

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 GOVERNMENT CENTER AT PARHAM**  
4 **AND HUNGARY SPRINGS ROADS, ON THURSDAY, MAY 28, 2009, AT 9:00**  
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**  
6 **DISPATCH MAY 7, 2009 AND MAY 14, 2009.**

7  
Members Present: Elizabeth G. Dwyer, Chairman  
Helen E. Harris, Vice Chairman  
James W. Nunnally  
Robert Witte  
R. A. Wright

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

8  
9 Ms. Dwyer - The May 28<sup>th</sup> session of the Henrico County Board of  
10 Zoning Appeals will come to order. Please stand for the **Pledge of Allegiance**.

11  
12 Good morning everyone. Welcome to the Board of Zoning Appeals meeting. Mr.  
13 Secretary, would you read the rules of the Board please?

14  
15 Mr. Blankinship - Good morning Madam Chairman and members of the  
16 Board, ladies and gentlemen. The rules for this meeting are as follows. Acting as  
17 Secretary, I will call each case, and while I'm speaking, the applicant should  
18 come down to the podium. We will then ask everyone who intends to speak on  
19 that case to stand and be sworn in. The applicant will present their case, and  
20 then anyone else who wishes to speak will be given an opportunity. After  
21 everyone has spoken, the applicant, and only the applicant, will have an  
22 opportunity for rebuttal. After the Board has heard all the evidence and asked all  
23 their questions, they will take the matter under advisement, and they will render  
24 all of their decisions at the end of the meeting. If you wish to hear their decision  
25 on a specific case, you can either stay until the end of the meeting, or you can  
26 check the Planning Department website this afternoon, or you can call the  
27 Planning Department later this afternoon. This meeting is being recorded, so I  
28 will ask everyone who speaks to speak directly into the microphone on the  
29 podium, state your name, and please spell your last name so we get it correctly  
30 in the record. Finally, there is a binder out in the foyer that contains the staff  
31 report for each case, including the conditions that have been recommended by  
32 the staff. It's particularly important for the applicant on a use permit case to be  
33 familiar with those conditions.

35 Madam Chairman, we do have one request for deferral.

36

37 Ms. Dwyer - All right.

38

39 **A-004-09** **HILTON RUBIN** requests a variance from Section 24-  
40 94 to build a one-family dwelling at 9312 Three Chopt Road (Parcel 752-749-  
41 7078 (part)), zoned R-3, One-family Residence District (Three Chopt). The lot  
42 width requirement is not met. The applicant proposes 62 feet lot width where the  
43 Code requires 80 feet lot width. The applicant requests a variance of 18 feet lot  
44 width.

45

46 Ms. Dwyer - Is there anyone here to represent the case? Mr.  
47 Rubin?

48

49 Mr. Rubin - Hi, my name is Hilton Rubin; I'm the owner of the  
50 property. I just want to thank the Committee for their concern at the last meeting  
51 for the historical sensitivity of the project. I also want to thank the Planning  
52 Department for their ongoing support since the last meeting. We're still working  
53 on some of the questions that came up in the meeting at the time. So, since we  
54 don't have all those answers, I request to defer the decision, unless there are any  
55 more questions or dissent.

56

57 Ms. Dwyer - Do you just need another month or?

58

59 Mr. Rubin - It's unclear. I believe a month will answer most if not  
60 all the questions, but it is unclear at this time. I have the paperwork put together  
61 to make application to the national registry. As I was telling Mr. Wright, we might  
62 have a clearer picture of—or we might be able to clarify how [unintelligible] the  
63 house is based on our findings, or we might not; I don't know.

64

65 Ms. Dwyer - All this is for the purpose of?

66

67 Mr. Rubin - This is for the purpose of finding out answers to the  
68 questions that the Committee had about whether we can put in a historical  
69 easement, whether it's viable. There have been a few other issues like the trees  
70 that are in the conditions to be saved now appear to be dead, but I don't know. I  
71 want to give them another few weeks to leaf out and then call an arborist. This  
72 entire variance was predicated on the fact that this was the only thing we could  
73 do to save the house. There is a proposal that is now sitting in the Planning  
74 Office that Ben Blankinship's department will eventually rule on and decide  
75 whether it's legal and viable or not. So, certainly those answers will be clarified  
76 between now and the next meeting.

77

78 Ms. Dwyer - Are there any questions of Mr. Rubin? Do I have  
79 motion on the request for deferral?

80

81 **DECISION**

82  
83 Mr. Wright - I move we defer this case until the next meeting.

84  
85 Ms. Dwyer - Motion by Mr. Wright. Do I have a second?

86  
87 Mr. Witte - I second it.

88  
89 Ms. Dwyer - Motion for deferral and seconded. All in favor say  
90 aye. All opposed say no. The ayes have it; the motion passes.

91  
92 Mr. Wright - That will be the June 24, 2009 meeting, I believe.

93  
94 Mr. Blankinship - Yes sir.

95  
96 Ms. Dwyer - The case is deferred to our June 24<sup>th</sup>, meeting.

97  
98 Mr. Rubin - Thank you very much.

99  
100 After an advertised public hearing, and on a motion by Mr. Wright, seconded by  
101 Mr. Witte, the Board, per the applicant's request, **deferred** application **A-004-09**.  
102 **HILTON RUBIN's** request for a variance from Section 24-94 to build a one-family  
103 dwelling at 9312 Three Chopt Road (Parcel 752-749-7078 (part)), zoned R-3,  
104 One-family Residence District (Three Chopt). The lot width requirement is not  
105 met. The applicant proposes 62 feet lot width where the Code requires 80 feet lot  
106 width. The applicant requests a variance of 18 feet lot.

107		
108		
109	Affirmative:	Dwyer, Harris, Nunnally, Witte, Wright 5
110	Negative:	0
111	Absent:	0

112  
113  
114 **UP-006-09** **ENDTIME TABERNACLE** requests a temporary  
115 conditional use permit pursuant to Section 24-116(c)(1) to provide storage for a  
116 food pantry ministry at 238 Twin Pine Road (Parcel 846-714-2846), zoned A-1,  
117 Agricultural District (Varina).

118  
119 Ms. Dwyer - Anyone here who wants to speak to the case either  
120 for or against? Please stand and be sworn.

121  
122 Mr. Blankinship - Raise your right hands, please. Do you swear or  
123 affirm that the evidence you're about to give is the truth—Sorry. Do you swear or  
124 affirm that the evidence you're about to give is the truth and nothing but the truth  
125 so help you God?  
126

127 Ms. Dwyer - Those representing the church, please come forward.  
128  
129 Mr. Cheatham - Good morning. My name is Earl Cheatham—C-h-e-a-  
130 t-h-a-m. I'm the Chairman of the Board of Trustees for the church.  
131  
132 Ms. Dwyer - Mr. Cheatham, please state your case.  
133  
134 Mr. Cheatham - We have been providing a food pantry distribution for  
135 our zone. The problem is we're doing it out of our basement and it's difficult for a  
136 lot of the people receiving the food distribution to get up and down the stairs.  
137 We're having a lot of problems with getting the food up and down the stairs. We  
138 were hoping that we could put this trailer up and eliminate a lot of the problems  
139 that they're having just getting to the food bank for the food distribution.  
140  
141 Ms. Dwyer - Any questions for Mr. Cheatham?  
142  
143 Mr. Wright - Yes. Mr. Cheatham, I commend the church on what  
144 you're doing; I think it's a wonderful service you're providing. My concern is I was  
145 here when we approved the variance for the use of this property back in 1990.  
146 At that time, we approved this on a—it was approved to the owner at that time to  
147 be used as a family chapel or just for family purposes. I believe at that time we  
148 didn't think the property, the size of the property—Of course if violates the  
149 County Code because the area is too small for a church, a full-fledged church.  
150 The problem with that is there's not enough parking and you have problems with  
151 cars on the street, etcetera. But anyhow, that's the way it was approved. Then  
152 we find that the title has been transferred to the church, and the church has been  
153 operating now since when? When did you all take it?  
154  
155 Ms. Dwyer - 1994?  
156  
157 Mr. Wright - Can you shed any light on this, help me with this?  
158  
159 Mr. Cheatham - What happened was the owner, Octavia DePriest,  
160 passed. The building sat idle for a while, and then her daughter, Jean Flannigan,  
161 began using the facility, just began holding services there. I don't think we were  
162 really aware of the restrictions that were placed on the church at that time, for it  
163 to be used as a church. I wasn't aware.  
164  
165 Mr. Wright - You weren't aware that when this was approved back  
166 in 1990, it was approved under the condition that it was not to be used for a full-  
167 fledged church.  
168  
169 Mr. Cheatham - [Inaudible.]  
170

171 Mr. Wright - Mr. Blankinship, is there anything in the record that  
172 would put a person on notice about the variance and the conditions of the  
173 variance?  
174

175 Mr. Blankinship - I'm not sure how a new purchaser of the property or  
176 recipient, since it probably didn't—I don't know if any money changed hands or  
177 not.  
178

179 Mr. Cheatham - I don't think so.  
180

181 Mr. Blankinship - I'm sure very often a buyer would get financing. The  
182 financing officer would require a letter from us, and the letter would show clearly  
183 that a church requires more property. Then we'd do the research to find out why  
184 it was allowed, and it would come back that there was a variance issue. Then  
185 we'd send them a copy of the approval letter. There's no financing involved,  
186 there's no money changing hands.  
187

188 Mr. Cheatham - I take it since it was a deed of gift, they probably didn't  
189 have a title examination.  
190

191 Mr. Blankinship - Very likely not.  
192

193 Ms. Dwyer - The staff report does say in 1997 that the church,  
194 through Mr. Warren DePriest as the sign contractor, contacted the County about  
195 putting the sign up in front of the building. At that time, the County informed Mr.  
196 DePriest that the church was in violation.  
197

