

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 SPRING ROADS, ON THURSDAY MAY 26, 2016 AT 9:00**
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH MAY 9, 2016, AND MAY 16, 2016.**
7

Members Present: Gentry Bell, Chairman
Greg Baka, Vice Chairman
Dennis J. Berman
Helen E. Harris
William M. Mackey, Jr.

Also Present: Jean M. Moore, Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner

8
9 Mr. Bell - Welcome to the May 26th meeting of the Henrico
10 County Board of Zoning Appeals. I ask you all to please stand with me and join
11 me in saying the Pledge of Allegiance to our flag. Thank you.
12

13 Mr. Blankinship, please read our rules.
14

15 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
16 ladies and gentlemen. The rules for this meeting are as follows: Acting as
17 secretary, I will announce each case. And as I'm speaking the applicant is
18 welcome to come down near the podium. We will then ask everyone who intends
19 to speak to that case to stand and be sworn in. Then a member of the staff will
20 give a brief introduction to the case. Then the applicant will present their
21 testimony. Then anyone else who wishes to speak will have the opportunity. And
22 after everyone has had a chance to speak, the applicant and only the applicant
23 will have an opportunity for rebuttal.
24

25 After the Board has heard everything that everyone had to say on that case, they
26 will proceed to the public hearing on the next case. They will render all of their
27 decisions at the end of the meeting. So if you wish to hear their decisions on a
28 specific case, you can either stay until the end of the meeting, or you check the
29 Planning Department website—we usually get it updated within the hour after the
30 meeting ends—or you can call the Planning Department this afternoon.
31

32 This meeting is being recorded, so we'll ask everyone who speaks to speak
33 directly into the microphone on the podium, state your name, and please spell
34 your last name to make sure we get it correctly in the record.
35

36 With that, Mr. Chair, I think we're ready to call the first case.

37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81

CUP2016-00007 ENGINEERING DESIGN ASSOCIATES requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of the County Code to extract materials from the earth at 1801 Kingsland Road (Parcel 818-676-5915) zoned Agricultural District (A-1) (Varina).

Mr. Blankinship - Would everyone who intends to speak to this case please stand and be sworn in? Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth so help you God? Thank you. Mr. Gidley, would you begin.

Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chairman, members of the Board.

The subject property is 1801 Kingsland Road. It's located at its intersection with Strath Road. The parcel contains approximately 30 acres of land. The applicant acquired the property in 1990 and shortly thereafter obtained their first conditional use permit to extract materials from the site. Initial mining occurred on the southern portion of the site, shown down here. And if you look at the aerial, you can see the southern portion where it was mined. It has since been filled back up to grade level.

In 2012, they received permission from this Board to begin mining the northern portion on the site. That's shown here. You can see with the red clay where they're mining the northern portion. And according to the applicant, at the present time, mining here is approximately 90 complete and restoration is at 75 percent complete.

Evaluation. The property is zoned A-1 Agricultural district, and the area being excavated is designated as Prime Agriculture on the Land Use Plan. The use of the property is consistent with these designations.

If you look at the reclamation plan here, you can see the final reclamation shows a slight increase in elevation of the southern portion and the northern portion here. This is generally consistent with the surrounding topography, which is gently rolling. A note on the plan calls for a four-lot subdivision to eventually be constructed on the site.

You can see here where they've done some mining and they're bringing in fill material, mainly bricks and asphalt, to help reclaim the land and bring it back to grade level. When staff was out there, we did notice some plywood included in the material. The applicant's only supposed to bring in materials that won't degrade, so they do need to be careful to make sure that what comes in is free of any degradable material.

82 At the last renewal in 2014, staff had received a number of complaints regarding
83 dust and mud being tracked onto the public streets. During the past few years,
84 however, we have had no such complaints, so it seems they have managed to
85 get this under control.

86
87 There is a letter of credit on file for \$47,400. This was last amended by Wachovia
88 Bank in 2008. Wachovia has since be acquired by Wells Fargo, and so staff
89 would recommend the applicant get an up-to-date financial guarantee from a
90 current financial institution.

91
92 Finally, there are "no trespassing" signs around the property. Many of these have
93 faded. The applicant, for safety reasons, should replace these so they are quite
94 visible. Also, the current use permit number needs to be put on the entrance
95 sign.

96
97 In conclusion, depending on the economy, it is possible mining may be
98 completed within two years on this site. Completion of the extraction operations
99 and reclamation of the site to a possible residential use is consistent with the
100 property's A-1 zoning and also with the Prime Agriculture designation on the
101 Comprehensive Plan.

102
103 This concludes my presentation, and I'll be happy to answer any questions you
104 may have.

105
106 Mr. Bell - Any questions?

107
108 Mr. Berman - Are there any complaints on file at all since the last
109 period you mentioned?

110
111 Mr. Gidley - No sir, not that we're aware.

112
113 Mr. Berman - And the church next door was notified?

114
115 Mr. Gidley - Yes sir.

116
117 Mr. Berman - Okay. Thank you.

118
119 Mr. Bell - And you say that you might just be looking for one
120 more possible conditional use permit, two more years?

121
122 Mr. Gidley - According to the applicant, this potentially could be
123 the last one. It really depends on the economy, which is hard to judge, obviously.
124 We'd all be I guess rich if we knew that for sure what was going to happen. So I'll
125 let the applicant go into more detail, but he had indicated maybe within two years
126 the work could be completed as far as the extraction itself.

127

128 Mr. Bell - Thank you. Any other questions?
129

130 Ms. Harris - Yes, I have several. Mr. Gidley, in your report you
131 talked about this being Prime Agriculture on the Land Use Plan for 2026. But
132 after all these materials are placed on the land, will it still be Prime Agriculture? I
133 see concrete. Not just sand, but it's a list of—
134

135 Mr. Gidley - That's a good question, Ms. Harris. Prime Agriculture,
136 one thing it's consistent with is an A-1 zoning designation, which the site is
137 zoned. And the A-1 zoning designation allows for a residential use on one-acre
138 lots. And so once this is filled and topsoil is placed on top, it would be possible to
139 build residential units on the site. And as long as it's zoned A-1 and each lot has
140 a minimum lot size of one acre, it would be consistent with the Prime Agriculture
141 designation.
142

143 Ms. Harris - Right. Because I see cinderblock and concrete along
144 with brick and soil. We've had case—maybe not on this board, but in the
145 adjacent community where subdivisions had to be torn down because the land
146 was not that solid. I'm just concerned about how we're going to reclaim this
147 property if it's going to be reclaimed at all.
148

149 And then the other thing. You said that part of the work had been completed. I
150 think the northern area. Did you see any reclamation in that area at all? The
151 southern part, I'm sorry. The southern portion of the site was the first to be
152 mined, and that's been completed. And the site has been fully returned to grade.
153 But have you seen any reclamation at all based on the seed and the fertilizer that
154 was supposed to go into the property?
155

156 Mr. Gidley - Yes ma'am. I worded it that way rather than saying
157 reclaimed. We walked as best we could. Obviously with all the rain lately, we
158 would have sunk down quite a bit had we gone too far. The site was returned to
159 grade on the southern portion of the property. There were some fill piles there
160 that would be used to help fill the northern portion.
161

162 I didn't see a lot of grass as far as a healthy stand of grass on the southern
163 portion. Because of that, I didn't say it had been reclaimed as was said in our
164 materials that we had received for the application. I just said it had been filled
165 back to grade and pointed out that to be reclaimed it needed a healthy stand of
166 grass growing on it. So I said that for that particular reason.
167

168 Ms. Harris - Okay. We're saying that if this project is going to
169 conclude within two years—and I'm looking at the picture on the screen. I'm just
170 wondering are we going to subject that to a reclamation process that will be
171 satisfactory for the County of Henrico?
172

173 Mr. Gidley - Let's say they finish mining and returned it to grade
174 level within two years. They would then have one more year after mining—

175

176 Ms. Harris - To reclaim.

177

178 Mr. Gidley - To reclaim it, yes ma'am.

179

180 Ms. Harris - Okay. Did you notice any tall excavations? I know that
181 it talked about a sediment basin. What about the depth of that? They talk about a
182 stockpile. I wonder about the height of that. They talk about the excavation depth
183 being no greater than ten feet. I wonder about what we're seeing as far as the
184 depth of all of these areas of concern. My question is did you notice any type
185 of—

186

187 Mr. Gidley - Here's the March topography survey, ma'am. The
188 sediment barrier is going to be down in this area here at the southeast corner of
189 the property. I assume it's right here. There were, as I said, some stockpiles on
190 the southern portion of the property. You can see one here and one here noted
191 as "stockpile." And that's typically used once they finish mining up here to bring in
192 and to mix with the fill materials to return it to grade. So you're correct, there are
193 two stockpiles on the southern portion of the site.

