

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE BOARD ROOM OF THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, SEPTEMBER 22, 2005, AT 9:00 A.M., NOTICE HAVING**
5 **BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH ON SEPTEMBER 1 AND**
6 **8, 2005.**
7

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

Also Present: **David D. O’Kelly, Assistant Director of Planning**
 Benjamin Blankinship, Secretary
 Paul M. Gidley, County Planner
 Priscilla M. Parker, Recording Secretary

8
9 Mr. Nunnally - I call the meeting of the County of Henrico Board of Zoning
10 Appeals to order. We please ask you to stand and **Pledge of Allegiance to the Flag**
11 **of Our Country.** Mr. Secretary, before I ask you to read the rules on these cases, I
12 would like to say to the ladies and gentlemen here today, that we received word this
13 morning that Mr. John Marlles, the Director of Community Revitalization and
14 Maintenance, passed away yesterday, so if you will, we’d like to have a moment of
15 silence in his honor. Amen. All right, Mr. Blankinship, would you read the rules and
16 procedures, please.
17

18 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
19 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
20 case. Then at that time the applicant should come to the podium. The Chairman will
21 then ask everyone who intends to speak, in favor or in opposition, to stand and be
22 sworn in. The applicants will then present their testimony. After the applicant has
23 spoken, anyone else who wishes to testify will be given the opportunity. After everyone
24 has spoken, the applicant, and only the applicant, will have an opportunity for rebuttal.
25 After hearing the case, and asking questions, the Board will take the matter under
26 advisement. They will render all of their decisions at the end of the meeting. If you wish
27 to know their decision on a specific case, you can either stay until the end of the
28 meeting, or you can call the Planning Office later this afternoon, or you can check the
29 website. The vote on each case will be posted to our website within an hour of the end
30 of the meeting. This meeting is being tape recorded, so we will ask everyone who
31 speaks, to speak directly into the microphone on the podium, to state your name, and to
32 spell your last name please. And finally, out in the foyer, there are two binders,
33 containing the staff report for each case, including the conditions that have been
34 recommended by the staff. Mr. Chairman, we have one request to defer, A-94-2005,

35 Robert C. Irby III. Mr. Irby called me yesterday, and his arrangements to care for a
36 daughter with serious medical issues, fell through.

37
38 Mr. Nunnally - Do I hear a motion on that?

39
40 Mr. Wright - So moved.

41
42 Mr. Kirkland - Second.

43
44 Mr. Blankinship - It's a motion to defer by Mr. Wright, seconded by Mr.
45 Kirkland.

46
47 Mr. Nunnally - All in favor, say aye. Opposed, no. It's been deferred.

48
49 **Beginning at 9:00**

50
51 New Applications

52
53 **A - 61-2005** **SHERMAN AND MILDRED CLARK** request a variance from
54 Section 24-95(c)(4) to build a covered front porch at 7306 Kenneth
55 Drive (Oakmont) (Parcel 776-751-3922), zoned R-4, One-family
56 Residence District (Brookland). The front yard setback is not met.
57 The applicants have 29 feet front yard setback, where the Code
58 requires 35 feet front yard setback. The applicants request a
59 variance of 6 feet front yard setback.

60
61 Mr. Nunnally - Does anyone else here care to speak on this case? If so,
62 would you please stand and raise your right hand?

63
64 Mr. Blankinship - Do you swear that the testimony you are about to give is the
65 truth, the whole truth, and nothing but the truth, so help you God?

66
67 Mr. Clark - I do. I'm Sherman Clark. I'm the owner of the property at
68 7306 Kenneth Drive, Richmond, Virginia, 23228, and I'm requesting a variance of six
69 feet to build a covered front porch on my property.

70
71 Mr. Nunnally - Are there any houses out near your location with a front
72 porch across?