198 Mr. Wright - I understand that; I read that. It was a letter, but the  
199 County didn't follow up on that. The County wrote the letter but nothing was  
200 done, I take it. Did you know about the letter that was written from the County in  
201 1997?  
202

203 Mr. Cheatham - No, not until I read your paper.  
204

205 Mr. Wright - Until you saw this?  
206

207 Mr. Cheatham - Until we saw the list of things. We don't have any  
208 problem with not parking on the street. There is no parking on the street.  
209

210 Mr. Wright - Now many members do you have? Please identify  
211 yourself.  
212

213 Ms. Cheatham - Good morning. My name is Linda Cheatham. I am  
214 the treasurer and administrator of the church. C-h-e-a-t-h-a-m. We probably  
215 have participating on any given Sunday approximately 30 to 35, most of whom  
216 are members of the DePriest family. To my knowledge—

217  
218 Mr. Wright - My church, we have a roll.  
219  
220 Ms. Cheatham - We have a roll.  
221  
222 Mr. Wright - There are 500 people on the roll and we—  
223  
224 Mr. Cheatham - No, no, no.  
225  
226 Ms. Cheatham - We may have 50 on the roll. I started to bring the  
227 directory, and we can make that available, if you like. There are probably 50  
228 people in the directory.  
229  
230 Mr. Wright - So, you have a membership of—  
231  
232 Ms. Cheatham - We have a membership and then we have the active  
233 attendees.  
234  
235 Mr. Wright - If you can get 35 out of that, that's pretty good.  
236  
237 Ms. Cheatham - To my knowledge, there has never been a case of  
238 cars parked on the street. Even when we have family reunions, there is space in  
239 the back of the church where people have parked on the grass. I'm not aware of  
240 any occasion during the years of the church where there has been a parking  
241 problem.  
242  
243 Mr. Nunnally - You have about 40 parking spaces down there now,  
244 don't you? I was down there yesterday and I kind of counted them out.  
245  
246 Mr. Witte - What is the Code for that, one parking space every  
247 three members?  
248  
249 Mr. Blankinship - It's every three seats, if they have fixed seating in the  
250 sanctuary. If they don't have fixed seating, then I believe it's one for every 100  
251 square feet.  
252  
253 Mr. Wright - How many seats do you have in your sanctuary, do  
254 you know?  
255  
256 Ms. Cheatham - I think it's about 20 pews.  
257  
258 Mr. Wright - When you get 35 people there, does everybody have  
259 a seat?  
260  
261 Ms. Cheatham - Everybody has a bench of their own. Not quite.  
262

263 Mr. Wright - Are there any left over?  
264  
265 Ms. Cheatham - Oh, yes, yes.  
266  
267 Mr. Wright - So you really don't pack your house, and that  
268 indicates that you have at least 35 seats.  
269  
270 Ms. Cheatham - We have 35, yes sir.  
271  
272 Mr. Wright - What's the size of the building, do you know it?  
273  
274 Ms. Dwyer - Thirty-six by sixty-six?  
275  
276 Mr. Cheatham - That's it.  
277  
278 Ms. Cheatham - Yes.  
279  
280 Mr. Wright - Okay. Based on the size, how many parking spaces?  
281  
282 Mr. Blankinship - I'd have to know how many—Based on the fixed  
283 seating in the sanctuary. Whatever additional space. Do they have classroom  
284 space, or storage, or whatever other meeting space. We don't double count. We  
285 assume if you can seat everybody in the sanctuary, then you can seat everybody  
286 that comes to the property. I'm sure the parking is adequate. I believe there is  
287 more parking on site than what was shown on the approved plans. It's also not  
288 oriented the same way that it was shown on the approved plan.  
289  
290 [Some faint talking off microphone – inaudible.]  
291  
292 Mr. Wright - So that would indicate 24 parking spaces based on  
293 the size of the building.  
294  
295 Mr. Blankinship - Assuming that all of that is sanctuary with no—  
296  
297 Mr. Wright - Well, that's given—That's the conservative approach.  
298 So, they have 40 parking spaces, you say, Jim?  
299  
300 Mr. Nunnally - I think it is. I didn't really get out of the car and walk it;  
301 I counted them from my seat.  
302  
303 Mr. Blankinship - The Board is in an awkward position. We haven't  
304 received any complaints. Nobody's saying there's a parking problem out there.  
305 But it's difficult for them to approve additional improvements when we're aware  
306 that what's there not is not in strict compliance with what was approved 20 years  
307 ago.  
308

309 Ms. Dwyer - Mr. Blankinship, as I read the staff report, I just want  
310 to make sure what the violations are. There is a violation, the expansion of the  
311 parking without any kind of application to the County. It's in the front yard. So,  
312 that's a violation, the parking lot is a violation. They expanded from the one  
313 access point, which was approved, to now two access points. So, that's another  
314 violation. Is the sign a violation or it just hadn't been approved?  
315

316 Mr. Blankinship - It's when they applied for the sign permit that we  
317 wrote the letter in 1997. So, I presume that sign permit was denied. Was the sign  
318 permit ever approved, do you know?  
319

320 [Someone talking off microphone – inaudible.]  
321

322 Ms. Dwyer - So we're not clear about whether the sign is a  
323 violation. And the carport is in violation?  
324

325 Mr. Blankinship - Yes.  
326

327 Ms. Dwyer - And the use is in violation of the terms of the previous  
328 approval?  
329

330 Mr. Blankinship - Conditions of the variance, yes.  
331

332 Ms. Harris - Mr. Cheatham, does your church own this property or  
333 does it still belong to the daughter of the DePriest's?  
334

335 Mr. Cheatham - The church owns the property.  
336

337 Ms. Harris - The church owns the property.  
338

339 Mr. Wright - That's what our information says.  
340

341 Ms. Harris - Did you pay a sales price for it?  
342

343 Mr. Wright - No, it was a gift.  
344

345 Mr. Nunnally - I think it was a gift.  
346

347 Ms. Harris - I'm asking Mr. Cheatham. I heard us say that—  
348

349 Mr. Blankinship - Getting the record straight.  
350

351 Ms. Harris - —but I'm just—Yes.  
352

353 Mr. Cheatham - I think it was a gift.  
354



355 Ms. Harris - So no money transferred between the DePriest's and  
356 the church for the purchase of this facility.  
357  
358 Mr. Cheatham - That's my understanding.  
359  
360 Ms. Harris - Who's the treasurer? Is that your understanding?  
361  
362 Ms. Cheatham - Yes ma'am, that's my understanding also.  
363  
364 Ms. Harris - You've been there since 1997 or thereabouts?  
365  
366 Ms. Cheatham - Thereabouts.  
367  
368 Mr. Nunnally - That's Mr. Flannigan, I think he is the pastor, husband  
369 and wife, right?  
370  
371 Mr. Cheatham - Yes.  
372  
373 Mr. Nunnally - They're not here today?  
374  
375 Mr. Cheatham - No.  
376  
377 Mr. Nunnally - Are they ordained ministers?  
378  
379 Mr. Cheatham - Yes they are.  
380  
381 Mr. Nunnally - I'm not questioning that. I have a Sunday school  
382 teacher that's better than a preacher, but—I just want to make sure. They would  
383 have—  
384  
385 Mr. Blankinship - His name's on the record, Mr. Nunnally.  
386  
387 Mr. Nunnally - They would have answers to these questions that  
388 we're asking if they were here, wouldn't they?  
389  
390 Mr. Cheatham - Yes. She is the daughter of the founder of the church.  
391 She would know, yes.  
392  
393 Mr. Nunnally - Do you know any reason why they're not here today?  
394  
395 Mr. Cheatham - I spoke to her yesterday. She said she had a prior  
396 engagement and she couldn't make it.  
397  
398 Mr. Wright - Let me ask a couple questions about the application.  
399 All this we've been talking about here has nothing to do with the case.  
400

401 Mr. Nunnally - That's right.  
402  
403 Mr. Wright - Just some background. This would be a trailer on the  
404 property?  
405  
406 Mr. Cheatham - Yes sir.  
407  
408 Mr. Wright - I'm trying to get a good picture of how large the trailer  
409 is and where it would be located. You have a diagram. Is this accurate that we  
410 have here? That's the trailer right there?  
411  
412 Mr. Cheatham - Yes sir.  
413  
414 Mr. Wright - That's 44 by 10?  
415  
416 Mr. Cheatham - Yes sir.  
417  
418 Mr. Wright - Almost as big as the church. Will that take up any  
419 parking space?  
420  
421 Mr. Cheatham - Not that we have at the moment, but we were  
422 planning on paving around the trailer in the back to facilitate entrance to the  
423 trailer.  
424  
425 Mr. Wright - What would this trailer have in it?  
426  
427 Mr. Keys - Good morning, my name is Lynwood Keys. Last  
428 name is spelled K-e-y-s. I am one of the volunteers that's directly hands-on with  
429 the food bank, or the food pantry ministry. The proposal is this. What we are  
430 looking for is to have a ground-level facility by which we can store and distribute.  
431 Currently, we distribute once per month. What would be housed in that trailer  
432 would be simply the food product along with refrigerators, freezers, and storage  
433 space, as in cabinets. Some of those things are required by the Central Virginia  
434 Food Bank in terms of locks and that kind of thing. So, for the most part, what  
435 we're looking for is a storage and distribution place that allows those persons—  
436 We have a lot of senior citizens that come. We have a lot of people who are  
437 disabled that come to glean from the food. Having a ground-level facility that they  
438 can come to lessens and makes the flow of everything we do a lot easier.  
439  
440 Mr. Wright - So there won't be any steps into it; it'll be level with  
441 the ground.  
442  
443 Mr. Keys - If steps are necessary, it would only be a couple  
444 versus what we have as a full flight of steps to go up and down right now. With  
445 this application of the trailer, we could also put a ramp to it, so that would also

446 make it easier for access for those persons who have difficulty with negotiating  
447 steps.