194

195 Ms. Harris - But you didn't see anything extremely tall? We have
196 some areas where we see very tall—I don't know whether you call them
197 stockpiles or whatever on some of the landfill properties that we have in that
198 area.

199

200 Mr. Gidley - The main pile here is shown as 96 feet base elevation
201 and then 116 at the top. Doing the math, that would be roughly 20 feet in height
202 for this pile here, assuming this is correct. I'm sure the engineer can be more
203 detailed than myself.

204

205 Mr. Blankinship - If you're comparing that to the East End Landfill, Ms.
206 Harris, that's 230 feet.

207

208 Ms. Harris - I know, small compared to that. In condition 24, the
209 mention of a required five-inch layer of cover is given. But I think in the report we
210 were seeing six inches of topsoil. Is it five inches or is it six inches?

211

212 Mr. Blankinship - I think five would be our requirement and six is what
213 the applicant has suggested he's going to do. So as long as he exceeds it, he's
214 fine.

215

216 Ms. Harris - Okay, thank you. I believe those are all of my
217 questions, Mr. Gidley. Thank you.

218

219 Mr. Gidley - Yes ma'am.
220
221 Mr. Bell - Any other questions?
222
223 Mr. Baka - Just one. Are there any reports from DEQ or
224 Department of Mines, Minerals, and Energy, which would also add to the
225 conditions of the case? Are there any types of violations or concerns or letters of
226 concern from those state agencies?
227
228 Mr. Gidley - Not that I'm aware of.
229
230 Mr. Baka - Okay. Thanks.
231
232 Mr. Bell - If there are no other questions, thank you.
233
234 Mr. Gidley - Thank you, Mr. Chair.
235
236 Mr. Hooker - Good morning, members of the Board. My name is
237 Randy Hooker—H-o-o-k-e-r—with Engineering Design Associates here
238 representing SB Cox Incorporated on this mine. Mr. Bobby Cox is also in
239 attendance today for any questions I may not be able to answer. I know Ms.
240 Harris has asked several questions. I'll do my best to answer those as well.
241
242 The stockpiles that are shown are temporary. It's just staging of materials. As
243 they excavate and remove materials out, then they'll bring those materials in to
244 basically reclaim the area. The basin has to remain until all excavations are
245 completed. This is the sediment basin right here. This will remain in place until all
246 excavation has been completed. It will be filled in as part of the reclamation
247 process. This will be the last area to be addressed as far as construction.
248
249 As far as grades and everything, everything has been maintained as far as
250 slopes and such. As far as future development, it'll basically be four lots. Those
251 four lots are going to face and have frontage along Kingsland Road. The lots,
252 basically the structures, will be along the area that's undisturbed. The remaining
253 area will just be land used for recreation, farming, whatever. There will be an
254 amount of soil placed over top of the fill materials. So planting will not be an
255 issue.
256
257 I'm not sure if I covered all your questions or not.
258
259 Ms. Harris - How deep is that sediment basin?
260
261 Mr. Hooker - Let me pan back over there. The bottom is at
262 elevation 63. Current grade—
263
264 Mr. Berman - Looks like 80.

265
266 Mr. Hooker - Ninety may be the highest along the edge of the back
267 of the basin.
268
269 Ms. Harris - I know this is temporary, but this is partly a residential
270 community. I'm just wondering about the safety aspect if anyone should get on
271 that property.
272
273 Mr. Hooker - There are "No Trespassing" signs and stuff posted.
274
275 Ms. Harris - And we have at least two more years to deal with this.
276
277 Mr. Hooker - We're requesting an extension for at least two more
278 years to mine and then another year for the reclamation. There's a slim chance
279 we might have to come back again to request another extension. It's just supply
280 and demand.
281
282 Ms. Harris - Yes, I understand. You said about those four units
283 that may be used for residential development, who will determine the undisturbed
284 land? You know about the undisturbed land. But contractors or builders when
285 they come in, will they know which part of this acreage is undisturbed and
286 suitable for building residential properties?
287
288 Mr. Hooker - Yes. And I believe they'd still need to obtain soil
289 reports prior to construction of residences as well.
290
291 Ms. Harris - Okay, that's good. Now in your report you talk about a
292 burning process. Can you describe that?
293
294 Mr. Hooker - I'm sorry?
295
296 Ms. Harris - In the narrative that we received, it talked about a
297 burning process. Let's see if I can find that page. The second page of the
298 narratives description in item D, which would be 5B. "Debris generated from
299 clearing shall be burned on the site." Can you explain this?
300
301 Mr. Hooker - I'm unaware if that practice is taking place. I imagine
302 it's there if needed, but I don't think that's a common practice at this site.
303
304 Mr. Blankinship - Can you flip back to the aerial photo, either of you?
305 The question I'm going to ask, Mr. Hooker, is whether there is any additional
306 clearing to be done beyond what's already clear according to this photo?
307
308 Mr. Hooker - No sir.
309

310 Mr. Blankinship - So the trees right now are at your 200- and 100-foot
311 buffers. So there won't be any additional clearing.
312
313 Mr. Hooker - No.
314
315 Mr. Blankinship - Whatever's been cleared is cleared enough.
316
317 Mr. Hooker - Correct. And also, to touch on the plywood that was
318 seen on the site. Mr. Cox stated that issue has been addressed. Those materials
319 have been removed. They're going to be vigilant on screening the materials that
320 come into our facility.
321
322 Ms. Harris - So as far as you know, there has been no burning at
323 all of debris?
324
325 Mr. Hooker - No.
326
327 Ms. Harris - All right. Look at this picture that we have before us.
328 What is that structure? It's to my left, left of the site. I know to the right of the site
329 is a church. Go up higher, please. To the left. A little to the left. What is that?
330
331 Mr. Hooker - I imagine it's someone's residence.
332
333 Ms. Harris - That's what I was thinking. It's really close. Where do
334 you have fencing in this area?
335
336 Mr. Hooker - It's along the property line of the church or a portion
337 thereof.
338
339 Ms. Harris - Okay. So you don't have any on the other side where
340 the residence might be, to your knowledge.
341
342 Mr. Hooker - No ma'am.
343
344 Ms. Harris - I believe those are all of my questions, Mr. Hooker.
345 It's nice to meet you again. I think we meet every two years here.
346
347 Mr. Bell - I have one more question. In the last two years, have
348 you had any complaints made to you all concerning the site?
349
350 Mr. Hooker - None that I'm aware of. No sir.
351
352 Mr. Bell - All right, thank you. Any other questions?
353

354 Mr. Mackey - Yes, Mr. Chairman, if I may. I wanted to address the
355 statement about the plywood. Could you express a little bit more how you're
356 going to make sure that doesn't happen again?

357
358 Mr. Hooker - The materials will be screened more thoroughly as
359 they come in. Apparently, items had been dropped off. There's not somebody
360 there every minute of every day. So they'll be somebody there when materials
361 are delivered to go through it and make sure that stuff's not being left that
362 shouldn't be left.

363
364 Mr. Mackey - Is that a problem from lack of the other type of
365 materials not being in demand or in supply?

366
367 Mr. Hooker - No, no. It's just somebody's bringing in materials off of
368 a job site, and overly anxious to clean up, and just tossed it in there with it.