73
74 Mr. Clark - Yes sir, there are several of them. The houses were built
75 around 1950. The laws took effect after this neighborhood was built, and several of
76 them already had front porches built on when they were built. I'm just requesting a
77 variance to match. As you can see in the pictures, my next-door neighbor has a
78 covered front porch.

79
80 Mr. Kirkland - Mr. Blankinship, there wouldn't be any need for a variance

81 just to cover the existing porch, would there?
82
83 Mr. Blankinship - They can build a cover six feet wide that extends no more
84 than four feet into the setback. And of course, they can replace the stoop without a
85 variance at all. It's just the roof that we're concerned with.
86
87 Mr. Kirkland - Sir, what is the exact size of your existing stoop?
88
89 Mr. Clark - I believe it's four feet by six feet.
90
91 Mr. Kirkland - So you understand that you wouldn't need a variance just to
92 cover that up?
93
94 Mr. Clark - Yes sir, the reason I'm requesting a variance is, my wife is
95 currently on disability, and I'm planning for the future, to eliminate as much steps for her
96 to go sit outside as possible.
97
98 Mr. Kirkland - How long have you owned the house?
99
100 Mr. Clark - Since 2000. I've already put \$75,000 in the home
101 improvements on the house.
102
103 Ms. Dwyer - It looks like the front of the house is actually on the setback
104 line, is that how you read that, Mr. Kirkland?
105
106 Mr. Kirkland - Yes.
107
108 Mr. Clark - Actually, my house sits further back than my neighbors on
109 the other photograph, further back than the other residents.
110
111 Ms. Harris - Mr. Clark, I see that this request was scheduled to be
112 submitted to the Board of Supervisors on September 13. Was that done?
113
114 Mr. Clark - As far as I know, yes ma'am.
115
116 Mr. Blankinship - Yes ma'am, it was.
117
118 Ms. Harris - What was the outcome?
119
120 Mr. Blankinship - The Board vacated the building line.
121
122 Ms. Dwyer - What exactly does that mean?
123
124 Mr. Blankinship - The building line on an older subdivision plat is viewed
125 almost as an easement. It's not an easement exactly, but the Real Property and the
126 County Attorney's Office have determined that the County has almost an ownership

127 interest in that building line, so in order for anybody to build closer to the street than that
128 building line, the Board of Supervisors has to agree to remove the building line from
129 that lot, essentially.

130
131 Ms. Dwyer - So the building line is an old form of setback?

132
133 Mr. Blankinship - Yes.

134
135 Mr. Wright - Mr. Blankinship, this porch would be similar to the ones that
136 have already been built, is that correct?

137
138 Mr. Blankinship - Yes sir, and we did research to see if any variances had
139 been granted for the other porches, and I couldn't find any records of any.

140
141 Mr. Wright - They were all built under the old law?

142
143 Mr. Blankinship - Yes sir.

144
145 Mr. Wright - And this would not extend any closer to the street than the
146 other porches that are already built along there?

147
148 Mr. Blankinship - The houses are not exactly lined up, as the applicant said.
149 Some of them are forward, and some are back.

150
151 Mr. Wright - If this were built as he requested, would he be in the same
152 line as far as the street is concerned, as the other houses that are on the street?

153
154 Ms. Dwyer - In the aerial photograph, it appears that they're all roughly
155 aligned.

156
157 Mr. Blankinship - Roughly. He'd probably be coming closer to the street than
158 7302.

159
160 Mr. Kirkland - How about 7304?

161
162 Mr. Blankinship - 7304 kind of has a jog in it.

163
164 Mr. Kirkland - Is that the one we have a picture of?

165
166 Mr. Clark - The one we have a picture of, if I may interject, I've
167 measured it, it's approximately, my house sits two feet further back than their house.

168
169 Mr. Kirkland - Which house was pictured there, Mr. Blankinship, with the
170 porch on it like that?

171
172 Mr. Clark - That's 7304.