448  
449 Mr. Wright - Refrigeration in the trailer?

450  
451 Mr. Keys - Yes. Refrigerator and freezers is what will actually be  
452 in the trailer.

453  
454 Mr. Wright - Would that cause any noise or anything that would  
455 disturb the neighbors?

456  
457 Mr. Keys - Oh, no, no. This would be internally contained.

458  
459 Mr. Wright - How often would that trailer be supplied with food?

460  
461 Mr. Keys - As a storage facility, one of the things we'd like to be  
462 able to do is utilize more space than what we currently have for the church. So,  
463 the food product will be stored ongoing. The way that this operates is that we are  
464 granted through the Central Virginia Food Bank the opportunity to distribute  
465 USDA product. Now, that USDA product is available as the government sends it  
466 down. One of the things that we have the challenge of is getting enough of it to  
467 last until the last commodity becomes available. In the instance where we're  
468 serving currently 65 to 70 families per month, basically, that's five cases of an  
469 item, which is 120 cans or whatever the case may be. And it varies by  
470 commodity. So, if it's applesauce, if it's pears, fruits, vegetables—that kind of  
471 thing—generally, I'm able to store about two weeks or two distributions worth of  
472 product. When it runs out, then that means we're out. So, one of the things that  
473 this trailer would afford us is the opportunity to be able to house a little bit more,  
474 and be able to take us a further distance so that the people that we serve would  
475 get a more consistent level of food product.

476  
477 Mr. Wright - I'm trying to get some idea of the activity. Materials  
478 are brought in by truck or how is it serviced?

479  
480 Mr. Keys - I wish. The materials are picked up as available from  
481 the Central Virginia Food Bank, transported by myself and other volunteers to the  
482 trailer.

483  
484 Mr. Wright - In your car?

485  
486 Mr. Keys - In the car or, in my case, an SUV.

487  
488 Mr. Wright - Vans or?

489

490 Mr. Keys - Yes. One of the other members has a van. So, we  
491 pick up the food, we bring it to this location, we offload it, often times at great  
492 length. We need as much volunteers as we can get. But that's how it's done.  
493

494 Mr. Blankinship - How often do you bring food to this location?  
495

496 Mr. Keys - It varies.  
497

498 Mr. Blankinship - Once a week, twice a week, once every two weeks?  
499

500 Mr. Keys - It has been as much as three to four times in a week,  
501 and as minimal as once every two weeks.  
502

503 Mr. Blankinship - How often do people come to the site to pick up?  
504

505 Mr. Keys - People come to the site once a month.  
506

507 Mr. Blankinship - Once a month.  
508

509 Mr. Wright - You just distribute the food products once a month—  
510

511 Mr. Keys - Correct.  
512

513 Mr. Wright - —from the facility.  
514

515 Mr. Keys - Correct. But it may take us the entire month to get up  
516 enough food that—When those persons come, our goal is to accommodate the  
517 date for them from the 15<sup>th</sup> or so. The third Thursday is our distribution date. So,  
518 from the middle of the month through the first of the month is what our goal is so  
519 that those people have a bridge between their initial monies coming and running  
520 out. Generally, these folks come on the third Thursday, and most of them are  
521 fairly in destitute need.  
522

523 Mr. Wright - There is no charge to them for any of this?  
524

525 Mr. Keys - That is correct. Any expenses currently are incurred  
526 by the church, and the USDA commodities are at no cost.  
527

528 Ms. Harris - Mr. Keys?  
529

530 Mr. Keys - Yes ma'am.  
531

532 Ms. Harris - If this permit were granted, you see the trailer shall be  
533 removed from the property on or before May 28, 2011. What will happen then, at  
534 the end of two years?  
535

536 Mr. Wright - I was going to ask him that.  
537  
538 Mr. Keys - Today, we are here because we have a need. In  
539 2011, unless things change dramatically, I don't see that need going away. What  
540 we'll need to do at 2011 remains to be seen. It would be my hope that through  
541 this process we would be able to extend, correct, alter, change, get the good  
542 graces of the Board so that can be in compliance so that this can continue.  
543  
544 Mr. Blankinship - It was discussed with whoever submitted that  
545 application—I think it might have been Mr. Cheatham—when we first came in  
546 that this Board does not have the authority to grant a use permit for more than  
547 two years.  
548  
549 Mr. Keys - Understood.  
550  
551 Mr. Blankinship - There are no exceptions to that and there is no waiver  
552 to that. There is no extension beyond two years. The trailer will have to be  
553 removed by this date.  
554  
555 Mr. Wright - You could build a permanent facility.  
556  
557 Mr. Blankinship - Right.  
558  
559 Mr. Keys - And to that point, this is part of the reason for going  
560 through this process so that we understand what can be done and the timeframe  
561 in which we have to do it.  
562  
563 Mr. Wright - Have you investigated the possibility of getting federal  
564 assistance to build a permanent facility?  
565  
566 Mr. Keys - Not to date. Not at this point.  
567  
568 Mr. Wright - Looks like to me that would fit very normally into what  
569 you're trying to do to help folks. You have two years to explore that. It would be  
570 one of those things that's happened in the past, if we were to grant this permit,  
571 after two years you would have to remove the trailer. If you didn't do it, we would  
572 have to take legal steps to have it removed.  
573  
574 Mr. Blankinship - There will be an inspector on site May 29<sup>th</sup>.  
575  
576 Mr. Keys - We understand that. The goal is to continue the  
577 program and to better the program. To your point, we are pursuing other options  
578 to go beyond 2011. Not necessarily the trailer, but certainly a more permanent  
579 solution to what we have as an ongoing need.  
580

581 Mr. Wright - Have you all looked at the conditions? Have you read  
582 the conditions that have been proposed by the staff if this is approved? Numbers  
583 4 and 5?

584  
585 Mr. Keys - Yes. I think the folks, the trustees and so forth, they  
586 have familiarized themselves with that. I'm not quite as familiar because I'm more  
587 of the operations side of it.

588  
589 Mr. Wright - Yes, I understand. Can you comply with number 4  
590 and 5?

591  
592 [Long pause.]

593  
594 Mr. Keys - Number 4, the parking lot and driveway area shall be  
595 subject to requirements.

596  
597 Mr. Wright - Maybe Mr. Blankinship could explain to you what  
598 they're trying to get at there so you'll be in full understanding of it.

599  
600 Mr. Blankinship - There are Code requirements that provide that the  
601 parking has to be paved and striped, and the entrance has to be built in compliance  
602 with road standards. As far as I know, your existing parking does meet those  
603 requirements, but Condition 5 is going to require you to add a loading zone. You  
604 had mentioned paving around the trailer so that you can get vehicles to it. It  
605 would have to be a certain width and—

606  
607 Mr. Keys - The loading zone.

608  
609 Mr. Blankinship - Right. Constructed so that it doesn't fall apart.

610  
611 Mr. Keys - Sure, yes.

612  
613 Ms. Dwyer - So, Mr. Blankinship, it's not the intent that Condition 4  
614 require them to bring their parking lot into compliance with the Code.

615  
616 Mr. Blankinship - As far as I know, it's in compliance with the Code; it's  
617 just not the design that was approved. The design showed the parking  
618 horizontally, if you will, in front of the building. What they built was vertically from  
619 the road back to the building.

620  
621 Ms. Dwyer - I thought it was too far in the front, the parking lot is.  
622 The parking lot doesn't meet Code.

623  
624 Mr. Blankinship - That's a different issue. I was not anticipating that.  
625 Section 24-98 is the section that's referenced in that condition, and it provides for  
626 the paving, and the striping, and the sizes of spaces, and the width of drive

627 aisles. If there's a setback violation, then that's a different question that has not  
628 been raised.

629  
630 Ms. Dwyer - So, to clarify, Condition 4 does not address the  
631 setback violation.

632  
633 Mr. Blankinship - Right.

634  
635 Ms. Dwyer - It's not intended to. The setback violation could  
636 continue [fading out - inaudible] existing parking lot under Condition [fading out -  
637 inaudible]. Mr. Cheatham, we don't have any information whatsoever about the  
638 trailer that you intend to place on the site. Do you have any photographs or any  
639 information at all about the trailer, where you're getting it? Can you tell us where  
640 it's coming from? Is it new, is it used?

641  
642 Mr. Cheatham - It was a used construction trailer, and we have talked  
643 to Williams—Is it Williams?

644  
645 [Pause.]

646  
647 Mr. Cheatham - Williams and Scotts in New Kent was selling used  
648 construction trailers, and that's what we had initially looked at and intended to  
649 purchase depending on the outcome of this hearing.

650  
651 Ms. Dwyer - Does it have toilet facilities?

652  
653 Mr. Cheatham - No, it doesn't.

654  
655 Ms. Dwyer - [Fading out – inaudible].

656  
657 Mr. Cheatham - No. It was our understanding that if the trailer was  
658 within 300 feet of the church door or the church restroom facility, you could use  
659 that.

660  
661 Ms. Dwyer - Mr. Blankinship, what about the distance between the  
662 church and the trailer? Is that sufficient under this plan?

663  
664 Mr. Blankinship - There is a requirement for accessory structures to  
665 residences. As far as I know, the only requirement here would be a Building  
666 Code fire requirement. Of course they'll have to comply with whatever Building  
667 Inspections Department requires.

668  
669 Ms. Dwyer - I recall we had a trailer at Our Lady of Lourdes and  
670 there [fades out – blank] far they were from the church.

671  
672 Mr. Blankinship - Right.