369
370 Mr. Bell - Any other questions? Thank you, Mr. Hooker.

371
372 Mr. Hooker - Thank you.

373
374 Mr. Bell - Is there anybody else who would like to speak to the
375 issue?

376
377 Ms. Gay - My name is Dorothy Gay. G-a-y. I live at 2207
378 Kingsland Road down from this place. Most of my concerns have already been
379 asked by Ms. Harris and Mr. Mackey, but I do have a couple of questions. One is
380 I was told that the County inspects once a month. Is that correct?

381
382 Mr. Blankinship - A zoning inspector inspects once a month, and an
383 environmental inspector also inspects once a month.

384
385 Ms. Gay - Once a month.

386
387 Mr. Blankinship - So there are two inspections a month.

388
389 Ms. Gay - So I was just wondering if a copy could be gotten from
390 some of those inspections in the past before this plywood was discovered—

391
392 Mr. Blankinship - Certainly.

393
394 Ms. Gay - —to make sure that—my concern is the well water
395 because most of us have wells in this area. They were supposed to excavate and
396 stop at the groundwater level. I was wondering when they inspect, do they make
397 sure that is taken care of?

398
399 Mr. Blankinship - Yes ma'am.

400
401 Ms. Gay - And is once a month sufficient for that?
402
403 Mr. Blankinship - Some of these mining sites haven't really changed
404 from month to month. But other months they're working more actively. We do the
405 best we can.
406
407 Ms. Gay - My concern is that the County realize that we do live
408 in these areas, and we're counting on you to look after our best interest.
409
410 Mr. Blankinship - Yes ma'am, absolutely.
411
412 Ms. Gay - Thank you.
413
414 Mr. Blankinship - If you'll leave your contact information with Mr. Gidley,
415 I'll get you copies of those reports.
416
417 Ms. Harris - Ms. Gay?
418
419 Mr. Mackey - Excuse me, Ms. Gay?
420
421 Ms. Gay - Yes? I'm sorry.
422
423 Ms. Harris - Can you point out your house? What's your address
424 again?
425
426 Ms. Gay - I'm further down past Wallo Road.
427
428 Ms. Harris - What's your address?
429
430 Ms. Gay - 2207.
431
432 Ms. Harris - Kingsland?
433
434 Ms. Gay - It's up between Strath and Buffin.
435
436 Ms. Harris - Okay. What street do you live on?
437
438 Ms. Gay - On Kingsland.
439
440 Ms. Harris - On Kingsland? Okay. Thank you.
441
442 Mr. Blankinship - Do you see Wallo?
443

444 Ms. Gay - There's Wallo. And see that line that looks like a
445 creek? I'm along in there. Right up there on Kingsland Road. Right along in there
446 is where I live.

447

448 Ms. Harris - So you're approximately five blocks from the site, you
449 would think? I thought this site was in the 1700 block.

450

451 Mr. Blankinship - It's not really blocks, though.

452

453 Ms. Gay - My concern is just the whole area.

454

455 Ms. Harris - I mean not really blocks, but.

456

457 Mr. Blankinship - I'd call it half a mile.

458

459 Ms. Harris - Okay.

460

461 Ms. Gay - Yes, something like that. I'd just like for the County to
462 know we're watching you.

463

464 Mr. Blankinship - Yes ma'am.

465

466 Mr. Mackey - Ms. Gay, I had a question. Did you have any
467 complaints with any debris on the road or anything?

468

469 Ms. Gay - No. I've seen some mud and stuff, but they've been
470 pretty good about cleaning that up.

471

472 Mr. Mackey - All right.

473

474 Ms. Harris - Ms. Gay. You haven't smelled anything burning,
475 right?

476

477 Ms. Gay - No, I haven't.

478

479 Ms. Harris - Okay.

480

481 Ms. Gay - I was surprised when you asked that.

482

483 Ms. Harris - Thank you.

484

485 Mr. Berman - Ms. Gay, we also added a condition that the owner
486 needs to correct any possible issues they cause with the well water. It's item
487 number 22. And we would revoke the permits if there was a breach of the well
488 water table.

489

490 Ms. Gay - Thank you.
491
492 Mr. Blankinship - All right. Would anyone else like to speak to this
493 application? All right, on to the next case.
494
495 **[After the conclusion of the public hearings, the Board discussed the case**
496 **and made its decision. This portion of the transcript is included here for**
497 **convenience of reference.]**
498
499 Mr. Bell - Do I hear a motion?
500
501 Mr. Mackey - Yes, Mr. Chairman. I make a motion that we accept
502 the County's recommendation, including all of the conditions along with it.
503
504 Mr. Bell - Do I hear a second?
505
506 Mr. Berman - I second the motion.
507
508 Mr. Bell - Is there any discussion?
509
510 Ms. Harris - Yes. I'd like to say that in following this case for the
511 last several years, I do believe that the applicants are making a good faith effort
512 to be good neighbors. I think that's a plus. And so I will vote for the case.
513
514 Mr. Bell - Any other discussion?
515
516 Mr. Mackey - Yes, I had one question on one of the conditions. I
517 think it was condition 25. Yes. On condition 25 where it says:
518
519 The operator shall submit a quarterly report stating the origin,
520 nature, and quantity of any offsite-generated material deposited on
521 the site certifying that no hazardous material was included. The
522 material to be deposited on the site shall be limited to imperishable
523 materials such as stone, bricks, tiles, sand, gravel, soil, asphalt,
524 concrete, and like materials, and shall not include any hazardous
525 materials as defined by the Virginia Hazardous Waste Management
526 Regulations.
527
528 He said there would be someone on site. Should we amend that to add that?
529 Because it doesn't say in here anywhere that someone would be on site to pick
530 through and make sure no more pallets or anything end up in there.
531
532 Mr. Blankinship - We can certainly add that.
533
534 Mr. Mackey - All right, thank you.
535

536 Mr. Bell - Any other discussions? Before we vote, we will add
537 Mr. Mackey's comment about someone being on site. All in favor say aye. All
538 opposed say no. The ayes have it; the motion passes.
539

540 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
541 Mr. Berman, the Board **approved** application **CUP2016-00007, ENGINEERING**
542 **DESIGN ASSOCIATES'** request for a conditional use permit pursuant to
543 Sections 24-52(d) and 24-103 of the County Code to extract materials from the
544 earth at 1801 Kingsland Road (Parcel 818-676-5915) zoned Agricultural District
545 (A-1) (Varina). The Board approved the conditional use permit subject to the
546 following conditions:
547

548 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24
549 of the County Code.
550

551 2. The applicant shall provide an updated financial guarantee in an amount of
552 \$47,400.00, guaranteeing that the land will be restored to a reasonably level and
553 drainable condition, consistent with the elevation of the land prior to the
554 beginning of excavation. This financial guarantee shall be maintained throughout
555 the life of this permit. In the event of termination of the financial guarantee, this
556 permit shall be void, and excavation shall cease. Within the next 90 days of
557 termination, the applicant shall restore the land as provided for under the
558 conditions of this use permit. Termination of such financial guaranty shall not
559 relieve the applicant from its obligation to indemnify the County of Henrico for any
560 breach of the conditions of this use permit.
561

562 3. Throughout the life of this permit, the applicant shall maintain an approved
563 environmental compliance plan with the Department of Public Works (DPW). The
564 applicant shall continuously satisfy DPW that erosion control measures are in
565 accordance with the approved plan and are properly maintained. As site
566 conditions change, updated plans and bonds may be required as determined by
567 DPW.
568

569 4. Throughout the life of this permit, the applicant shall maintain a mine license
570 from the Virginia Department of Mines, Minerals and Energy.
571

572 5. Throughout the life of this permit, the areas approved for mining under this
573 permit shall be delineated on the ground by five-foot-high metal posts at least five
574 inches in diameter and painted in alternate one foot stripes of red and white.
575 These posts shall be so located as to clearly define the area in which the mining
576 is permitted.
577

578 6. Throughout the life of this permit, the applicant shall comply with the
579 Chesapeake Bay Preservation Act and all state and local regulations
580 administered under such act applicable to the property, and shall furnish to the
581 Planning Department copies of all reports required by such act or regulations.

- 582
583 7. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Saving
584 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
585
- 586 8. No operations of any kind are to be conducted at the site on Saturdays,
587 Sundays, or national holidays.
588
- 589 9. All access to the property shall be from the established entrance onto
590 Kingsland Road.
591
- 592 10. The applicant shall maintain gates at the entrance to the property. These
593 gates shall be locked at all times, except when authorized representatives of the
594 applicant are on the property.
595
- 596 11. The applicant shall maintain the sign at the entrance to the mining site stating
597 the name of the operator, the use permit number, the mine license number, and
598 the telephone number of the operator. The sign shall be 12 square feet in area
599 and the letters shall be three inches high.
600
- 601 12. The applicant shall maintain "No Trespassing" signs every 250 feet along the
602 perimeter of the property. The letters shall be three inches high. The applicant
603 shall furnish the Chief of Police a letter authorizing the Division of Police to
604 enforce the "No Trespassing" regulations, and agreeing to send a representative
605 to testify in court as required or requested by the Division of Police.
606
- 607 13. Standard "Truck Entering Highway" signs on Kingsland Road on each side of
608 the entrance to the property shall be maintained at the applicant's expense.
609
- 610 14. The applicant shall maintain a standard stop sign at the entrance to
611 Kingsland Road.
612
- 613 15. The applicant shall provide a flagman to control traffic from the site onto the
614 public road, with the flagman yielding the right of way to the public road traffic at
615 all times. This flagman will be required whenever the Division of Police deems
616 necessary.
617
- 618 16. All roads used in connection with this use permit shall be effectively treated
619 with calcium chloride or other wetting agents to eliminate any dust nuisance.
620
- 621 17. The operation shall be so scheduled that trucks will travel at regular intervals
622 and not in groups of three or more.
623
- 624 18. Trucks shall be loaded in a way to prevent overloading or spilling of materials
625 of any kind on any public road.
626

627 19. The applicant shall maintain the property, fences, and roads in a safe and
628 secure condition indefinitely, or convert the property to some other safe use.

629
630 20. The operator shall maintain a fence seven feet tall and approximately 300
631 feet long separating the mining site from the First Bethel Baptist Church building
632 and parking lot.

633
634 21. If, in the course of its operations, the applicant discovers evidence of cultural
635 or historical resources, or an endangered species, or a significant habitat, it shall
636 notify appropriate authorities and provide them with an opportunity to investigate
637 the site. The applicant shall report the results of any such investigation to the
638 Planning Department.

639
640 22. If water wells located on surrounding properties are adversely affected, and
641 the extraction operations on this site are suspected as the cause, the effected
642 property owners may present to the Board evidence that the extraction operation
643 is a contributing factor. After a hearing by the Board, this use permit may be
644 revoked or suspended, and the operator may be required to correct the problem.

645
646 23. Open and vertical excavations having a depth of 10 feet or more, for a period
647 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to
648 protect the public safety.

649
650 24. Topsoil shall not be removed from any part of the property outside of the area
651 in which mining is authorized. Sufficient topsoil shall be stockpiled on the
652 property for respreading in a layer with five inches of minimum depth. All topsoil
653 shall be stockpiled within the authorized mining area and provided with adequate
654 erosion control protection. If the site does not yield sufficient topsoil, additional
655 topsoil shall be brought to the site to provide the required five-inch layer of cover.
656 All topsoil shall be treated with a mixture of seed, fertilizer, and lime as
657 recommended by the County after soil tests have been provided to the County.

658
659 25. The operator shall submit a quarterly report stating the origin, nature and
660 quantity of any off-site generated material deposited on the site, certifying that no
661 hazardous material was included. The material to be deposited on the site shall
662 be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil,
663 asphalt, concrete, and like materials, and shall not include any hazardous
664 materials as defined by the Virginia Hazardous Waste Management Regulations.
665 An employee shall be on site whenever material is being deposited to ensure that
666 this condition is enforced.

667
668 26. A superintendent, who shall be personally familiar with all the terms and
669 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the
670 terms and conditions of this use permit, shall be present at the beginning and
671 conclusion of operations each work day to see that all the conditions of the Code
672 and this use permit are observed.

673
674 27. A progress report shall be submitted to the Board on June 1, 2017. This
675 progress report shall contain information concerning how much property has
676 been mined to date of the report, the amount of land left to be mined, how much
677 reclamation has been performed, when and how the remaining amount of land
678 will be reclaimed, and any other pertinent information about the operation that
679 would be helpful to the Board.

680
681 28. Excavation shall be discontinued by June 1, 2018 and restoration
682 accomplished by not later than June 1, 2019, unless a new permit is granted by
683 the Board of Zoning Appeals.

684
685 29. The reclamation of the property shall take place simultaneously with the
686 mining process. The final grading of the site shall be consistent with the elevation
687 of the land prior to the beginning of excavation as shown on the approved
688 reclamation plan. Reclamation shall not be considered completed until the mined
689 area is covered completely with permanent vegetation.

690
691 30. All drainage and erosion and sediment control measures shall conform to the
692 standards and specifications of the Mineral Mining Manual Drainage Handbook.

693
694 31. All excavation shall take place above the water table.

695
696 32. Failure to comply with any of the foregoing conditions shall automatically void
697 this permit.

698
699
700 Affirmative: Baka, Bell, Berman, Harris, Mackey 5
701 Negative: 0
702 Absent: 0

703
704
705 **[At this point, the transcript continues with the public hearing on the next**
706 **case.]**

707
708 **CUP2016-00008 KELLY AND KASEY ARMSTRONG** request a
709 conditional use permit pursuant to Sections 24-12(e) and 24-52(a) of the County
710 Code to allow a private noncommercial kennel at 4045 Darbytown Road (Parcel
711 830-690-2540) zoned Agricultural District (A-1) (Varina).

712
713 Mr. Blankinship - Would everyone who intends to speak to this
714 application please stand and be sworn in. Do you swear the testimony you're
715 about to give is the truth, the whole truth, and nothing but the truth so help you
716 God? Thank you. Mr. Madrigal?

717

718 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the
719 Board.

720
721 Before you is a request to allow a private non-commercial kennel located in an
722 agricultural district. The subject property is over two acres in size and measures
723 approximately 160 feet wide by 600 feet deep. The front half of the lot is
724 improved with a one-story, 1,600-square-foot ranch-style residence with open
725 parking, an aboveground swimming pool and several sheds. You can see the
726 property here, so the front half is developed and the rear half unimproved. Again,
727 the rear half of the lot is unimproved and is densely wooded.

728
729 The rear yard immediately behind the home is fenced in with a combination of
730 six-foot-tall privacy fencing running along the west side of the lot and a four-foot-
731 tall chain link fence for the remainder of the perimeter. This fenced area is
732 approximately 12,500 square feet in size and measures roughly 100 feet wide by
733 125 feet deep.

734
735 The applicants, who happen to be siblings, purchased the lot in 2007. Shortly
736 thereafter, their parents relocated from Wyoming and moved in, bringing their
737 dogs with them. The merging of families resulted in them exceeding the number
738 of pets allowed by ordinance. There are currently six small dogs on the property
739 ranging in age from 12 to 16 years old. The dogs consist of two Jack Russell
740 terriers, two mixed-breed Pomeranians, one mixed-breed Schnauzer, and a
741 mixed-breed Shih Tzu. The dogs are kept primarily in the home and are let out in
742 a fenced yard area for exercise and play. Here you can see the Jack Russell.

743
744 When the applicants attempted to license their dogs earlier in the year, they were
745 informed that a kennel permit was required. A recent review of County records
746 indicates that no complaints have been filed against the property for noise or for
747 the keeping of animals in excess of County standards.