173
174 Mr. Blankinship - Yes, I believe that is 7304.
175
176 Mr. Kirkland - So that one's closer.
177
178 Mr. Wright - There's nothing in the Ordinance or the Code that would
179 give somebody who purchased a house here the opportunity to do what the neighbors
180 have done, since the law has been changed?
181
182 Mr. Blankinship - No sir.
183
184 Ms. Dwyer - Mr. Clark, you have lived in your house since 2000 and had
185 use and enjoyment of that home for that period of time without this additional porch, is
186 that correct?
187
188 Mr. Clark - Yes ma'am.
189
190 Mr. Harris - Mr. Blankinship, what effect does the Board of Supervisors'
191 action in vacating that building line have on his request to build his porch?
192
193 Mr. Blankinship - The applicant would have to receive both the variance and
194 the vacation, so if the Board of Supervisors had denied the vacation, then this hearing
195 would be moot. But since that request was approved, this Board now needs to go
196 through with the variance hearing.
197
198 Mr. Nunnally - Any other questions of Mr. Clark? Do we have someone
199 here in opposition? Would you come forward sir? Would you have a seat, Mr. Clark,
200 and you'll have time to rebut.
201
202 Mr. Bryant - I'm Nelson Bryant. I reside in the Oakmont Subdivision on
203 Kenneth Drive. I've looked at the file on this case, and I'm not clear as to the hardship
204 that would warrant the variance in this case. I'm asking, I guess, where is the hardship,
205 to put on a sizeable porch of this nature? We've already stated the stoop can be
206 covered if that's necessary. Actually, the home has a cover or shelter over it now, as
207 you can see from the photograph. The only concern that I have, and several others, but
208 I'll speak to my concern, is that the owner is asking for this large a porch on here for
209 possible enhancement for resale. The house had been on the market in the spring, and
210 the contract, as I understand it, was pulled away because the owner didn't get what he
211 felt he could for the house, which would, as it turned out, the other house at 7304, which
212 we just looked at in the photo, that was up for sale about the same time. They got a
213 good price I think. Anything other \$100,000 in these homes surprises me today, but
214 they got a good price for the home. They have an addition on the back, which warrants
215 that increase. It's my understanding that the owner was not happy with the contract and
216 the offer for his home. He couldn't get the price and therefore pulled it off the market.
217 That's my understanding. That may be the wrong case for putting this thing on, but
218 again I ask if there's a particular hardship here that would warrant that size porch, I

219 would be not opposed as long as the drawings and proper description are made,
220 improvements are the same as building construction in that area with a brick porch,
221 painted lumber, asphalt shingles. Otherwise, there are in the back of the property,
222 there's exposed, treated lumber, and that's what I'm concerned about, as well as some
223 of the other neighbors in the area. That's all I have for opposition.

224
225 Mr. Kirkland - Mr. Bryant, what is your address?

226
227 Mr. Bryant - 7305 Kenneth Drive. We're just across the street.

228
229 Mr. Nunnally - Any other questions of Mr. Bryant?

230
231 Mr. Wright - Do you have a porch on your house?

232
233 Mr. Bryant - No, actually, the style of the house is similar to the house in
234 question here, 7306. It has that shelter, the overhang, which comes out the full length
235 of the house.

236
237 Mr. Nunnally - Thank you Mr. Bryant. Anyone else in opposition? Mr.
238 Clark, do you want to rebut? Let me ask you one question. I think Mr. Bryant said the
239 only reason you wanted to put that porch on there was to get more money for the house
240 or something like that, but didn't you say your wife had a handicap, or something?

241
242 Mr. Clark - Yes sir, she currently got emphysema, and she has arthritis
243 in her spine. His recollection that I'm improving the house to sell, I wouldn't get my
244 money back that I've put in, and when I put the house on the market, I was trying to see
245 how much it was worth to refinance.

246
247 Mr. Wright - You said that you need a larger porch to accommodate your
248 wife. Explain why you would need a larger porch for that.

249
250 Mr. Clark - The way I'm planning for the future is, she has emphysema,
251 and eventually she's going to be on oxygen, and I want to build the porch for her to be
252 able to sit out front and watch the birds, and if it's raining, she can still sit outside.

253
254 Ms. Dwyer - Mr. Clark, it may be useful to talk a little bit about what the
255 jurisdiction of the Board of Zoning Appeals is at this point. The kind of hardship that we
256 have to consider is not a hardship related to the occupants of the home, so it's not
257 related to the health of anyone in the house. It's related to the land. What the Supreme
258 Court has said, if we fail to grant the variance that renders your property unusable – I'm
259 paraphrasing, but basically if it's not usable because we deny the variance, then we
260 have the jurisdiction to consider the case. When I look at your case, I see that you have
261 full use and enjoyment of your home without this porch, so in the way that I look at the
262 law that governs the way that we have to act, we don't have the jurisdiction to authorize
263 this porch. Our purpose is to prevent an unconstitutional result. If you would not be
264 able to use your property in that sort of case, then we would have the jurisdiction to

265 consider a lot of other questions, such as whether it's detrimental to the neighbors, or
266 whether it's an improvement, or that kind of thing.

267
268 Mr. Clark - I understand. When he said it was a detriment to him, his
269 house is falling apart. Now I know where he's coming off.

270
271 Ms. Dwyer - Actually, that's not relevant. The relevant question is, do you
272 have use and enjoyment of your property without the porch, and if the answer's yes,
273 then we don't have jurisdiction to authorize that porch. So none of that is really
274 relevant.

275
276 Mr. Clark - Okay. I see where you're coming from now.

277
278 Mr. Nunnally - Thank you, Mr. Clark. Anyone else? That concludes the
279 case. A-61-2005.

280
281 Mr. Kirkland - I make a motion that we deny this case.

282
283 Mr. Nunnally - Moved by Mr. Kirkland that we deny it.

284
285 Ms. Dwyer - Second.

286
287 Mr. Nunnally - Second by Ms. Dwyer. All in favor, say aye. Opposed? It's
288 denied.

289
290 Mr. Kirkland - Reason being, the Cochran case.

291
292 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
293 Dwyer, the Board **denied** application **A-61-2005** for a variance to build a covered front
294 porch at 7306 Kenneth Drive (Oakmont) (Parcel 776-751-3922).

295
296 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

297 Negative: 0

298 Absent: 0

299
300 The Board denied your request as it did not find from the evidence presented that there
301 was any "hardship approaching confiscation" as required by § 15.2-2309 of the Code of
302 Virginia to justify a variance.

303
304 **UP- 21-2005** **COLE SHOWS** requests a temporary conditional use permit
305 pursuant to Section 24-116(c)(1) to operate a carnival at 10101
306 Brook Road (Parcel 785-771-0111), zoned B-3C, Business District
307 (Conditional) (Fairfield).

308
309 Mr. Wright - Does anyone else desire to speak on this case? If so,
310 please stand and raise your right hand and be sworn?

311
312 Mr. Blankinship - Do you swear that the testimony you are about to give is the
313 truth, the whole truth, and nothing but the truth, so help you God?
314
315 Mr. Weber - Yes sir. Ron Weber. I'm here on behalf of Cole Shows and
316 Virginia Center Commons to request a variance for a carnival that they've held annually
317 there for several years.
318
319 Mr. Wright - This is not a variance sir; it's a use permit.
320
321 Mr. Weber - I'm sorry, a use permit. In the fall, they do it for just five
322 days, Wednesday through Sunday, the 19th through the 23rd. All the conditions that are
323 in the staff report, that we've had previously, we certainly agree to again, with the police
324 and the proper permitting for the rides, and the food with the Health Department, and
325 we have permission from the landlord, who encourages us to do it.
326
327 Ms. Dwyer - Are you the same company who's done this in the past?
328
329 Mr. Weber - Yes, they are.
330
331 Ms. Dwyer - Have we had any complaints about any of the past events?
332
333 Mr. Blankinship - I'm not aware of any complaints. We did have some
334 discussion with the Division of Police about this particular permit, because apparently in
335 the past, the Board has put the condition on the use permit that they have to coordinate
336 with the Police, etc., and it hasn't really gotten done on any formal level. The Police
337 haven't really been called to respond to incidents or anything, but they have felt
338 uncomfortable with the response that they've been getting from the applicants.
339
340 Mr. Weber - We've hired. I've gone through Sgt. Gray every time, so I'm
341 confused, because I call him, and he sends me a form, and we hire so many Police, I
342 thought thatyou're saying there's another formal

343
344 Mr. Blankinship - Not that there's another form that needs to be filled out, but
345 that they need more information from you in advance.
346
347 Mr. Weber - I just thought that since I was dealing with the Police, that
348 they were letting everybody else know.
349
350 Mr. Kirkland - Off duty police that you use comes under a different group
351 than letting the whole Police Department know exactly what you're doing there. You're
352 doing a hiring/firing deal, and

353
354 Mr. Weber - The form that comes, I even have it, it says Division of Police
355 on it, but I can certainly

356

357 Mr. Kirkland - The Police Department needs your overall plan – emergency
358 contacts, all this type thing.
359

360 Mr. Weber - I'll just ask Sgt. Gray who's the proper contact just for that.
361

362 Ms. Dwyer - Do we know who that is?
363

364 Mr. Blankinship - Kim Vann is the officer to work through.
365

366 Mr. Weber - Actually, I did talk to her last year too. I talked to her first.
367

368 Ms. Harris - Did you expand the number of rides and concession stands,
369 or is it identical to last year?
370

371 Mr. Weber - It's identical to last year. It's a nice little small area, so you
372 can keep it limited too.
373

374 Ms. Harris - I remember seeing it. The other question I have is about the
375 insurance; I notice that on our conditions, we don't mention the insurance, and some of
376 the other conditional permits, we do.
377

378 Mr. Weber - To be permitted for amusement rides in Virginia, you have to
379 carry, it's only \$500,000, but we carry \$2,000,000 in insurance. The Henrico County
380 Building Official handles it for the State here.
381

382 Ms. Harris - I noticed, Mr. Blankinship, that on other permits, that we did
383 mention insurance, so should that be one of our conditions too, is what I'm asking. We
384 had another case that I notice that we did mention insurance.
385

386 Mr. Blankinship - Oh, right, the one

387

388 Ms. Dwyer - The one on Gayton and Ridgefield.
389

390 Mr. Blankinship - We should certainly use the same

391

392 Mr. Kirkland - I think # 3 would address that.
393

394 Ms. Harris - We specifically addressed insurance in one of the permits
395 we have for today. It'll come up later. I was thinking that maybe we need to

396

397 Ms. Dwyer - I think in that case, I noticed too, that we didn't say anything
398 about building inspections in the other case, so you're right, they're not parallel. If
399 Building Inspections makes sure that they have insurance, I guess they're covered.
400

401 Mr. Weber - In order to use the right permit from the building department,
402 you have to show proof of insurance.

403
404 Ms. Harris - But since you already have more than enough, I would think
405 that the condition might guard the County of Henrico, or protect our interests.
406
407 Mr. Nunnally - Any more questions for Mr. Weber? Anyone in opposition?
408 That concludes the case. UP-21-2005.
409
410 Ms. Harris - I move that we approve this; however, add a condition
411 limiting to at least a million dollars worth of insurance.
412
413 Mr. Blankinship - Was that actually one of our conditions, or was it something
414 required by the landlord on the other case?
415
416 Ms. Harris - The landlord agreement.
417
418 Mr. Blankinship - So you want to make it a condition on this one?
419
420 Mr. Nunnally - A million dollar limit, you say, Ms. Harris?
421
422 Ms. Harris - Yes – minimum.
423
424 Ms. Dwyer - Now is that an insurance policy protecting the County, or
425 naming the County as an insured, or
426
427 Mr. Kirkland - Seems like that would be liability insurance.
428
429 Mr. Nunnally - Wouldn't that be additional County insurance?
430
431 Ms. Dwyer - That's a pretty big condition to impose without discussing it
432 at all with the applicant, I think.
433
434 Ms. Harris - But he said they did discuss it, that they had at least a
435 million, did they not?
436
437 Ms. Dwyer - He said they had it, but as a condition of the landlords, not to
438 protect the County.
439
440 Mr. Blankinship - The type of policy.
441
442 Mr. Kirkland - He has a liability policy for those rides; I'm sure he's got a
443 really big one.
444
445 Mr. Blankinship - Then that's what you're concerned with, Ms. Harris?
446
447 Mr. Nunnally - Motion by Ms. Harris that it be approved, with the insurance
448 on the rides. Do I hear a second?

449
450 Mr. Kirkland - Second.
451
452 Mr. Nunnally - Second by Mr. Kirkland. All in favor, say aye. Opposed?
453
454 Ms. Dwyer - No.
455
456 Mr. Nunnally - It's been approved.
457
458 Ms. Dwyer - Could I just ask for some clarification on the insurance
459 policy? What exactly are we requiring him to do now?
460
461 Ms. Harris - One million dollars liability. I didn't say naming the County. I
462 think that's required on many -- in other words, if a person got injured, a citizen of
463 Henrico got injured, they would sue the company. We want to be sure that they have
464 funds for the suit. If we don't have something in place, and there is a liability, we would
465 be negligent in not seeing that the citizen was protected. I think it avoids a suit of the
466 County.
467
468 Ms. Dwyer - I misunderstood. I thought you were requiring an additional
469 policy naming the County as an additional insured. So we're not requiring that?
470
471 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
472 Kirkland, the Board **granted** application **UP-21-2005** for a temporary conditional use
473 permit to operate a carnival at 10101 Brook Road (Parcel 785-771-0111). The Board
474 granted the use permit subject to the following conditions:
475
476 1. This approval is only for a carnival at the Virginia Center Commons shopping
477 center from October 19-23, 2005.
478
479 2. The applicant shall satisfy all requirements of the Henrico County Division of
480 Police concerning the security of the site and the patrons of the event. In addition to
481 mall security, the applicant shall employ two off-duty police officers on site Friday and
482 Saturday evenings and one off-duty police officer Wednesday, Thursday and Sunday.
483
484 3. The applicant shall satisfy all the requirements of the Henrico County Department
485 of Health and the Henrico County Department of Building Inspections.
486
487 4. Hours of operation shall be limited to 5:00 PM to 10:00 PM Wednesday and
488 Thursday, 5:00 PM to 11:00 PM Fridays, and 12:00 Noon to 11:00 PM Saturdays and
489 12:00 Noon to 10:00 PM Sundays.
490
491 5. Adequate site distance must be provided entering onto public roads.
492
493 6. Prior to receiving a building permit or an amusement device permit, the applicant
494 must submit and receive approval of a security plan from the Division of Police.

495
496 7. All tents and accessory structures shall be removed from the site by October 24,
497 2005, at which time this permit shall expire.

498
499 8. [ADDED] The applicant shall provide proof of liability insurance of at least
500 \$1,000,000.

501
502 Affirmative: Harris, Kirkland, Nunnally, Wright 4
503 Negative: Dwyer 1
504 Absent: 0

505
506 The Board granted the request because it found the proposed use will be in substantial
507 accordance with the general purpose and objectives of Chapter 24 of the County Code.

508
509 **UP- 22-2005** **DAN SIMOND** requests a temporary conditional use permit
510 pursuant to Section 24-116(c)(1) to operate a temporary sales
511 stand and amusement at 12496 Gayton Road (Parcel 732-751-
512 4078), zoned B-3, Business District (Tuckahoe).

513
514 Mr. Wright - Is anyone else here interested in this case? If so, Please
515 stand and raise your right hand.

516
517 Mr. Blankinship - Do you swear that the testimony you are about to give is the
518 truth, the whole truth, and nothing but the truth, so help you God?

519
520 Mr. Simond - I do. My name is Dan Simond, and I am requesting a
521 temporary use permit to operate our seasonal pumpkin patch, with amusements. This
522 will be our seventh season, pumpkin year, at the exact same location as before.
523 Nothing's changed, just really routine as far as our set-up is concerned.

524
525 Mr. Kirkland - Do you have any type of amusements out there? I see it's
526 amusement devices. Do you consider those rides?

527
528 Mr. Simond - They're moon bounces, they're inflatable, and we've had
529 those in the past.

530
531 Mr. Kirkland - Do you carry insurance?

532
533 Mr. Simond - Absolutely.

534
535 Mr. Kirkland - Are they inspected?

536
537 Mr. Simond - In the past, I'm not sure if anyone's come out and inspected
538 them. They're relatively new; you stake them down, put a blower on them. We've
539 never had a problem in the past, and this will be out seventh season using them, and
540 we've always used the same bounces.

541
542 Mr. Blankinship - I believe they are required to have a permit and inspections
543 from Building Inspections, and I'm pretty certain they have in the past.
544
545 Mr. Kirkland - Do you have any problem with our adding a condition that
546 says, "the applicant shall satisfy all requirements of the Henrico County Department of
547 Health and the Henrico County Department of Building Inspections?"
548
549 Mr. Simond - I have no complaint about that.
550
551 Mr. Kirkland - They would see you have insurance and everything.
552
553 Mr. Simond - We have that on site, and our leasing agent, Wilton
554 Companies, requires that for the appropriation of the deal itself. However, I did want to
555 also request, in the past we have requested a two-year approval of the conditional use,
556 and we were granted that before, and my partner, Mrs. Gray, she was the person the
557 applicant before she retired, so we were approved for a two-year permit, and wanted to
558 see if that was possible,
559
560 Mr. Blankinship - Would it be the same dates?
561
562 Mr. Simond - Yes sir.
563
564 Mr. Wright - I'm not so sure that's a good idea for this type of thing.
565
566 Ms. Dwyer - If it's not been advertised as a two-year request, do we have
567 a problem with notice?
568
569 Mr. Blankinship - We don't actually list that in the advertisement. I don't think
570 that even goes in the notice letter.
571
572 Mr. Wright - This is not what they normally have as a continual operation
573 that we grant these more-than-on-year things.
574
575 Mr. Kirkland - It's just like the Cole Shows.
576
577 Mr. Wright - I think we ought to be looking at it every year, based on what
578 they propose.
579
580 Mr. Kirkland - I think so too. They could change something, then have a
581 complaint, and we couldn't do anything about it.
582
583 Ms. Dwyer - Mr. Blankinship, there's a statement that the plan submitted
584 shows, that all amusements shall be 100 feet away from the road. That's not in the
585 conditions. The conditions state 200 feet from any R District. Does that accomplish the
586 same purpose, as you look at the plans?

587
588 Mr. Blankinship - No, they're two different requirements, but we did say that
589 they have to use it in substantial conformance with the plan, so
590
591 Ms. Dwyer - I just want to make sure there's no interference with sight
592 distance on the roadway, with any tall structures that might interfere with the vision of
593 the drivers. Are we covered in your view?
594
595 Mr. Blankinship - Yes, given that condition, they have to do what's shown on
596 the plan.
597
598 Ms. Dwyer - I don't see the plan in our packet.
599
600 Mr. Blankinship - Paul, can we put it up? We didn't get it scanned? I
601 apologize for that; that should have gone in the packet.
602
603 Ms. Dwyer - What you've done in the past, you've had the fence that
604 encloses it, 100 feet from the curb line, is that how you measure it?
605
606 Mr. Simond - