative: 0  
290 Absent: 0

291  
292 The Board of Zoning Appeals **granted** your application for a conditional use permit to  
293 park two temporary storage trailers at 401 North Parham Road (Tax Parcel 112-A-52).  
294 The Board **granted** the use permit subject to the following conditions:

- 295  
296 1. Only the trailers shown on the plan filed with the application may be erected  
297 pursuant to this approval.  
298  
299 2. The trailers shall be removed from the property on or before May 24, 2000.

300  
301 **A - 21-2000** **Robert S. Brightwell, Jr.** requests a variance from Sections 24-94  
302 of Chapter 24 of the County Code to allow an existing dwelling to  
303 remain at 2808 Pin Oak Lane (Green Meadows) (Tax Parcel 159-  
304 1-A-7), zoned A-1, Agricultural District (Varina). The front yard  
305 setback and minimum side yard setback are not met. The applicant  
306 has 46.6 feet front yard setback, where the Code requires 50 feet  
307 front yard setback, and 18.1 feet minimum side yard setback,  
308 where the Code requires 20 feet minimum side yard setback. The

309 applicant requests variances of 3.4 feet front yard setback and 1.9  
310 feet minimum side yard setback.

311  
312 Mr. Kirkland \_ Any one else wish to speak on this case? If not, will you  
313 raise your right hand and be sworn in.

314  
315 Mr. Blankinship - Do you swear the testimony you are about to give is the  
316 truth, the whole truth, and nothing but the truth, so help you God?

317  
318 Mr. Brightwell - I do.

319  
320 Mr., Kirkland - Have all your notices been turned in, according to the  
321 County Code. We don't see them in the file.

322  
323 Mr. McKinney - Where did you turn them in, Mr. Brightwell?

324  
325 Mr. Brightwell - Actually I am not sure that we did.

326  
327 Mr. Balfour - I have them. Is it 21-2000? We have them.

328  
329 Mr. Brightwell - First of all, I want to say that this is all my fault. I did the  
330 layoff on the house. A little bit of the explanation of why, is my brothers and I work  
331 together we are framing contractors. We do some additions, mostly in Hanover County.  
332 In Hanover County, the setbacks are 30 feet on front and 15 feet from the side.  
333 Assuming it was the same, when I staked the lot off, I measured from the street 55 feet  
334 and from the side line measured approximately 20 feet. I am not sure that that was  
335 maintained during the clearing of the lot. And again through my own fault, that is where  
336 the house came up.

337  
338 When I measure off of the street, actually the surface of the street is not in the center of  
339 the right of way. It probably is more that 3 feet, but measuring from the street I  
340 attempted to make it 55 feet. That is where I wanted the house, not because of the  
341 required setback. That is my fault for not pursuing it any further.

342  
343 When I staked the house off, I tried to make it as square as possible and to make it  
344 align with the house next door. When I applied for the septic tank permit, the health  
345 department made their own drawing and the measurements matched mine. When we  
346 went back to install the septic system, the way it was drawn and because of the  
347 steepness of the slope behind the house, we were not able to install the septic system  
348 the way it was drawn. It was drawn with the distribution box directly behind the house  
349 and four lines going to the right and four lines going to the left. When it was laid out, it  
350 would not fit. We were given permission from the health department to put 5 lines on  
351 the right hand sides, and 3 lines on the left hand side, and the lines had to go down and  
352 angle back across the hill. They are to the inch minimum from the back of the house.  
353 That is as close as it can get.

354

355 I also talked to most of my neighbors, and no one has a problem with positioning of the  
356 house or the appearance of the house.

357  
358 Mr. Nunnally - You said you aligned the house with the one next door to  
359 you?

360  
361 Mr. Brightwell - Yes sir. So as not to be in front of any other houses.

362  
363 Mr. Kirkland - I see here in the staff report , that the house was not built according  
364 to the plans. It says it was built at 46.6 feet.

365  
366 Mr. Brightwell - Actually, the only plot plan that I had was the one I submitted  
367 with my county permit. It is a small drawing. I did that drawing. I don't have a copy  
368 right here. I measured 55 feet from the edge of the street assuming that there was a 5  
369 foot easement. I did not check it out thoroughly.

370  
371 However, the street is not centered in the right of way. More of my yard is in the right of  
372 way than others in the neighborhood. I have no way of proving this. These streets  
373 were put in some 25 years ago.

374  
375 Mr. Kirkland - Any other questions? Any one else wish to speak on this  
376 case? If not that concludes the case. You can get your answer from the Planning  
377 Office this afternoon or wait until the end of the meeting.

378  
379 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
380 Wright, the Board **granted** the case **A-21-2000**.

381  
382 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
383 Negative: 0  
384 Absent: 0

385  
386 The Board of Zoning Appeals **granted** your request for a variance to allow an existing  
387 dwelling to remain at 2808 Pin Oak Lane (Tax Parcel 159-1-A-7). The Board granted a  
388 variance of 3.4 feet front yard setback and 1.9 feet minimum side yard setback subject  
389 to the following conditions:

390  
391 1. This variance applies only to the front and side yard setbacks for the house  
392 shown on the plan filed with the application. Any additional improvements shall comply  
393 with the applicable regulations of the County Code.

394  
395 The Board **granted** this request, as it found from the evidence presented, that  
396 authorizing this variance will not be of substantial detriment to adjacent property and will  
397 not materially impair the purpose of the zoning regulations.

398  
399 **A - 22-2000** **Percell Payne** requests a variance from Section 24-95(k) of  
400 Chapter 24 of the County Code to build a detached carport at 9021

401 Kinsale Circle (Northwoods) (Tax Parcel 52-15-A-12), zoned R-2,  
402 One-family Residence District (Brookland). The minimum side yard  
403 setback is not met. The applicant has 19 feet minimum side yard  
404 setback, where the Code requires 65 feet minimum side yard  
405 setback. The applicant requests a variance of 46 feet minimum  
406 side yard setback.

407  
408 Mr. Kirkland - Any one else wish to speak on this case? If not, will you raise your  
409 right hand and be sworn in.

410  
411 Mr. Blankinship - Do you swear the testimony you are about to give is the  
412 truth, the whole truth, and nothing but the truth, so help you God?

413  
414 Mr. Kirkland - Would you state your name for the record.

415  
416 Mr. Payne- Purcell Payne.

417  
418 Mr., Kirkland- Have all your notices been turned in, according to the County  
419 Code? We have them in the file. Proceed with your case.

420  
421 Mr. Payne - In my subdivision, where I live is relatively new. It is an older  
422 subdivision. In the section that was built in the last 15 years is where I reside. I knew  
423 that I could not attach a garage because of zoning rules. But I did think I could put in a  
424 carport. To give you some idea of the neighborhood, the oldest section has about 7  
425 carports. In the new section, the homes already have carports or garages. I am trying  
426 to get a variance to put in this carport. I could put that carport six to five feet on the  
427 other side of my property. It would not enhance the community or my property, because  
428 the carport would be sitting on the other side of the property. I would have to cross my  
429 property with a driveway to access it.

430  
431 Mr. Kirkland - Mr. Payne, is the carport going to be open all around, with brick  
432 columns. Will the siding be the same as that of your house?

433  
434 Mr. Payne - Yes sir. In addition, I have also spoken to property owners  
435 to the side of me and behind me, and I do have notices that they are not in  
436 disagreement with what I want to do.

437  
438 Mr. Kirkland - When I looked at your yard, in the back where you have those two  
439 cars parked, it that where the carport is going to be located?

440  
441 Mr. Payne - Exactly where the carport is going.

442  
443 Mr. Kirkland - Any other questions?

444  
445 Mr. Wright- Mr. Payne, is there a house located behind your property?  
446

447 Mr. Payne - Yes sir.  
448  
449 Mr. Wright- There doesn't appear to be one on the map. I am talking  
450 directly behind your lot.  
451  
452 Mr. Payne - Yes sir. There is a house back there. Of course, this  
453 particular property owner had no problem putting up the carport. He also recently put  
454 up a garage. And if I am allowed to put in this carport, the very same contractor will do  
455 the work.  
456  
457 Mr. Wright- How does he access his house, off of Kinsale Court?  
458  
459 Mr. Payne - Yes sir.  
460  
461 Mr. Wright- OK. And across Kinsale Court, that house fronts on Kinsale  
462 Circle.  
463  
464 Mr. Payne - Correct.  
465  
466 Mr. Kirkland - Any other questions? Any one else wish to speak on this case?  
467 That concludes your case, you may get your answer from the Planning Office this  
468 afternoon or wait until the end of the meeting.  
469  
470 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
471 McKinney, the Board **granted** the case **A-22-2000**.  
472  
473 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
474 Negative: 0  
475 Absent: 0  
476  
477 The Board of Zoning Appeals **granted** your request for a variance to build a detached  
478 carport at 9021 Kinsale Circle (Tax Parcel 52-15-A-12). The Board granted a variance  
479 of 46 feet minimum side yard setback subject to the following conditions:  
480  
481 1. Only the carport shown on the plan filed with the application may be constructed  
482 pursuant to this approval. Any additional improvements shall comply with the applicable  
483 regulations of the County Code.  
484  
485 The Board **granted** this request, as it found from the evidence presented, that  
486 authorizing this variance will not be of substantial detriment to adjacent property and will  
487 not materially impair the purpose of the zoning regulations.  
488  
489 **A - 23-2000** **Robert H. and Judith Wade** request a variance from Section 24-  
490 94 of Chapter 24 of the County Code to build an addition at 10111  
491 Kexby Road (Terry Heights) (Tax Parcel 41-6-G-39), zoned R-3,  
492 One-family Residence District (Brookland). The rear yard setback is

493 not met. The applicants have 32 feet rear yard setback, where the  
494 Code requires 40 feet rear yard setback. The applicants request a  
495 variance of 8 feet rear yard setback.

496  
497 Mr. Kirkland - Anyone else wish to speak on this case? If not, will you raise your  
498 right hand and be sworn in.

499  
500 Mr. Blankinship - Do you swear the testimony you are about to give is the  
501 truth, the whole truth, and nothing but the truth, so help you God?

502  
503 Mr. Kirkland - Would you state your name for the record.

504  
505 Ms. and Mr. Wade - Judy Wade, Robert Wade.

506  
507 Mr. Kirkland - Have all your notices been turned in, according to the County  
508 Code? We have them in the file. Proceed with your case.

509  
510 Ms. Wade - We would like to build the addition so my mother can move  
511 in with us. I think that one suggestion was if we would make it smaller, we would not  
512 need the variance. But we would like to make it big enough so she will be comfortable  
513 with adequate space.

514  
515 Mr. Balfour - Is it going right by where the car is in these pictures?

516  
517 Ms. Wade - Yes. It will be right there. It will match the other side of the  
518 house. It will look like a matching wing, but it will go back about 3 feet further in the rear  
519 to give it a little more space.

520  
521 Mr. Balfour - One story?

522  
523 Ms. Wade - One story.

524  
525 Mr. Kirkland - Will the driveway stay in the same place or will you move it over?

526  
527 Ms. Wade - The driveway will be in the same place, it will just be in front  
528 of the addition.

529  
530 Mr. Kirkland - You definitely have a unique shaped lot.

531  
532 Ms. Wade - If it were square, we would not have to ask for the variance.

533  
534 Mr. Kirkland - Any other questions? Any one else wish to speak on this  
535 case? If not, that concludes the case. You may get your answer from the Planning  
536 Office this afternoon or wait until the end of the meeting.

537

538 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
539 Nunnally, the Board **granted** the case **A-23-2000**.

540  
541 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
542 Negative: 0  
543 Absent: 0

544  
545 The Board granted your request for a variance to build an addition at 10111 Kexby  
546 Road (Tax Parcel 41-6-G-39). The Board granted a variance of 8 feet rear yard setback  
547 subject to the following conditions:

548  
549 1. Only the addition shown on the plan filed with the application may be constructed  
550 pursuant to this approval. Any additional improvements shall comply with the applicable  
551 regulations of the County Code.

552  
553 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10  
554 of the County Code apply. At the time of building permit application, the applicant shall  
555 submit the necessary information to the Department of Public Works to ensure  
556 compliance with the requirements of the Chesapeake Bay Preservation Act and the  
557 code requirements for water quality standards.

558  
559 The Board granted this request, as it found from the evidence presented, that  
560 authorizing this variance will not be of substantial detriment to adjacent property and will  
561 not materially impair the purpose of the zoning regulations.

562  
563 **UP 5-2000** S. B. Cox, Jr. requests a use permit pursuant to Sections 24-52(d)  
564 and 24-103 of Chapter 24 of the County Code to extract materials  
565 from the earth at 1801 Kingsland Road (Tax Parcel 268-A-35A),  
566 zoned A-1, Agricultural District (Varina).

567  
568 Mr. Kirkland - Anyone else wish to speak on this case? If not will you raise your  
569 right hand and be sworn in.

570  
571 Mr. Blankinship - Do you swear the testimony you are about to give is the  
572 truth, the whole truth, and nothing but the truth, so help you God?

573  
574 Mr. Kirkland - Would you state your name for the record.

575  
576 Ms. Issac - Lorraine Issac

577  
578 Mr. Kirkland - Have all your notices been turned in, according to the County  
579 Code? We have them in the file. Proceed with your case.

580  
581 Ms. Issac - Yes sir.

582  
583 Mr. Kirkland - Proceed with your case.

584  
585 Ms. Issac - This is a use permit for a borrow pit, the borrow pit is used  
586 by the owner, S. B. Cox, for his own development, his own use. Because it's for his  
587 own projects and not for the general commercial borrow pit, the use of it is very  
588 intermittent. He has probably used it more in the last year than he has used it in the last  
589 five years.

590  
591 But is it important that he maintain the use permit so that as material is needed, he can  
592 go in and remove dirt from this site.

593  
594 This is the third time I have been before you to renew this permit, and in that time I have  
595 only talked to one adjacent neighbor who thought that the pit was causing a drainage  
596 problem in her yard. Because she had standing water, I assured her that digging a hole  
597 in the ground would not back up the water in her yard.

598  
599 It is used intermittently and I believe that it does not create any problems for the  
600 surrounding neighbors. I have read the conditions and they seem to be in line with what  
601 has been approved in the past. I do acknowledge that the bond amount has doubled.  
602 We were aware of that on another case.

603  
604 Mr. McKinney -- The bond amount has not doubled, what has happened, as I  
605 understand it, if that bond amount is only for the amount of land that you are disturbing,  
606 it is \$2,000.00 per acre. If you put the bond on the whole piece of property, then it is  
607 \$1,000.00 per acre.

608  
609 Ms. Issac - We ran into this once before. And it used to be \$1,000.00  
610 per acre and because of problems with use permit, the whole procedure changed and  
611 we acknowledge.

612  
613 Mr. Blankinship - There is one error in the staff report. I stated that it was  
614 allowed to lapse in 1998. For some reason their application did not make it into our  
615 index, and when I did the research for this case it did not show up. Ms. Issac called and  
616 informed me of the missing information. This was renewed in 1998.

617  
618 Ms. Issac - It has been run legally for the past two years.

619  
620 Mr. Wright - For interest, how many trucks go in and out of the property?

621  
622 Ms. Issac - You might say 15 a month, not a whole lot of activity.

623  
624 Mr. Wright - 15 a month.

625  
626 Ms. Issac - The last year has seen more activity, but it is usually closed.  
627 It is not a daily use.

628  
629 Mr. Nunnally - You say, Ms. Issac, that he just uses for his own use.

630  
631 Ms. Issac - Yes. He has a number of other businesses and so he keeps  
632 this just for things he is involved in.

633  
634 Mr. Kirkland - Any other questions? Anyone else wish to speak on this case? If  
635 not, that concludes the case.

636  
637 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
638 McKinney, the Board **granted** the case **UP-5-2000**.

639  
640 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
641 Negative: 0  
642 Absent: 0

643  
644 The Board **granted** your application for a conditional use permit to extract materials  
645 from the earth at 1801 Kingsland Road (Tax Parcel 268-A-35A), subject to the following  
646 conditions:

647  
648 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of  
649 the County Code.

650  
651 2. Before beginning any work, the applicant shall provide a financial guaranty in an  
652 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$30,000,  
653 guaranteeing that the land will be restored to a reasonably level and drainable condition.  
654 This permit does not become valid until the financial guaranty has been approved by the  
655 County Attorney. The financial guaranty may provide for termination after 90 days notice  
656 in writing to the County. In the event of termination, this permit shall be void, and work  
657 incident thereto shall cease. Within the next 90 days the applicant shall restore the land  
658 as provided for under the conditions of this use permit. Termination of such financial  
659 guaranty shall not relieve the applicant from its obligation to indemnify the County of  
660 Henrico for any breach of the conditions of this use permit. If this condition is not  
661 satisfied within 90 days of approval, the use permit shall be void.

662  
663 3. Before beginning any work, the applicant shall submit erosion control plans to the  
664 Department of Public Works for review and approval. Throughout the life of the  
665 operation, the applicant shall continuously satisfy the Department of Public Works that  
666 erosion control procedures are properly maintained, and shall furnish plans and bonds  
667 that the department deems necessary. The applicant shall provide certification from a  
668 licensed professional engineer that dams, embankments and sediment control  
669 structures meet the approved design criteria as set forth by the State. If this condition is  
670 not satisfied within 90 days of approval, the use permit shall be void.

671  
672 4. Before beginning any work, the applicant shall obtain a mine license from the  
673 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied  
674 within 90 days of approval, the use permit shall be void.

675

- 676 5. Before beginning any work, the areas approved for mining under this permit shall  
677 be delineated on the ground by five-foot-high metal posts at least five inches in diameter  
678 and painted in alternate one foot stripes of red and white. These posts shall be so  
679 located as to clearly define the area in which the mining is permitted. They shall be  
680 located, and their location certified, by a certified land surveyor. If this condition is not  
681 satisfied within 90 days of approval, the use permit shall be void.  
682
- 683 6. In the event that the Board's approval of this use permit is appealed, all  
684 conditions requiring action within 90 days will be deemed satisfied if the required actions  
685 are taken within 90 days of final action on the appeal.  
686
- 687 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
688 state and local regulations administered under such act applicable to the property, and  
689 shall furnish to the Planning Office copies of all reports required by such act or  
690 regulations.  
691
- 692 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings  
693 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.  
694
- 695 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,  
696 or national holidays.  
697
- 698 10. All means of access to the property shall be from the established entrance onto  
699 Kingsland Road.  
700
- 701 11. The applicant shall erect and maintain gates at all entrances to the property.  
702 These gates shall be locked at all times, except when authorized representatives of the  
703 applicant are on the property.  
704
- 705 12. The applicant shall post and maintain a sign at the entrance to the mining site  
706 stating the name of the operator, the use permit number, the mine license number, and  
707 the telephone number of the operator. The sign shall be 12 square feet in area and the  
708 letters shall be three inches high.  
709
- 710 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet  
711 along the perimeter of the property. The letters shall be three inches high. The applicant  
712 shall furnish the Chief of Police a letter authorizing the Division of Police to enforce the  
713 "No Trespassing" regulations, and agreeing to send a representative to testify in court  
714 as required or requested by the Division of Police.  
715
- 716 14. Standard "Truck Entering Highway" signs shall be erected on Kingsland Road on  
717 each side of the entrances to the property. These signs will be placed by the County, at  
718 the applicant's expense.  
719
- 720 15. The applicant shall post and maintain a standard stop sign at the entrance to  
721 Kingsland Road.

- 722  
723 16. The applicant shall provide a flagman to control traffic from the site onto the  
724 public road, with the flagman yielding the right of way to the public road traffic at all  
725 times. This flagman will be required whenever the Division of Police deems necessary.  
726
- 727 17. All roads used in connection with this use permit shall be effectively treated with  
728 calcium chloride or other wetting agents to eliminate any dust nuisance.  
729
- 730 18. The operation shall be so scheduled that trucks will travel at regular intervals and  
731 not in groups of three or more.  
732
- 733 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of  
734 any kind on any public road.  
735
- 736 20. The applicant shall maintain the property, fences, and roads in a safe and secure  
737 condition indefinitely, or convert the property to some other safe use.  
738
- 739 21. If, in the course of its preliminary investigation or operations, the applicant  
740 discovers evidence of cultural or historical resources, or an endangered species, or a  
741 significant habitat, it shall notify appropriate authorities and provide them with an  
742 opportunity to investigate the site. The applicant shall report the results of any such  
743 investigation to the Planning Office.  
744
- 745 22. If water wells located on surrounding properties are adversely affected, and the  
746 extraction operations on this site are suspected as the cause, the effected property  
747 owners may present to the Board evidence that the extraction operation is a contributing  
748 factor. After a hearing by the Board, this use permit may be revoked or suspended, and  
749 the operator may be required to correct the problem.  
750
- 751 23. Open and vertical excavations having a depth of 10 feet or more, for a period of  
752 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the  
753 public safety.  
754
- 755 24. Topsoil shall not be removed from any part of the property outside of the area in  
756 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for  
757 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled  
758 within the authorized mining area and provided with adequate erosion control  
759 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought  
760 to the site to provide the required five-inch layer of cover. All topsoil shall be treated  
761 with a mixture of seed, fertilizer, and lime as recommended by the County after soil  
762 tests have been provided to the County.  
763
- 764 25. No offsite-generated materials shall be deposited on the mining site without prior  
765 written approval of the Director of Planning.  
766

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

772  
773 27. A progress report shall be submitted to the Board on April 1, 2001. This progress  
774 report must contain information concerning how much property has been mined to date  
775 of the report, the amount of land left to be mined, how much rehabilitation has been  
776 performed, when and how the remaining amount of land will be rehabilitated, and any  
777 other pertinent information about the operation that would be helpful to the Board.

778  
779 28. Excavation shall be discontinued by April 1, 2002, and restoration accomplished  
780 by not later than April 1, 2003, unless a new permit is granted by the Board of Zoning  
781 Appeals.

782  
783 29. The rehabilitation of the property shall take place simultaneously with the mining  
784 process. Rehabilitation shall not be considered completed until the mined area is  
785 covered completely with permanent vegetation.

786  
787 30. All drainage and erosion and sediment control measures shall conform to the  
788 standards and specifications of the Mineral Mining Manual Drainage Handbook.

789  
790 31. Failure to comply with any of the foregoing conditions shall automatically void this  
791 permit.

792  
793 On a motion by Mr. McKinney, seconded by Mr. Wright, the Board **approved** the  
794 January 27, 2000, Minutes of the Henrico County Board of Zoning Appeals meeting.

795  
796 There being no further business and on a motion by Mr. Wright, seconded by Mr.  
797 Kirkland, the Board adjourned until April 27, 2000.

798

799

800 Richard Kirkland, Chairman

801

802

803

804 Benjamin Blankinship, AICP

805 Secretary