673  
674 Ms. Dwyer - There are no distance measurements on this sketch  
675 that's been provided to us. So, as far as you know, there is no distance  
676 requirement?  
677  
678 Mr. Blankinship - It's whatever the Building Code requires.  
679  
680 Ms. Dwyer - How far will the trailer be from the church?  
681  
682 Mr. Cheatham - I think it was about 25 or 30 feet. I think the ramp was  
683 coming toward the church, and the ramp was about 30 feet.  
684  
685 Ms. Dwyer - You don't know what the Building Code [fades out –  
686 blank].  
687  
688 Mr. Blankinship - Have you spoken to Building Inspections about that?  
689  
690 Mr. Cheatham - No I haven't.  
691  
692 Ms. Dwyer - Any more questions by Board members?  
693  
694 Ms. Harris - I have a question about the fact that there are some  
695 violations already regarding the church functioning as a full-scale church with  
696 regular hours. I thought that was a condition on this particular case that when the  
697 variance was granted, one stipulation was that the facilities shall not be used as  
698 a full-scale church, and is for the use of the family of the DePriest's. I understand  
699 that most of your members are family members of the DePriest's, but I'm  
700 concerned about the full-scale church usage. Would that not make you in  
701 violation? Is there anything you can do to become compliant? To me, if we  
702 approve this Conditional Use Permit and allow you to have this facility, seems to  
703 me that you're still going to be in violation when it comes down to the church  
704 being used as a full-scale church based on the conditions that were established  
705 in 1990. Have you thought about that? Do you have a plan for dealing with this  
706 proposal?  
707  
708 Mr. Cheatham - Yes, we had thought about it, and we thought if there  
709 were things that we needed to do to come into compliance that we could do  
710 those things. We could come into compliance and not be in violation.  
711  
712 Ms. Dwyer - What is your plan to not be in violation? The violation  
713 is that it's being used as a church, and it's supposed to just be a family chapel.  
714 The discussion at the original variance hearing indicated that there wouldn't be  
715 regular Sunday school meetings; there wouldn't even be regular church services.  
716 There would be maybe once every two years a family reunion, and occasionally  
717 there would be a family gathering—like one might have in one's living room—in  
718 the family chapel. What has changed is the use has changed, in violation of the



719 conditions of the variance that was granted. One solution might be to add  
720 property and then you wouldn't need the variance because you're less than half  
721 of the acreage required for a church, and you're less than half the lot width  
722 required for a church. One solution would be to add property to it.

723

724 Ms. Cheatham - At the moment, I don't know that there's any  
725 opportunity to add any land that's adjacent to the church because we are  
726 landlocked. I think having been made aware of what the violations are, the  
727 trustees need to get together and decide how to approach it, and perhaps to  
728 come back 19 years late and ask for another variance, given the fact that some  
729 of the conditions that were discussed in 1990 have not manifested themselves in  
730 terms of the off-street parking and the complaints from the neighbors. We  
731 received the letter with the documentation of the meeting on Monday, so we  
732 really have not had a lot of time to think this through. But I think from what I  
733 remember reading there was discussions about complaints from neighbors,  
734 parking off the street. As I said, those things have not happened. Those  
735 conditions that were discussed have not manifested themselves, so we would  
736 hope that there could be some—We need to talk about it. I mean, that's the  
737 answer. Having been made aware, I think we need to examine the statements  
738 that were made regarding what occurred and look at the reality.

739

740 Ms. Dwyer - The reality is you don't have enough land.

741

742 Ms. Cheatham - Correct.

743

744 Ms. Dwyer - —to have a full church. The exception was granted  
745 because representations were made before that this would not be a church.

746

747 Ms. Cheatham - I understand.

748

749 Ms. Dwyer - And it has become a church. So, I have an issue with  
750 that, I have a problem with that. [Fades out – blank] bases upon which the  
751 church exists is not accurate, it's not true for whatever reason, representations  
752 that were made to this Board in 1990.

753

754 Ms. Cheatham - Right. Correct.

755

756 Ms. Dwyer - You're asking us to give another exception. Whatever  
757 conditions we might impose today, what's to assure us that they will be complied  
758 with?

759

760 Ms. Cheatham - Because Mr. Blankinship said that an inspector will  
761 come and remove the trailer. No. I think we wanted the permit so that we can  
762 consider what all of our options are. Granting a permit today doesn't necessarily  
763 mean that we would move forward. It would give us the ability to move forward  
764 once we look at all the options that are available. I think you can be assured that

765 if the permit is only good through 2011, that we will take the steps to make sure  
766 that we comply, as well as address some of the other issues.

767

768 Ms. Harris - Ms. Cheatham?

769

770 Ms. Cheatham - Yes ma'am.

771

772 Ms. Harris - You said your property is landlocked?

773

774 Ms. Cheatham - Yes ma'am.

775

776 Ms. Harris - I see the zoning, M-1C. What's behind your property?  
777 Who owns that?

778

779 Ms. Cheatham - I'm not sure. I think we checked into that.

780

781 Mr. Cheatham - Yes. We've tried to contact them. We've written  
782 several letters to—it's an investment firm.

783

784 Mr. Blankinship - Vienna Finance, Inc.

785

786 Mr. Cheatham - They have not responded.

787

788 Ms. Harris - I was wondering if a deferral would help you to get  
789 that straight. If we delay voting on this issue until maybe next month, you could  
790 follow through on this, because you are in violation of the conditions that were  
791 established in 1990. If you are not going to stay at that site, if you built a  
792 temporary storage facility, that probably would have to be removed, too. I'm  
793 wondering have you thought this through as far as your coming into compliance,  
794 the additional land, or whatever else you need to do since you just received this  
795 report this week.

796

797 Mr. Keys - With regard to our limitations, you're exactly right.  
798 The issue that we are confronting every month, however, is the needs of the  
799 people that we serve in this particular community. We are restricted to the "150"  
800 ZIP code by compliance with the Central Virginia Food Bank. So, the request that  
801 we have before you is for the convenience not of the church, but of the people  
802 that we serve. For the 35 members or so that we have, we could continue to  
803 operate as we do. But with the interest of this particular community at heart, this  
804 is the reason that we're actually before you today. I know that we have a lot to  
805 overcome in terms of being in compliance with the land issues and all the other  
806 things that we're confronted with. We have to move expeditiously to correct that. I  
807 know that we've been in contact—or at least attempted to contact—the folks who  
808 have land around us. I am reasonably sure, that at some point it is going to  
809 become available, even if it is through attrition or through family members, and  
810 even to a degree making known even to the community, the immediate

811 community, what our issues are, now that we're aware of them. I don't know.  
812 Someone may want to donate some land that's closer to us. So, we have a lot of  
813 options before us, but the immediate need is, again, not ours; it's to try to take  
814 care of the community that we serve.

815  
816 Ms. Harris - Mr. Keys, you're saying that if this were deferred—In  
817 other words, you would not want to defer it. Is that what you're saying?

818  
819 Mr. Keys - I would prefer if we can move forward at least with  
820 knowing what we can do in the immediate future. Again, it seems like every  
821 month our numbers are growing due to layoffs, due to job cuts, due to all of the  
822 other things that are going on. Our need is sort of pressing to at least  
823 accommodate this. If not, then what do we do, you know, with the families that  
824 we're currently serving? That's the hardship.

825  
826 Ms. Harris - You are accommodating those families now, are you  
827 not?

828  
829 Mr. Keys - Correct.

830  
831 Ms. Harris - Okay. If you could not move forward, you would  
832 rather have this case denied than try to get those—

833  
834 Mr. Keys - No. My preference would be that we can—We  
835 certainly don't want it denied. We'd like to go forward with meeting these needs  
836 because, again, there are minimum requirements by the Central Virginia Food  
837 Bank as in contact with these people. We do not have the opportunity to go to  
838 them; they have to come to us. That's by design. They really have to come to us.  
839 Meeting with them one-on-one is imperative for the confidential information that  
840 we need to get from them and all the other things that cause them to come into  
841 compliance to receive the food.

842  
843 Ms. Harris - Are you a trustee, too, there?

844  
845 Mr. Keys - No. I'm the—

846  
847 Ms. Harris - Contractor.

848  
849 Mr. Keys - I'm the go-fer.

850  
851 Mr. Wright - I might point out one thing. This application doesn't  
852 have anything to do with the operation of the church.

853  
854 Ms. Harris - Yes.

855

856 Mr. Wright - That's a separate issue and it's a temporary thing. If  
857 we were to grant this, that would be a separate issue from our pursuing what  
858 happens on the church operation, in my way of thinking. If the church operation  
859 had to stop before or whatever, then this would have to stop. Or they could stop  
860 the church operation and keep this operation. They're independent.

861  
862 Ms. Harris - Yes.

863  
864 Mr. Wright - If this had something to do with the operation of the  
865 church, it would bother me more. I think that's something we could think about.

866  
867 Ms. Dwyer - I'm not convinced that it is separate. I think that if  
868 someone comes to us and asks for something that is out of the ordinary, like a  
869 temporary use, and they've had a history of violating the terms they have agreed  
870 to in the past, I think that's relevant to assessing whether or not this is an  
871 appropriate case to grant the temporary use.

872  
873 Mr. Wright - I would think that would be the case if they had done  
874 that deliberately [fades out – blank] acknowledge of the variance.

875  
876 Ms. Dwyer - That would certainly be a stronger case against them.  
877 I understand how churches work, and sometimes attention isn't paid to detail, but  
878 the result is the same. The result is that over the years the very basis upon which  
879 they exist has been undermined by the activity that's been going on.

880  
881 Mr. Wright - The other fact is that the County was aware of this as  
882 long ago as 1997 and did nothing. A letter was sent, but no follow-up. It doesn't  
883 appear to me from the evidence that's been presented today that there was any  
884 deliberate attempt. It was a deed of gift, and obviously there was no title  
885 examination or checking into legal requirements, which I can understand coming  
886 from lay people.

887  
888 Mr. Witte - Mr. Cheatham, may I ask you another question?

889  
890 Mr. Cheatham - Yes sir.

891  
892 Mr. Witte - How long did this facility sit vacant, do you know,  
893 before the present membership and leadership took over?

894  
895 Mr. Blankinship - Was it ever vacant?

896  
897 Mr. Cheatham - No, it wasn't.

898  
899 Mr. Blankinship - Will somebody else repeat what she said on the  
900 record?

901

902 Mr. Cheatham - Okay. She said Ms. DePriest passed in August, and  
903 in October they began to use the facility.  
904  
905 Mr. Blankinship - Of what year, 1994, 1995?  
906  
907 Mr. Cheatham - In 1995.  
908  
909 Mr. Witte - I must have misunderstood. I thought you said earlier  
910 that before the present pastors took over, that the building wasn't used.  
911  
912 Ms. Dwyer - I think the land maybe wasn't.  
913  
914 Mr. Witte - Oh, the land wasn't used.  
915  
916 Ms. Dwyer - That's what I gathered, that from 1990 until the time  
917 that the—  
918  
919 Mr. Cheatham - Correct.  
920  
921 [Pause.]  
922  
923 Mr. Witte - All right, thank you.  
924  
925 Ms. Dwyer - Any other questions of any of these witnesses?  
926 Thank you. Is there anyone here to speak in opposition to the case? No one to  
927 speak in opposition? The case is closed.  
928  
929 **DECISION**  
930  
931 Can I hear a motion on the case?  
932  
933 Mr. Wright - I move that we approve this on the grounds that the  
934 proposed use will be in substantial accordance with the general purpose and  
935 objectives of Chapter 24 of the Code.  
936  
937 Mr. Nunnally - Second.  
938  
939 Ms. Dwyer - Motion by Mr. Wright, seconded by My Nunnally. Any  
940 discussion on the case?  
941  
942 Ms. Harris - Yes. What will be done about the violations? I know  
943 that these are two separate issues, but should we approve this, what will be done  
944 about the violations they've been recently told about?  
945  
946 Mr. Blankinship - I don't know, Mrs. Harris. I don't know if Mr. O'Kelly  
947 has any comment on that at this time. We haven't really had a chance to discuss

948 it thoroughly. It is odd the way it came to our attention. I'm not used to handling  
949 violations that come about this way.

950  
951 Mr. Wright - We could certainly ask the staff to pursue that and not  
952 just let it go. It was done in 1997. You could try to come up with some sort of  
953 working arrangement with these folks. There was a statement that there is some  
954 land that may be available to them maybe through gift or something like that. My  
955 point is this is a separate issue. I don't think approving this will have any adverse  
956 effect on it one way or the other, what we do with that. That's a separate issue.

957  
958 Mr. Witte - I would agree with that, Mr. Wright. I think besides  
959 pursuing obtaining additional property—I mean, the variance has been approved  
960 for both the acreage and the lot width, so that runs with the land. There is  
961 Condition #3 that limits the use of the property. Perhaps the church could ask the  
962 Board to modify that condition.

963  
964 Ms. Harris - Will they at least be notified that they are in violation  
965 on that score?

966  
967 Mr. Blankinship - Yes ma'am, we will certainly do that.

968  
969 Ms. Harris - That's my question; thank you.

970  
971 Mr. Wright - I would just like to say that this is a most worthwhile  
972 endeavor. There is a need. I hate to stand in the way when I don't think it affects  
973 our Code adversely.

974  
975 Ms. Dwyer - I guess my concern is that we have a history of folks  
976 not paying attention to—and it's not just a technical law. These were  
977 representations made by laypeople before the Board in 1990 that said, no, this  
978 will not be a church, no this will not be a church, no we will not have Sunday  
979 school. So that's not a difficult or technical thing to comprehend as laypeople.  
980 These were actual representations made by the DePriest family. Secondly,  
981 there's been continued development on the site without any attention to the fact  
982 that—The parking lot expansion, the direction of the carport, the sign. Those are  
983 other additional violations that this organization has committed. I guess I'm just  
984 concerned about the disregard for rules or commitments that have been made  
985 even by the church itself. I think that does affect whether we determine if this is a  
986 good case to allow an additional use that would intensify the use of the property.  
987 It's a difficult balance when someone comes to you to request an additional I  
988 guess exception under the law and they've had a history of violating all of the  
989 commitments in the past, the rules of the Zoning Ordinance. Do we affirm that  
990 activity? I have a concern. I do agree that it's a very worthy cause, something  
991 that I don't want to oppose, but I do have a question about the commitment to  
992 adhere to whatever conditions we impose. That's my reluctance.

993

994 Mr. Witte - I am not sure that there was a disregard for the law.  
995 Like many small non-profits, I think they saw a need to expand the parking lot  
996 and just did it. Now, there's no excuse, but I don't think they purposely  
997 disregarded the law as a spite thing; I think they probably just didn't do their  
998 homework. It sounds like everything they do is need-based. I do agree that we  
999 should follow up on it, but I don't think it was an intentional violation.

1000

1001 Ms. Dwyer - Certainly I don't think that there was any ill-will  
1002 involved in this, and I certainly didn't say that and don't mean to imply that. It was  
1003 just a failure to adhere to their own representation. What incentive is there for this  
1004 organization to come into compliance?

1005

1006 Mr. Blankinship - That's why I'm so hesitant. The way to come into  
1007 compliance is to stop operating the church. It's not like they can take down the  
1008 carport and then be in compliance. They have to cease the use in order to come  
1009 into compliance, or obtain additional property, or get the condition amended.  
1010 That's why I find it difficult. There just isn't a lot of middle ground.

1011

1012 Mr. Wright - I don't see any problem with that. If the County is  
1013 sincere about this, and will work with them, and they don't get a resolution, then  
1014 we can take legal steps to get it taken care of. We have a process and it can be  
1015 followed. That's my point. I don't think that in approving this we've added or taken  
1016 anything away from it. It's a separate issue. It's something that's good for the  
1017 community, especially at this particular time with the economy in the state that it's  
1018 in. That's the way we should look at it.

1019

1020 Ms. Dwyer - Would it be possible to grant this for one year instead  
1021 of two, and then we could come back in a year and see what the status is?

1022

1023 Mr. Blankinship - Yes ma'am.

1024

1025 Ms. Dwyer - What kind of progress has been made toward coming  
1026 into compliance. You're right, in the sense that it's a separate issue. It's a  
1027 separate application, but their very existence is a violation of the prior variance,  
1028 so I just—I would like to see us reign in this request to some extent. I think I  
1029 would be happy with a one-year—wouldn't be happy with it, but I could live with a  
1030 one-year conditional use permit easier than a two year. And that would give them  
1031 a year to pursue perhaps acquiring other land so that they could be a legitimate  
1032 church and continue all of their operations. What are the Board's thoughts on  
1033 that?

1034

1035 Ms. Harris - Question. When you notify a landowner that they are  
1036 in violation, don't they have so many days to correct the violation or to at least  
1037 give you a plan on how they plan to—That might be already taken care of.

1038

1039 Mr. Blankinship - Yes ma'am. We always work toward voluntary  
1040 compliance and a negotiated solution.

1041  
1042 Ms. Harris - So the County is going to notify them of the violations,  
1043 and you will follow through in seeing that those violations are correct.

1044  
1045 Mr. Wright - I don't agree with cutting this to a year. A year is no  
1046 time at all to work out anything. If the County is going to move forward with  
1047 something to require them to comply, then we move forward with it. Whether it's  
1048 a year or two years, I don't think it makes any difference with respect to this  
1049 permit. My motion is as stated.

1050  
1051 Ms. Dwyer - Any other discussion? All right. All in favor of  
1052 approving the temporary conditional use permit say aye. All opposed say no. The  
1053 ayes have it; the motion passes four to one.

1054  
1055 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
1056 Mr. Nunnally, the Board **approved** application **UP-006-09, Endtime**  
1057 **Tabernacle's** request for a temporary conditional use permit pursuant to Section  
1058 24-116(c)(1) to provide storage for a food pantry ministry at 238 Twin Pine Road  
1059 (Parcel 846-714-2846), zoned A-1, Agricultural District (Varina) The Board  
1060 approved the temporary conditional use permit subject to the following  
1061 conditions:

1062  
1063 1. Only the improvements shown on the plot plan and building design filed with  
1064 the application may be constructed pursuant to this approval. Any additional  
1065 improvements shall comply with the applicable regulations of the County Code.  
1066 Any substantial changes or additions to the design or location of the  
1067 improvements may require a new variance.

1068  
1069 2. Approval of this request does not imply that a building permit will be issued.  
1070 Building permit approval is contingent on Health Department requirements,  
1071 including, but not limited to, soil evaluation for a septic drainfield and reserve  
1072 area. Any additional demands placed on the septic system as a result of the  
1073 temporary trailer shall be reviewed and approved by the Health Department.

1074  
1075 3. The trailer shall be removed from the property on or before May 28, 2011, at  
1076 which time this permit shall expire. This permit shall not be renewed.

1077  
1078 4. The parking lot, driveways, and loading areas shall be subject to the  
1079 requirements of Section 24-98 of Chapter 24 of the County Code.

1080  
1081 5. The applicant shall provide a compacted gravel drive-aisle leading to the  
1082 temporary building. A loading space shall also be provided adjacent to the  
1083 temporary building.

1084



1085	Affirmative:	Harris, Nunnally, Witte, Wright	4
1086	Negative:	Dwyer.	1
1087	Absent:		0

1088  
1089

1090 **UP-007-09**                                **EASTERN HENRICO RURITAN CLUB** requests a  
1091 temporary conditional use permit pursuant to Section 24-116(c)(1) to operate a  
1092 turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768), zoned A-1,  
1093 Agricultural District (Varina).

1094

1095 Mr. Ellis -                                I'm Donald Ellis—E-I-I-i-s. I'm the president of  
1096 Eastern Henrico Ruritan Club. Mr. Courtney made application for this.

1097

1098 Mr. Blankinship -                        Hold on just a second.

1099

1100 Ms. Dwyer -                                Is there anyone else here to speak to the case? Sir,  
1101 please raise your hand to be sworn.

1102

1103 Mr. Ellis -                                Okay.

1104

1105 Mr. Blankinship -                        Do you swear the testimony you're about to give is  
1106 the truth and nothing but the truth so help you God?

1107

1108 Mr. Ellis -                                It is.

1109

1110 Ms. Dwyer -                                Okay. Now tell us your name and state your case.

1111

1112 Mr. Ellis -                                Okay. My name is Donald Ellis—E-I-I-i-s. I'm the  
1113 president of the Eastern Henrico Ruritan Club for this year. This is an ongoing  
1114 request. We have been operating a turkey shoot at this location since the club  
1115 was instigated in 1967. I haven't been a member that long. We have applied for  
1116 and received applications for the conditional use permit in all the past years. Any  
1117 recommendation that was made by this Board in the past we're in compliance  
1118 with, and we will be more than happy to do anything that needs to be done so  
1119 that we can continue to operate this turkey shoot from October to December of  
1120 2009 and 2010.

1121

1122 Mr. Nunnally -                                You have read these conditions?

1123

1124 Mr. Ellis -                                Yes sir.

1125

1126 Mr. Nunnally -                                Where it says it expires in 2010, we usually give a  
1127 two-year use permit. But I guess that's because there are two Thanksgivings in  
1128 that time.

1129

1130 Mr. Blankinship -                        Right.

1131  
1132 Mr. Nunnally - They only have it Thanksgiving week, right?  
1133  
1134 Mr. Blankinship - It's from Thanksgiving to December, I believe. That  
1135 will be from Thanksgiving to December of 2009, and Thanksgiving to December  
1136 of 2010.  
1137  
1138 Mr. Nunnally - All right.  
1139  
1140 Mr. Blankinship - It gives them two seasons.  
1141  
1142 Ms. Dwyer - Or October.  
1143  
1144 Mr. Blankinship - Yes.  
1145  
1146 Mr. Nunnally - October through December.  
1147  
1148 Mr. Blankinship - I'm sorry. The Wednesday before Thanksgiving.  
1149  
1150 Mr. Ellis - We usually have a turkey shoot on every Friday night,  
1151 but around Thanksgiving, we have one the Wednesday before Thanksgiving.  
1152 Some of these people can't take a frozen turkey and thaw it between then and  
1153 Thanksgiving Day.  
1154  
1155 Ms. Dwyer - Our staff report says that we have not received any  
1156 complaints. I'm assuming you have not received any complaints.  
1157  
1158 Mr. Ellis - No. In years past, I think the County required that we  
1159 go to the neighbors that owned adjacent property, but I understand that's no  
1160 longer a requirement. But if it's necessary, then we will do that. But we haven't  
1161 had anybody complain yet.  
1162  
1163 Ms. Dwyer - Questions?  
1164  
1165 Ms. Harris - Are the conditions the same as they were for your last  
1166 request? Are they identical?  
1167  
1168 Mr. Blankinship - I think they're very similar, yes ma'am.  
1169  
1170 Ms. Harris - Mr. Blankinship, you'll probably need to answer this  
1171 one. Are there any other turkey shoots held on County-owned land?  
1172  
1173 Mr. Blankinship - No ma'am, this is the only one.  
1174  
1175 Ms. Harris - This is the only one? When it comes to the liability  
1176 insurance, they're required, right, to have liability insurance?

1177  
1178 Mr. Ellis - We do.  
1179  
1180 Ms. Harris - You have that. Okay.  
1181  
1182 Ms. Dwyer - Questions for Mr. Ellis? Anything else you'd like to  
1183 add?  
1184  
1185 Mr. Ellis - No.  
1186  
1187 Ms. Dwyer - Thank you, sir.  
1188  
1189 Mr. Ellis - Okay, thank you.  
1190  
1191 **DECISION**  
1192  
1193 Ms. Dwyer - Do I have a motion on the case?  
1194  
1195 Mr. Witte - Before we make a motion, I am a Ruritan, but not a  
1196 member of this club. Should I abstain from this procedure?  
1197  
1198 Mr. Blankinship - I don't believe there's any need.  
1199  
1200 Ms. Dwyer - It's not necessary, but you may.  
1201  
1202 Mr. Witte - Okay. Well, I'm fine, then.  
1203  
1204 Ms. Dwyer - All right. Do I have a motion on the Ruritan Club's  
1205 request for a temporary conditional use permit?  
1206  
1207 Mr. Nunnally - I move we approve it since it's been the same  
1208 operation for 30-some years and I don't think it will affect the health, safety, or  
1209 welfare of the people residing in that area.  
1210  
1211 Mr. Wright - Second.  
1212  
1213 Ms. Dwyer - Motion by Mr. Nunnally, seconded by Mr. Wright. All  
1214 in favor say aye. All opposed say no. The ayes have it; the motion passes.  
1215  
1216 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
1217 Mr. Wright, the Board **approved** application **UP-007-09, Eastern Henrico**  
1218 **Ruritan Club's** request for a temporary conditional use permit pursuant to  
1219 Section 24-116(c)(1) to operate a turkey shoot at 3808 Nine Mile Road (Parcel  
1220 806-723-4768), zoned A-1, Agricultural District (Varina). The Board approved  
1221 the temporary conditional use permit subject to the following conditions:  
1222

1223 1. Hours of operation shall be limited to 6:00 p.m. to 10:00 p.m. on Fridays,  
1224 October through December, and on the Wednesday before Thanksgiving Day  
1225 during calendar years 2009 and 2010. This permit shall expire on December 31,  
1226 2010.

1227  
1228 2. No firearm shall be discharged within 300 feet of any lot occupied by a  
1229 dwelling, or within 300 feet of any building other than buildings on the same  
1230 parcel, or across any road or street.

1231  
1232 3. The turkey shoot shall only involve the use of shotguns no larger than 12  
1233 gauge and low powered (2-3/4") shells containing No. 8 shot.

1234  
1235 4. The land shall be clearly posted to show where shooting will occur.

1236  
1237 5. Sufficient off-street parking shall be provided for all cars visiting the premises.

1238  
1239 6. No alcoholic beverages may be consumed on the site during the turkey shoot.  
1240 A sign to this effect must be conspicuously posted in the immediate vicinity of the  
1241 shooting area. No person under the influence of alcohol, as defined in Section  
1242 18.2-266 of the Code of Virginia, may be permitted in the shooting area.

1243  
1244 7. Restrooms shall be provided.

1245  
1246  
1247 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5  
1248 Negative: 0  
1249 Absent: 0

1250  
1251

1252 **UP-008-09 MIKE AND ERIN MATEER** request a conditional use  
1253 permit pursuant to Section 24-12(e) to operate a private noncommercial kennel  
1254 at 6705 Edmonstone Avenue (Duntreath) (Parcel 765-740-0114), zoned R-3,  
1255 One-family Residence District (Three Chopt).

1256  
1257 Ms. Dwyer - All those here to speak to this case, please stand and  
1258 raise your hand to be sworn, all those if you think you might speak.

1259  
1260 Mr. Blankinship - Do you swear the testimony you're about to give is  
1261 the truth and nothing but the truth so help you God?

1262  
1263 Ms. Dwyer - Please come forward.

1264  
1265 Mr. Mateer - Good morning. My name is Mike Mateer. That's M-a-  
1266 t-e-e-r. I appreciate the opportunity to be here. I'm assuming you have read the  
1267 report, so I'll try to be relatively brief. A few things I wanted to mention in addition  
1268 to the report.

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First of all, just a tiny bit of background information. As you know, we have four dogs; the rule is three. We weren't aware of that when we got the fourth dog. We weren't even planning, really, to get a fourth dog, but my wife walked into a pound and they told her that they were to kill this very sweet dog—she'd been there for a year—and she adopted it. It's not something that we would ever plan to do again. I would prefer to be at two dogs, frankly, but right now we're a little over that. So, it would be a temporary thing.

By the way, I brought some pictures.

Ms. Dwyer - Mr. Blankinship.

Mr. Mateer - I just wanted to make a couple of quick points that I don't think are exactly covered in the report. We believe the original complaint—after reading the report—was because of an escape problem. The dog that we adopted from the pound is apparently a climber. I don't know how he managed that. Actually, I have seen it. It's a five-foot fence we have around our yard. He jumps to the top and he pulls himself over with his top legs. It's rather impressive. He did it I think twice. I believe that one of the neighbors complained because of that. Of course with the anonymous process, we don't know for sure. What we did is we installed an electric fence in addition to our normal fence, and that is up. The inspectors saw it when they came out, so they should be able to confirm that. I don't believe it's in the report. It is fully functional; it's completely working. He won't go anywhere near the fence now. In fact, he only runs around like 30 feet in the front yard. The beeps scare him. It's a little beep before you get the shock. So, he's completely contained now; he won't be escaping again.

Also, we spoke directly with a number of neighbors, but also the neighbor that we believe complained. He does not object to this permit now that we have the dog within an electric fence. The electric fence was his suggestion, actually, and we took it, and installed it as quick as we could. He says he no longer objects.

Mr. Blankinship - When you say electric fence, you mean the underground fence.

Mr. Mateer - Yes. The wire is—

Mr. Blankinship - Not something small children are going to shock themselves on.

Mr. Mateer - On, no, no. There's not even an electric current in it. That's a very good point. I don't know why they call them that. It's actually just some sort of radio signal with a sensitive collar, and then there are batteries in the collar. The collar is actually what provides the shock. So, it's perfectly safe. You could hack it with a knife and you would be fine. And it's on our side of the

1315 fence, too, so nobody could get to it except for someone in our yard. It is not,  
1316 right now, underground, but they're either going to bury it or put it up on the  
1317 fence. We're discussing that with our neighbor, the one who we believed may  
1318 have complained. He seems to have preferences on the issue. I'm not sure  
1319 exactly why, but we're taking him seriously. So, whatever we decide with him,  
1320 we'll do. I do have a brochure for it if anybody is interested in seeing it.

1321

1322 The other thing is that we've also spoken to our other neighbors. Everyone we've  
1323 spoken to is in favor of it. We have actually a petition. I don't claim to have  
1324 gotten everybody [walks away from mike; inaudible until returning to mike].  
1325 Everybody is in favor. The dogs are quiet; they're not troublesome. Actually, one  
1326 of our neighbors has been kind enough to come, and she can testify to that if you  
1327 want somebody else's word.

1328

1329 The conditions that are down here are perfectly fine with us. I have one small  
1330 clarification on #3, but I'm not sure it's really even important. It says all animals  
1331 shall be kept indoors or within a fenced yard at all times. I assume we can take  
1332 them out in the front yard on a leash so that we can get to the road or a car.

1333

1334 Mr. Witte - I think the idea is without a leash.

1335

1336 Mr. Mateer - That's fine. That's great. I don't think we even need  
1337 to change it as written. I think that's common sense. I just wanted to make 100%  
1338 sure.

1339

1340 Ms. Dwyer - You said the pit bull won't go outside of a 30-foot  
1341 range in the front yard? Is that what you said?

1342

1343 Mr. Mateer - In the back yard, actually.

1344

1345 Ms. Dwyer - Backyard. Okay.

1346

1347 Mr. Mateer - He's very scared of the shock, for some reason. We  
1348 don't know why. He's a rescue, so we can't be completely sure he didn't have an  
1349 electric fence before and has experience with it or something. But the beeps  
1350 keep him far, far away from the fence. He stays at least 40 feet from the fence  
1351 line, and I think that the thing doesn't start beeping until about 5 or 10 feet. So,  
1352 he's self-regulating now completely. My wife has tried to even get him to leave—  
1353 One of the things you're supposed to do with the training with the fence, people  
1354 told us, was to try to get them to leave the yard, to have another dog they want to  
1355 go see, to go outside of the yard with their favorite toy and try to get them to  
1356 come out. He just looks at us like, "No way; you're crazy. I'm not going out there."  
1357 So, he's perfectly contained. If something changed, they can up the shock level.  
1358 But I don't anticipate that being necessary. If it was, we'd be perfectly happy to  
1359 do it.

1360

1361 Ms. Dwyer - During what part of the day are the dogs outside?  
1362  
1363 Mr. Mateer - That's a good question. My wife is a medical student.  
1364 She's home depending on her class schedule, and she's usually out gardening  
1365 when they're out there. I think it's sort of random. I'm an attorney in Washington,  
1366 DC, so I have to commute back and forth. So, I can't testify directly as to when  
1367 during the day. In the evening, we let them out, I don't know, just probably for a  
1368 couple hours at night, and when we're out there, and the weather is nice.  
1369  
1370 Ms. Dwyer - Do you let them out when you're not home?  
1371  
1372 Mr. Mateer - No.  
1373  
1374 Ms. Dwyer - Do you leave them outside?  
1375  
1376 Mr. Mateer - Oh no. They're inside. There's no dog door or  
1377 anything. So if we did, we'd have to leave the doors open or something. They're  
1378 very indoor dogs. So, yes, they're always inside if we're not home.  
1379  
1380 Ms. Dwyer - So if they're barking, you know it because you're  
1381 home.  
1382  
1383 Mr. Mateer - And we stop them.  
1384  
1385 Ms. Dwyer - That was my concern.  
1386  
1387 Mr. Mateer - Yes. We want to be good neighbors, and we stop  
1388 them when they're barking. All the dogs around us are probably more noisy than  
1389 ours, but they occasionally get into barking matches with the dog next door, so  
1390 we bring them inside. Other than that, they're pretty quiet.  
1391  
1392 Ms. Dwyer - Any other questions for Mr. Mateer?  
1393  
1394 Ms. Harris - Yes. On the north and east view of your yard, is that  
1395 the electrical fence, if we could see those pictures.  
1396  
1397 Mr. Mateer - No, you can't, because it's sitting on the ground. If  
1398 you see the fence line—The sort of center left portion of the yard there, you can  
1399 see our normal fence, which is a five-foot fence, which holds our other dogs just  
1400 fine. Right at the base of it, running along the base of that fence all the way  
1401 around the yard is the invisible fence. It goes into the front yard, too, just to be  
1402 safe in case for some reason he got out the front door. We don't bring him in the  
1403 front yard much without a leash.  
1404  
1405 Ms. Dwyer - Would the neighbor come forward here please?  
1406 We've had a complaint from a neighbor and I would like to have—

1407  
1408 Mr. Mateer - Sure, certainly.  
1409  
1410 Ms. Cantor - Hello, my name is Sheri Cantor—C-a-n-t-o-r. I live  
1411 across the street from the Mateer's, so I face their front yard.  
1412  
1413 Ms. Dwyer - Have you had any issues with the dogs?  
1414  
1415 Ms. Cantor - No issues whatsoever. Let me also state that I am  
1416 block captain of the 67 and 6800 block of Edmonstone Avenue. There have been  
1417 no other complaints from any of the block captains. There were questions when  
1418 this came out in the newspaper. People didn't want them to be boarding dogs,  
1419 and making kennels, and putting concrete over anything. However, once it was  
1420 explained it was just trying to be in compliance with having four dogs, there have  
1421 been absolutely no complaints.  
1422  
1423 Ms. Dwyer - A block captain is—You're part of a civic association?  
1424  
1425 Ms. Cantor- We are. The Duntreath Association.  
1426  
1427 Ms. Dwyer - All right.  
1428  
1429 Ms. Cantor - I have been home on the one occasion. I came home  
1430 from work when the dog first got out. Very sweet. He came right over to us.  
1431 Another neighbor, the one next door who has a dog, we got a leash. He did not  
1432 go after any neighbor cats. Just a very sweet dog, good disposition. All of their  
1433 dogs are very friendly.  
1434  
1435 Ms. Dwyer - Any questions for Ms. Cantor? Thank you, ma'am.  
1436  
1437 Mr. Mateer - Just to add to that, I do have a letter from our vet  
1438 saying that he's a very friendly dog. He won't escape again, so I don't think it  
1439 would be relevant, but if for some reason he did escape.  
1440  
1441 Ms. Dwyer - This is in regard to the pit bull mix?  
1442  
1443 Mr. Mateer - Yes. The vet actually doesn't think—The vet thinks  
1444 she's Lab, but the pound called him a pit bull mix. We're not sure. There's no  
1445 way to, I guess, be sure without some sort of dog genetic test. We haven't done  
1446 that yet, but the vet thinks she's Lab plus something. Erin thinks—my wife—  
1447 thinks that he's some sort of mix that's not pit bull. I don't know enough to give an  
1448 opinion myself.  
1449  
1450 Ms. Dwyer - Any other questions of Mr. Mateer? Comments you'd  
1451 like to make? Thank you sir.  
1452



1453 Mr. Mateer - Thank you. Appreciate it.

1454

1455 Ms. Dwyer - We'll wait another few minutes to let the other Board  
1456 members look at the letter Mr. Mateer provided.

1457

1458 **DECISION**

1459

1460 Mr. Wright - I move we approve this application. I don't think it will  
1461 affect the health, safety, or welfare or the persons residing in the neighborhood.  
1462 It's not likely to reduce or impair the value of buildings and such. It will be  
1463 substantially in accordance with the general purpose and objectives of Chapter  
1464 24 of the County Code.

1465

1466 Ms. Harris - Second.

1467

1468 Ms. Dwyer - Motion by Mr. Wright, seconded by Ms. Harris. Any  
1469 discussion?

1470

1471 Ms. Harris - I need to say I have witnessed the effectiveness of  
1472 the electrical fence; my neighbor has one. I think it does work. I think in the  
1473 notes we have they do not plan to replace those dogs. So, they probably will  
1474 come into compliance before it's all over.

1475

1476 Ms. Dwyer - I think the applicant has gone to great lengths to  
1477 satisfy our concerns for having more than three dogs, monitoring the dogs. The  
1478 neighbors have had opportunity to—in fact, no one is here. In fact, we've had a  
1479 neighbor come and speak in favor of the case, and there's the electric fence,  
1480 also. That helps their case a great deal. All right.

1481

1482 We have a motion for approval. All in favor say aye. All opposed say no. The  
1483 ayes have it; the motion passes.

1484

1485 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
1486 Ms. Harris, the Board **approved** application **UP-008-09, Mike and Erin Mateer's**  
1487 request for a conditional use permit pursuant to Section 24-12(e) to operate a  
1488 private noncommercial kennel at 6705 Edmonstone Avenue (Duntreath) (Parcel  
1489 765-740-0114), zoned R-3, One-family Residence District (Three Chopt). The  
1490 Board approved the conditional use permit subject to the following conditions:

1491

1492 1. This approval is only for the four dogs presently owned by the applicants.  
1493 This approval is not for the commercial boarding or breeding of dogs at any time.

1494

1495 2. The applicant must maintain the property so that noise and odors are  
1496 controlled.

1497

1498 3. All animals shall be kept indoors or within the fenced yard at all times.

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4. No new or replacement animals may be added, so that the number of animals will be reduced by natural means to three, as permitted by Code, at which time this conditional use permit shall expire.

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

Ms. Dwyer - The next matter coming before the Board is the approval of the minutes for April 23, 2009. Are there any amendments to those minutes?

Mr. Wright - On page 43, line 1930. I think it should read, they have some large farmhouses; it has a huge—I think it should be “slave houses,” as opposed to “slate.” I don’t know what a slate house is. Page 53, line 2397. What was inaudible, what I said, “—Board authority to deal with variances that were not based on the constitutionality.” That’s so obvious, but.

Ms. Dwyer - Any other amendments?

Ms. Harris - On page 14. Although I don’t have total recall, I believe that on line 604 and on line 605, after the word, “who,” “would have” should be deleted. And on 605 “hope and” should be deleted. So, that’s four words, so that it says, “What message do we send to those who believe that hope lives?”

Ms. Dwyer - Any more amendments? I have two on page 15, 657, beginning on 656. “What I consider uneven application of our,” I think it should be “enforcement of the ordinance.” So, omit “concern.” Page 21, line 917. “Other than the act,” a-c-t instead of ask—a-s-k. It’s 917.

A motion for the approval of the minutes?

Ms. Harris - I so move as corrected.

Ms. Dwyer - Second?

Mr. Witte - I second it.

Ms. Dwyer - Motion by Ms. Harris, seconded by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1544 On a motion by Ms. Harris, seconded by Mr. Witte, the Board **approved as**  
1545 **amended** the **Minutes of the April 23, 2009** Henrico County Board of Zoning  
1546 Appeals meeting.

1547

1548

1549 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5

1550 Negative: 0

1551 Absent: 0

1552

1553

1554 Ms. Dwyer - Any other business to be brought before the Board? I  
1555 see we had an insert this month about lots without road frontage.

1556

1557 Mr. Blankinship - Yes ma'am.

1558

1559 Ms. Dwyer - Is there an update on that?

1560

1561 Mr. Blankinship - Yesterday the Planning Commission did adopt the  
1562 resolution directing the Planning Department to draft an amendment. So, we're  
1563 working on that.

1564

1565 Mr. Wright - I'm disappointed with the report in that I don't think it  
1566 went far enough. This only deals with family divisions and I think that's the tip of  
1567 the iceberg. Furthermore, I would like just to ask a question on page 3. Where  
1568 does this business about when the lot existed come from? If you can prove to me  
1569 in the law that that's it, I'll go with it.

1570

1571 Mr. Blankinship - I think I mentioned to you last month, Mr. Wright,  
1572 informally, that when I drafted this paper—and I drafted most of this—when I  
1573 drafted it, that paragraph went on for about a page and a half. This ended up in  
1574 the County Attorney's office for review and came back much, much shorter than  
1575 what I drafted.

1576

1577 Mr. Wright - I don't really care about what's in it; I'm concerned  
1578 about tagging this 50-foot road frontage ordinance to when the lot existed. What  
1579 about a lot that's too narrow? Do we apply the same thing? There is no legal  
1580 basis for that. That's my argument. I've reviewed Cochran again, and  
1581 Cherrystone specifically. My take on the application of the law is that it should be  
1582 very strictly construed, and we should not expand on it. If the Supreme Court  
1583 wants to do that, that's their business. The way I view this is we are not—There  
1584 is no legal precedent to consider that we have to consider that a 50-foot road  
1585 frontage is based on the date of the ordinance.

1586

1587 Ms. Dwyer - Would you agree under 24-116(b)(1) that first  
1588 exception does mention at the time of the effective date of the chapter? But that's  
1589 only one, and I just wanted to point it out. And I agree.

1590  
1591 Mr. Wright - That was the issue in Cherrystone.  
1592  
1593 Ms. Dwyer - Right. One out of the three exceptions that is relevant.  
1594  
1595 Mr. Wright - Right.  
1596  
1597 Ms. Dwyer - But you're saying it's not a threshold issue for all of  
1598 the cases, and I would agree with that.  
1599  
1600 Mr. Wright - That's my point.  
1601  
1602 Ms. Harris - When the work session is held, we will be in that work  
1603 session, will we not?  
1604  
1605 Mr. Blankinship - You'll certainly be invited, yes ma'am.  
1606  
1607 Mr. Wright - I stated that. We put that in the letter. I don't need to  
1608 add anything.  
1609  
1610 Ms. Dwyer - Will we be able to speak at the work session?  
1611  
1612 Mr. Blankinship - At the work session, I'm not sure; I'll look into that. At  
1613 the public hearing of course you can.  
1614  
1615 Mr. Wright - I'm not going to get up and speak in a public hearing.  
1616 After reviewing what you said here, we're the only County that has this.  
1617  
1618 Mr. Blankinship - That handles it the same way we do, yes.  
1619  
1620 Mr. Wright - Yes. They don't have these problems in Chesterfield  
1621 or these others. Even up in the northern part of the state, they don't have it, and  
1622 they seem to exist, and they seem to thrive without trying to put a noose around  
1623 the owners of property out in Varina.  
1624  
1625 Ms. Dwyer - Did you check with Fauquier County?  
1626  
1627 Mr. Blankinship - I don't recall.  
1628  
1629 Mr. Wright - You've really looked into this.  
1630  
1631 Mr. Blankinship - Oh yes. We spent ten years on it.  
1632  
1633 Mr. Wright - I commend you on that. I'm just disappointed that we  
1634 only address a narrow part of the concerns.  
1635

1636 Mr. Blankinship - It was the compromise that was reached. There were  
1637 some who thought we should just leave it as it is and not grant any variances;  
1638 that you're doing the right thing by denying all these variances. There were  
1639 others who felt more like you feel.  
1640  
1641 Ms. Dwyer - But we don't deny them.  
1642  
1643 Mr. Wright - Maybe that's what we should do. We should deny  
1644 everything and then let the public—You have to put the oil on the squeaky wheel.  
1645 That's the way the pool thing came about. Maybe I'm wrong. Maybe we should  
1646 start denying every one of them because there's no basis for it. Let the public  
1647 come before the Supervisors and bang them over the head with whatever they  
1648 want.  
1649  
1650 Ms. Dwyer - My major issue has always been that we're supposed  
1651 to make an affirmative finding that this is not a recurring issue.  
1652  
1653 Mr. Wright - That's the key right there, and that's what we said in  
1654 the letter. It's not a recurring issue. My point is, it's been done since 1972. I've  
1655 been on this Board since 1972. When I first came on it, they hardly listen to them.  
1656 We've been doing it for 38 years—not recently, but prior—because they felt like  
1657 people should be able to use their land.  
1658  
1659 Ms. Dwyer - Right.  
1660  
1661 Mr. Wright - I for one think there is a solution. I don't know why the  
1662 Board and our Legislators won't address it. I think this Board should be given the  
1663 discretion to consider all the factors surrounding the issue to determine if it's a  
1664 safe situation. Right now, we don't have that. I'm not saying we should approve  
1665 every one of them. If they don't violate the subdivision ordinance, it wouldn't  
1666 impact future subdivisions—There are a lot of factors that we could consider.  
1667  
1668 Ms. Dwyer - That's a State issue.  
1669  
1670 Mr. Wright - Yes. But the other counties get around it.  
1671  
1672 Mr. Blankinship - There was another run at it in the General Assembly  
1673 this year. They didn't defeat the bill; they just took all the meat out of it.  
1674  
1675 Mr. Wright - What our County perceives is the way that we should  
1676 do it. It's different than the other counties. They go along well.  
1677  
1678 Mr. Blankinship - On public street frontage.  
1679  
1680 Mr. Wright - Yes.  
1681

1682 Mr. Blankinship - They don't need variances. But when it comes to  
1683 variances, everyone [fades out – blank].  
1684  
1685 Mr. Wright - Oh, yes, yes.  
1686  
1687 Ms. Dwyer - Any other discussion? Any other new business?  
1688  
1689 Mr. Blankinship - Madam Chairman, before you adjourn, I'd like to  
1690 recognize a former member of the Planning Department, Mrs. Kate Cooper, who  
1691 is here observing your meeting, working on her Board of Zoning Appeals  
1692 Certification. Welcome, Kate.  
1693  
1694 [Blank section.]  
1695  
1696 Ms. Dwyer - We're all in the same boat.  
1697  
1698 Ms. Cooper - [Off mike.] Yes we are.  
1699  
1700 Ms. Dwyer - Right.  
1701  
1702 Ms. Cooper - [Off mike.] Thank you.  
1703  
1704 Ms. Dwyer - Welcome. Thank you for being here. And our intern.  
1705  
1706 Mr. Blankinship - Yes. I want to recognize Aaron Shoemaker; I  
1707 introduced him to you before the meeting.  
1708  
1709 Ms. Dwyer - Welcome.  
1710  
1711 Mr. Blankinship - He's working on his undergraduate degree at VCU at  
1712 this point. You will get some real life experience during the summer.  
1713  
1714 Ms. Dwyer - I hope our discussion was lively enough. In Henrico  
1715 as opposed to Fluvanna?  
1716  
1717 Ms. Cooper - [Off mike.] I made a comment about that.  
1718  
1719 Mr. Blankinship - You thought you were back home, didn't you.  
1720  
1721 Ms. Dwyer - All right. Motion for adjournment.  
1722  
1723 Mr. Wright - I move we adjourn.  
1724  
1725 Mr. Witte - Second.  
1726  
1727 Ms. Dwyer - We are adjourned.

1728 On a motion by Mr. Wright, seconded by Mr. Witte, the Board **adjourned** until its  
1729 June 25, 2009 Henrico County Board of Zoning Appeals meeting.

1730

1731

1732 Affirmative: Dwyer, Harris, Nunnally, Witte, Wright 5

1733 Negative: 0

1734 Absent: 0

1735

1736

1737 There being no further business, the Board adjourned until the June 25, 2009  
1738 meeting at 9 a.m.

1739

1740

1741

1742

1743 Elizabeth G. Dwyer  
1744 Chairman

1745

1746

1747

1748

1749

1750 Benjamin Blankinship, AICP  
1751 Secretary

1752

1753