748
749 Moving on to evaluation. With respect to the consistency finding, the property is
750 zoned A-1 and is designated as Suburban Residential 1 on the Comprehensive
751 Plan. The keeping of pets is a customary and incidental use accessory to a one-
752 family dwelling. Although the maximum number of pets allowed by code is being
753 exceeded, the use is consistent with the zoning and Comprehensive Plan
754 designations.

755
756 Moving on to the detrimental impact. The area is rural in nature, consisting
757 predominantly of large-lot residential development and a few farming plots. While
758 it is customary to keep animals as pets more so in an agricultural district, six
759 small dogs is not inconsequential and could potentially impact neighbors,
760 primarily by way of noise. In this instance, the adjacent neighbors are also on
761 large-acreage lots, and the existing homes are spaced fairly apart. You can see
762 that on the aerial here.

763

764 Additionally, the applicant's fenced yard is set back from the side and the rear
765 property lines and is screened from the neighbors by the way of privacy fencing,
766 landscaping, and existing vegetation. The cumulative effective of fencing,
767 distance, and screening, should aid in minimizing noise and visual impacts.

768
769 Also, the applicants voluntarily requested the use permit upon learning that they
770 exceeded the County standards, thus the finding is not the result of a code
771 enforcement action.

772
773 The applicants have also indicated that they do not intend to add any more pets,
774 and the number of animals will be reduced by means of natural attrition over
775 time, especially considering the age of the dogs.

776
777 Thus, based on the current circumstances, no substantial detrimental impacts
778 are anticipated by staff.

779
780 In conclusion, the applicant's request is consistent with the zoning and
781 Comprehensive Plan designations for the property. The dogs are kept primarily in
782 the residence. Ample yard area is being provided for their wellbeing. And no
783 complaints have been filed against the property. Due to the large size of the lots
784 and the development pattern in the area, there appears to be no lasting or
785 substantial detrimental impacts associated with this request, and specific
786 conditions of approval have been prepared to mitigate any adverse impacts. For
787 these reasons, staff recommends approval subject to conditions.

788
789 This concludes my staff report, and I'll be happy to answer any questions.

790
791 Mr. Bell - Any questions? Thank you.

792
793 Mr. Armstrong - I'm Leonard Armstrong, father of my twins. We all
794 moved together, that's why we have all these dogs. We're animal lovers. And
795 they're all getting old like I am, I guess. I think the youngest one is like 14. So
796 again, attrition will take care of that. That's really all I have to say.

797
798 Mr. Bell - Questions?

799
800 Ms. Harris - Yes. Mr. Armstrong, about the neighbors. Do the
801 neighbors also have dogs?

802
803 Mr. Armstrong - Yes ma'am.

804
805 Ms. Harris - Both neighbors or?

806
807 Mr. Armstrong - Both neighbors, yes ma'am.

808

809 Ms. Harris - Okay, they do. Have you had any complaints at all to
810 you?
811
812 Mr. Armstrong - No ma'am.
813
814 Ms. Harris - And you say the youngest is 12. Is it 12 years?
815
816 Mr. Armstrong - Fourteen, ma'am.
817
818 Ms. Harris - Did the report say 14 or did the report say 12?
819
820 Mr. Armstrong - Is it twelve?
821
822 Unidentified Speaker - Twelve.
823
824 Mr. Armstrong - My boss tells me twelve. I'm sorry.
825
826 Ms. Harris - No problem. Those were my only questions. Thank
827 you.
828
829 Mr. Armstrong - Thank you.
830
831 Mr. Bell - Any questions?
832
833 Mr. Berman - Quick legal question. Is there an exemption for private
834 kennels on the noise ordinance?
835
836 Ms. Harris - I'm not aware of any.
837
838 Mr. Bell - Okay. Thank you, Mr. Armstrong.
839
840 Mr. Armstrong - Thank you very much.
841
842 Mr. Bell - Let's continue on.
843
844 Mr. Blankinship - Does anyone else intend to speak to this case? All
845 right, on to the next case.
846
847 **[After the conclusion of the public hearings, the Board discussed the case**
848 **and made its decision. This portion of the transcript is included here for**
849 **convenience of reference.]**
850
851 Mr. Bell - Do I hear a motion on this?
852
853 Mr. Mackey - Mr. Chairman, I move that we accept the County's
854 recommendation with the conditions included as well.

855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900

Mr. Bell - Do I hear a second?

Ms. Harris - Second. I feel that this family, they're good neighbors. And I think that they are trying to be fair to the animals that they have. I don't think that it will adversely affect the community if they maintain those dogs.

Mr. Bell - Any other discussion? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Mackey, seconded by Ms. Harris, the Board **approved** application **CUP2016-00008, KELLY AND KASEY ARMSTRONG's** request for a conditional use permit pursuant to Sections 24-12(e) and 24-52(a) of the County Code to allow a private noncommercial kennel at 4045 Darbytown Road (Parcel 830-690-2540) zoned Agricultural District (A-1) (Varina). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit only applies to the keeping of six small dogs as pets by the occupants of the property. All other applicable regulations of the County Code shall remain in force.
2. This permit is not for the commercial boarding or breeding of animals at any time.
3. No new or replacement animals may be added, so that the number of animals will be reduced by natural means to three, as allowed by code, at which time this permit shall expire.
4. The applicant shall maintain the property so that noise and odors are controlled. All pet waste shall be removed from the property at least once, every two weeks.
5. The existing fencing on the property shall be maintained in good repair and existing vegetative screening along the side property lines shall be kept in a healthy condition. Any dead plant material adjacent the sides of the fenced-in yard shall be replaced during the normal planting season.

Affirmative:	Baka, Bell, Berman, Harris, Mackey	5
Negative:		0
Absent:		0

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

901
902 **CUP2016-00009** **LAKEWOOD MANOR** requests a conditional use
903 permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary
904 modular sales office at 1900 Lauderdale Drive (Parcel 733-745-8147) zoned
905 General Residence District (R-6C) and Conservation District (C-1) (Tuckahoe).

906
907 Mr. Blankinship - Would everyone who intends to speak to this
908 application please stand and be sworn in. Do you swear the testimony you're
909 about to give is the truth, the whole truth, and nothing but the truth so help you
910 God?

911
912 Mr. McInnis - I do.

913
914 Mr. Blankinship - Thank you. Mr. Gidley?

915
916 Mr. Gidley - Thank you, Mr. Secretary. The subject property is the
917 Lakewood Manor Retirement Community. It's located at the intersection of
918 Lauderdale Drive and John Rolfe Parkway. This is a request for a temporary
919 sales facility to market new units that are planned for the community. Yesterday
920 evening I did receive a drawing of the site. This is Lauderdale Drive here, John
921 Rolfe Parkway. You come in here. The new facilities being proposed are some
922 villas on the northwest portion of the site, in this area. Over here, when it's
923 developed, it will be wellness apartments and some open space in this area. In
924 order to market these, they are proposing this temporary sales office.

925
926 Lakewood Manor is made up of three parcels of land that total 127 acres. Initial
927 development occurred in 1976, and over the years there have been a number of
928 improvements on the site.

929
930 The proposed sales center will be located on the northern portion of the site, just
931 off this entrance road that comes in off the intersection of Lauderdale and John
932 Rolfe. Here's a view of the road. This is the intersection down on Lauderdale.
933 You come in off of this side road here, and then the sales center will be located in
934 the wooded area along here.

935
936 The proposed sales center will consist of a triple-wide office trailer that is 39 feet
937 by 60 feet. It will be dressed up with hardy board siding to mimic the residential
938 look of the nearby units across the access road. And it will be landscaped as
939 well. As you can see on the site plan, there will be eight parking spaces,
940 including the two handicap spaces. The proposed trailer will be handicapped
941 accessible.

942
943 Evaluation. The site of the proposed sales center is zoned R-6C, General
944 Residence District. It's designation on the Land Use Plan is Multi-Family
945 Residential. It is not unusual for a developing community to receive approval for

946 a temporary sales trailer to market their units. The overall use of the property as
947 a life care and retirement facility is consistent with the Land Use Plan.
948

949 Across the street, these are the homes that I was referring to. The sales center
950 itself will be located 300 feet back from Lauderdale Drive. It is wooded on three
951 sides, so it would not be visible from adjacent properties. The only people who
952 would really see it are these units across the road here. Staff has not seen
953 specific elevations of the proposed trailer, but based on the description provided
954 by the applicant, there does not appear to be a substantial detrimental impact to
955 these units across the road. Again, these are part of Lakewood Manor, so it's in
956 the interest of Lakewood Manor to have a quality project, particularly for people
957 coming to look at potentially moving into the community.
958

959 In conclusion, the proposed sales center will facilitate the sale of new units for a
960 growing life care community. The office should only be visible from within the
961 Lakewood Manor complex, since the area on both sides and behind is wooded.
962 So long as the hours of operation are reasonable, staff can recommend approval
963 of the temporary sales office subject to the conditions found in the staff report.
964

965 Are there any questions I can answer for you?
966

967 Mr. Bell - Any questions?
968

969 Mr. Baka - Not of staff.
970

971 Mr. Bell - If there are no questions, thank you, Pau.
972

973 Mr. Gidley - Thank you, Mr. Chairman.
974

975 Mr. McInnis - I'm Jeff McInnis. Last name is spelled M-c, capital I,
976 n-n-i-s. I guess I represent the owner. I thought Mr. Sibold would be helping me.
977 If there are any questions on this project—obviously, people are getting older,
978 and we're looking for a new product. So we're looking at adding about 60 units in
979 the future.
980

981 Mr. Baka - I do have one question. I'm familiar with the three
982 phases of independent living, assisted living, and skilled nursing care. What does
983 a hybrid villa consist of?
984

985 Mr. McInnis - It's going to be new to Richmond. It's going to
986 basically be a combination of a single-family dwelling, like our cottages, but it has
987 some—how do say, some characteristics of an apartment building. Each unit in
988 that villa—which is ten residences—will have like two or three exposures to
989 natural light. What we have now is the middle units only have one exposure to
990 light. Just a small apartment building.
991

992 Mr. Baka - Thanks.
993
994 Mr. Bell - This is going to be built in sectional units? Are all
995 three units going in at the same time or will it be one and then—
996
997 Mr. McInnis - We are not sure on the phasing yet, whether we're
998 going to go ahead and build those two hybrid homes first or—we're going to be
999 taking down the entire building and then replacing it with a new community
1000 center.
1001
1002 Mr. Blankinship - Did you mean the hybrid villas or the sales trailer?
1003
1004 Mr. Bell - Sales office.
1005
1006 Mr. Baka - I think he meant the triple-wide.
1007
1008 Mr. Blankinship - The sales office.
1009
1010 Mr. McInnis - The sales office.
1011
1012 Mr. Blankinship - Are the three units of the sales office going to be
1013 brought all at once and assembled?
1014
1015 Mr. McInnis - Yes sir, yes.
1016
1017 Ms. Harris - Mr. McInnis, because this is a wooded area, are you
1018 going to have to cut down some trees?
1019
1020 Mr. McInnis - I believe we'll have a little tree removal. Not much.
1021
1022 Ms. Harris - Okay. I drove through. How many entrances do you
1023 have?
1024
1025 Mr. McInnis - One main entrance, and we have an emergency
1026 secondary entrance that's never really been used in the last ten years.
1027
1028 Ms. Harris - With so many people there, I was wondering about
1029 the one entrance.
1030
1031 Mr. McInnis - That is what the County has allowed us to have is just
1032 that one entrance for the primary. So far it's worked okay.
1033
1034 Ms. Harris - Plus the emergency. The one main entrance and the
1035 emergency.
1036
1037 Mr. McInnis - Just the one main entrance.

1038
1039 Ms. Harris - Thank you.
1040
1041 Mr. McInnis - Thank you.
1042
1043 Mr. Berman - What are the plans for the area for the temporary
1044 structure once it's removed? The parking lot and the structure.
1045
1046 Mr. McInnis - We will go back and seed and straw. It may be a
1047 potential site for another villa one day or another hybrid home. If we will sell
1048 them, we'll build them.
1049
1050 Mr. Berman - Thank you.
1051
1052 Mr. McInnis - Thank you.
1053
1054 Mr. Baka - One last question, sir. The parking appears to be
1055 sufficient. You have two handicap spaces shown and six additional, so a total of
1056 eight. And that may meet code. Just one comment or observation is I just wanted
1057 to ask if you'd given a thorough review to make sure that the two handicap
1058 spaces are sufficient when you have visitors coming to the marketing center that
1059 may have a higher likelihood to need handicap parking. Just wanted to
1060 encourage you to review that.
1061
1062 Mr. McInnis - Even right now, within the whole community, we only
1063 have really one truly handicap-accessible spot.
1064
1065 Mr. Baka - Okay. Thank you.
1066
1067 Mr. McInnis - Thank you.
1068
1069 Mr. Bell - Is there anyone else that would like to speak to this
1070 issue?
1071
1072 **[After the conclusion of the public hearings, the Board discussed the case**
1073 **and made its decision. This portion of the transcript is included here for**
1074 **convenience of reference.]**
1075
1076 Mr. Bell - Do I hear a motion?
1077
1078 Mr. Baka - Mr. Chairman, I'll make a motion that we approve
1079 CUP2016-00009, Lakewood Manor, on the grounds that this case does not
1080 adversely affect the health, safety, or welfare of the surrounding properties. And
1081 it's also intended to be a temporary use. I move to accept that with the conditions
1082 as drafted in the staff report.
1083

1084 Mr. Bell - Do I hear a second?
1085
1086 Mr. Berman - I second the motion.
1087
1088 Mr. Bell - Is there any discussion?
1089
1090 Ms. Harris - I think that the applicants need to be commended on
1091 keeping up with the latest trends for a retirement community.
1092
1093 Mr. Bell - Any other discussion? Hearing none, all in favor say
1094 aye. All opposed say no. The ayes have it; the motion passes.
1095
1096 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.
1097 Berman, the Board **approved** application **CUP2016-00009, LAKEWOOD**
1098 **MANOR's** request for a conditional use permit pursuant to Section 24-116(d)(1)
1099 of the County Code to allow a temporary modular sales office at 1900 Lauderdale
1100 Drive (Parcel 733-745-8147) zoned General Residence District (R-6C) and
1101 Conservation District (C-1) (Tuckahoe). The Board approved the conditional use
1102 permit subject to the following conditions:
1103
1104 1. This conditional use permit applies only to the approval of a temporary sales
1105 center. All other applicable regulations of the County Code shall remain in force.
1106
1107 2. Only the improvements shown on the plot plan and building design (with the
1108 addition of hardy board siding) filed with the application may be constructed
1109 pursuant to this approval. Any additional improvements shall comply with the
1110 applicable regulations of the County Code. Any substantial changes or additions
1111 to the design or location of the improvements shall require a new conditional use
1112 permit.
1113
1114 3. A detailed landscaping and lighting plan shall be submitted to the Planning
1115 Department with the building permit for review and approval.
1116
1117 4. All exterior lighting shall be shielded to direct light away from residences and
1118 streets.
1119
1120 5. All landscaping shall be maintained in a healthy condition at all times. Dead
1121 plant materials shall be removed within a reasonable time and replaced during
1122 the normal planting season.
1123
1124 6. The trailer shall be skirted on all sides with a durable material as required by
1125 the building code for a permanent installation.
1126
1127 7. On or before June 1, 2017, the applicant shall submit a report to the Planning
1128 Department detailing plans for replacement office space.
1129

- 1130 8. The trailer shall be removed from the property on or before June 1, 2018, at
 1131 which time this permit shall expire. This permit shall not be renewed.
 1132
 1133 9. The sales center shall be connected to public water and sewer.
 1134
 1135 10. Before beginning any clearing, grading, or other land disturbing activity, the
 1136 applicant shall submit an environmental compliance plan to the Department of
 1137 Public Works.
 1138
 1139 11. The parking lot, driveways, and loading areas shall be subject to the
 1140 requirements of Section 24-98 of Chapter 24 of the County Code.
 1141
 1142 12. Fire lanes shall be marked and maintained in accordance with the Fire
 1143 Prevention Code.
 1144
 1145 13. All traffic control signs shall be fabricated as shown in the Virginia Manual of
 1146 Uniform Traffic Control Devices for Streets and Highways.
 1147
 1148 14. All trash shall be in closed containers with regular pickups, the containers
 1149 shall be properly screened, and the area shall be kept clean.
 1150

1151
 1152 Affirmative: Baka, Bell, Berman, Harris, Mackey 5
 1153 Negative: 0
 1154 Absent: 0
 1155

1156
 1157 **[At this point, the transcript continues with the public hearing on the next**
 1158 **case.]**
 1159

1160 Mr. Blankinship - We're finished with conditional use permits for this
 1161 morning. We have one variance request this morning.
 1162

1163 **VAR2016-00008** **JEFFERY A. STEIL** requests a variance from Section
 1164 24-94 of the County Code to build a one-family dwelling at 1484 Old
 1165 Williamsburg Road (Parcel 834-715-8140) zoned Agricultural District (A-1)
 1166 (Varina). The lot width requirement is not met. The applicant has 105 feet lot
 1167 width, where the Code requires 150 feet lot width. The applicant requests a
 1168 variance of 45 feet lot width.
 1169

1170 Mr. Blankinship - Would everyone who intends to speak to this case
 1171 please stand and be sworn in. Do you swear the evidence you're about to give is
 1172 the truth, the whole truth, and nothing but the truth so help you God?
 1173

1174 Mr. Steil - I do.
 1175

1176 Mr. Blankinship - Thank you. Mr. Madrigal.

1177

1178 Mr. Madrigal - Thank you, Mr. Chair, members of the Board.

1179

1180 The subject property is slightly under one acre in size and measures 105 feet
1181 wide by 420 feet deep. The lot is currently unimproved. It is relatively flat and
1182 densely wooded. It is located within a narrow strip of agriculturally zoned land
1183 that abuts Interstate 64 to the north and is flanked by light industrial zoning on
1184 the east and west.

1185

1186 Approximately 200 feet to the west of the site is a large auto auction business.
1187 The land to the east of the site is undeveloped and densely wooded. The south
1188 side of the street is zoned agricultural and residential. It is predominately
1189 improved with single-family dwellings with the exception of the VFW Post, which
1190 sits diagonally from the subject site. You can see that here.

1191

1192 The subject property was originally part of a 30-acre tract of agriculturally zoned
1193 land. In 1947, the subject lot was created by deed from that original acreage. The
1194 current property owner purchased the lot in 1990 and has held it since then. The
1195 applicant is a contract purchaser who wishes to construct a two-story, 2,300
1196 square-foot residence with an attached two-car garage.

1197

1198 Since the lot was created prior to 1960, it qualifies for the pre-1960 exception
1199 standards of the Code. Under these standards, the Code requires a minimum lot
1200 area of 30,000 square feet and a lot width of 150 feet, assuming connection to
1201 County water. The applicant does not meet the minimum lot width requirement
1202 and is requesting a variance from that standard.

1203

1204 With respect to the threshold question, the property has been in its current
1205 configuration for the last 69 years and is not large enough to accommodate an
1206 agricultural use. A one-family dwelling would be the most reasonable use of the
1207 property based on its size.

1208

1209 Although another portion of Williamsburg Road is predominantly zoned for light
1210 industrial, the southern side of the street has mixed zoning and consists
1211 predominately of single-family residences with exception to the VFW Post.
1212 Unless the applicant acquires additional land, which he has attempted to do, or
1213 he obtains a variance for lot width, he cannot make reasonable use of the
1214 property as it currently stands, which results in the creation of a hardship.

1215

1216 Of the five required tests for a variance, staff has found that both the applicant
1217 and the property owner satisfy item number 1, acquiring the property in good
1218 faith, and the current situation is not self-inflicted.

1219

1220 Item number 2, staff does not anticipate any substantial detrimental impacts to
1221 adjacent properties if the variance is approved. From a zoning perspective,

1222 granting the variance would bring the property into parity with the existing homes
1223 on the south side of the street. From a Comprehensive Plan perspective, the
1224 current zoning and proposed use are inconsistent with the industrial designation
1225 on the north side of the street. A consideration for the Board in this decision
1226 would be whether by approving the applicant's request, could it potentially impact
1227 future rezoning and commercial development opportunities on that side of the
1228 street, especially if the surrounding A-1 property develops into more homes.

1229

1230 Item number 3, staff has found the circumstances surrounding the request
1231 unique and not of a general or recurring nature that warrants legislative relief. As
1232 previously mentioned, the lot is not large enough to accommodate an agricultural
1233 use, and the proposed dwelling is the highest and best use of the property as it
1234 currently stands. Although the use is inconsistent with the Comprehensive Plan
1235 designation, it is consistent with the zoning designation, the development pattern
1236 across the street, and the existing residential neighborhoods to the west.

1237

1238 Item number 4, the applicant is requesting a waiver of a development standard in
1239 order to develop a single-family dwelling. Approval of this request will not result in
1240 a change of the zoning classification or a use issue.

1241

1242 And item number 5, the Zoning Ordinance does not allow for a special exception
1243 or a modification in this case.

1244

1245 In conclusion, as applied to the property, the Zoning Ordinance would effectively
1246 prohibit the only reasonable use of the property, creating a substantial hardship.
1247 Granting the applicant's request will alleviate that hardship and bring the property
1248 into parity with other homes. In the short term, staff does not anticipate any
1249 substantial detrimental impacts from the proposed use on adjacent properties.
1250 And notwithstanding the inconsistency between the zoning and Comprehensive
1251 Plan designations, staff recommends approval subject to the proposed
1252 conditions.

1253

1254 This concludes my presentation. I'll be happy to answer any questions.

1255

1256 Mr. Bell - Any questions.

1257

1258 Ms. Harris - Yes. Mr. Madrigal, condition number 5, "the proposed
1259 dwelling shall be served by County water." Should we also put "or a septic
1260 system"? I noticed in your report, in your evaluation, you said that they should
1261 obtain approval of a septic system and connect to County water. Should we put
1262 the septic system requirement in the condition?

1263

1264 Mr. Blankinship - If you don't mind my answering. If they were able to
1265 connect to public sewer, we would prefer that. Normally we would not list that as
1266 a requirement that they connect to a septic system.

1267

1268 Ms. Harris - Okay.
1269
1270 Mr. Madrigal - That is essentially their only option. Since there is no
1271 sewer connection, they have to go with a septic system. And I think the applicant
1272 has said that because of the soil conditions, they're going to have to go with an
1273 alternative system.
1274
1275 Ms. Harris - Okay. Thank you.
1276
1277 Mr. Bell - Any other questions? Thank you.
1278
1279 Mr. Steil - Good morning, everyone. My name is Jeff Steil. Last
1280 name S-t-e-i-l. I'm the applicant who's proposed and been accepted by the
1281 current landowner for a conditional purchase of this property contingent upon the
1282 Board's approval of the variance request.
1283
1284 Mr. Bell - And you did ask the adjacent property owner if he
1285 would sell you the land, like your letter said, and he said that he would not sell it.
1286
1287 Mr. Steil - I did. Oh, it's not in here? Okay. I don't have a picture
1288 of that handy. This is a pretty good indication, if you kind of take a look of this
1289 picture here. Basically, my proposal was—the property as mentioned is 105 feet
1290 across. Ed James, who lives in Goochland, is the landowner of the 12 acres that
1291 surrounds this piece of property on three sides. My proposal to him was to
1292 purchase this piece right here, basically taking the back of the lot, coming straight
1293 across to the adjacent landowner here, and basically striking at a right-angle line
1294 straight down to the front of the property line here. This would have given me an
1295 additional—I should back up a little bit.
1296
1297 Not knowing what this was going to entail as far as the time it was going to take
1298 to get the approval of a variance, that's when I in parallel sought out Mr. James
1299 and proposed to him to purchase 45 feet of the frontage here, which would have
1300 given me not only the greater-than-one-acre requirement, but also the frontage of
1301 150 feet. He has since listed his property for sale, the 12 acres he's got there for
1302 sale. He had bought I think in the '70s. He said his intention was to develop it and
1303 it never happened. Now he's looking to sell it. Obviously, he's getting up in age.
1304
1305 He didn't want to sell that frontage due to the fact that he felt that it would detract
1306 from the value of his property, which I believe he has that 12 acres listed for
1307 \$130,000. I am still in pursuit with him, in discussions with him to purchase this
1308 piece right here, which is a third of an acre. It's about 14,000 square feet. A
1309 couple of reasons. Number one is I think this piece of property here is pretty
1310 much useless to whoever purchases the 12 acres. It would expand my property
1311 by 30 percent, making it an acre and a third as opposed to just under an acre.
1312

1313 If you look at the topography of this property, there's a wetlands area here. I've
1314 actually had a member of the—I can't think of the department—the Wetlands
1315 Department. Her name was Robin. I can't remember her last name. But she met
1316 me out there to review the nature of the soil and whether or not it was protected
1317 with the wetlands. This portion back here is in fact protected. But her evaluation
1318 and assessment based on the distance of where the structure would be placed
1319 on the line that it would not—of course it has to go through that formal review
1320 process where she'd have to review it down the road, but her initial assessment
1321 was that we were well clear of the wetlands area to proceed with our intentions to
1322 do this.

1323
1324 So Mr. James, I'm still trying to reach out to him to pursue the purchase of that
1325 piece of property to the west of this proposed lot.

1326
1327 Mr. Bell - Thank you. Any other questions?
1328

1329 Mr. Baka - No questions. I'd like to compliment the applicant for
1330 making a reasonable good faith effort to try to obtain that property. We've talked
1331 about this in previous variance cases where the applicant takes steps to exhaust
1332 all other practical options before the variance is offered as a remedy. So thank
1333 you to the applicant and the staff for putting that together. I appreciate that.
1334

1335 Mr. Steil - I guess the other thing I didn't point out is—the other
1336 thing is I talked about the way this property line—as you go the east of the line, if
1337 you look at that satellite image, you can see there's kind of a natural ravine that's
1338 created there. So the further I can move to the west of the property line to build
1339 the structure the better off I'm going to be because it's higher as you go to the
1340 west.

1341
1342 With what I proposed here, if I was able to purchase that, it would give me
1343 another 15 feet at the front of the property to work with for home placement,
1344 because I believe the setback is 20 feet, your foundation has to be 20 feet off of
1345 the property line at the front of the structure. And then of course it would be a
1346 long, deep structure, about 75 feet deep at the back. It would give me another 25
1347 feet for the back.

1348
1349 Mr. Bell - Thank you. Is there anyone else here who would like
1350 to speak to this issue? If not, that concludes the agenda, I believe. We can go
1351 right on to the vote.

1352
1353 **[After the conclusion of the public hearings, the Board discussed the case**
1354 **and made its decision. This portion of the transcript is included here for**
1355 **convenience of reference.]**

1356
1357 Mr. Bell - Do I hear a motion on this?
1358

1359 Mr. Berman - I move that we approve the variance as
1360 recommended by staff for both the acreage and the lot width and conditions
1361 recommended by staff.

1362
1363 Mr. Bell - Do I hear a second?

1364
1365 Ms. Harris - I'll second it because it seems that they won't be able
1366 to use this property in any other capacity if this variance were not granted.

1367
1368 Mr. Bell - Is there any other discussion? Hearing none, all in
1369 favor say aye. All opposed say no. The ayes have it; the motion passes.

1370
1371 After an advertised public hearing and on a motion by Mr. Berman, seconded by
1372 Ms. Harris, the Board **approved** application **VAR2016-00008, JEFFERY A.**
1373 **STEIL's** request for a variance from Section 24-94 of the County Code to build a
1374 one-family dwelling at 1484 Old Williamsburg Road (Parcel 834-715-8140) zoned
1375 Agricultural District (A-1) (Varina). The Board approved the variance subject to
1376 the following conditions:

1377
1378 1. This variance applies only to the lot width requirement for one dwelling only.
1379 All other applicable regulations of the County Code shall remain in force.

1380
1381 2. Only the improvements shown on the plot plan and building design filed with
1382 the application may be constructed pursuant to this approval. Any additional
1383 improvements shall comply with the applicable regulations of the County Code or
1384 as amended by these conditions of approval. Any substantial changes or
1385 additions to the design or location of the improvements will require a new
1386 variance.

1387
1388 3. Approval of this request does not imply that a building permit will be issued.
1389 Building permit approval is contingent on Health Department requirements,
1390 including, but not limited to, soil evaluation for a septic drain field and reserve
1391 area.

1392
1393 4. Before beginning any clearing, grading, or other land disturbing activity, the
1394 applicant shall submit an environmental compliance plan to the Department of
1395 Public Works.

1396
1397 5. The proposed dwelling shall be served by county water.

1398
1399
1400 Affirmative: Baka, Bell, Berman, Harris, Mackey 5
1401 Negative: 0
1402 Absent: 0

1403
1404

1405 Mr. Bell - That concludes the voting on the agenda. We will
1406 proceed right on to voting on the minutes of April 28th.

1407
1408 Ms. Harris - Mr. Chairman, before we move to the minutes, I think
1409 that staff needs to be complimented on their comprehensive reports. There is a
1410 lot of work that goes into preparing this for us. To see the thoroughness is
1411 something that we don't take for granted. We'd just like to say thank you for
1412 making our jobs a little bit easier.

1413
1414 Mr. Blankinship - Thank you very much.

1415
1416 Mr. Baka - I agree.

1417
1418 Mr. Bell - And also very informative and educational. We
1419 appreciate that too. Everybody here has different levels of experience, so what
1420 you put in your reports the last several weeks has helped a lot.

1421
1422 Mr. Berman - Is 32 conditions a record?

1423
1424 Ms. Harris - I think we had one case that had 60-some. I think that
1425 also had to do with a landfill.

1426
1427 Mr. Bell - So we'll go ahead once again and vote on the
1428 approval of the minutes from April the 28th. Do I hear a motion on the minutes?

1429
1430 Mr. Berman - I move that we waive the reading of the minutes and
1431 submit them into record as indicated.

1432
1433 Mr. Bell - Do I hear a second on the motion?

1434
1435 Ms. Harris - Second.

1436
1437 Mr. Bell - Is there any discussion? Hearing none, all in favor say
1438 aye. All opposed say no. The ayes have it; the motion passes.

1439
1440 On a motion by Mr. Berman, seconded by Ms. Harris, the Board **approved as**
1441 **submitted the Minutes of the April 28, 2016**, Henrico County Board of Zoning
1442 Appeals meeting.

1443
1444
1445 Affirmative: Baka, Bell, Berman, Harris, Mackey 5
1446 Negative: 0
1447 Absent: 0

1448
1449

1450 Mr. Bell - Is there any other new or old business we'd like to
1451 discuss at this time? Hearing none, we'll go on to vote to adjourn. Do I hear a
1452 motion that we adjourn?

1453

1454 Mr. Baka - So moved.

1455

1456 Mr. Bell - Do I hear a second?

1457

1458 Mr. Mackey - Second.

1459

1460 Mr. Bell - All in favor say aye. All opposed say no. The ayes
1461 have it; the motion passes.

1462

1463

1464 Affirmative: Baka, Bell, Berman, Harris, Mackey 5

1465 Negative: 0

1466 Absent: 0

1467

1468

1469

1470

1471

1472

1473

1474

1475

1476

1477

1478

1479

1480

1481



Gentry Bell
Chairman



Benjamin Blankinship, AICP
Secretary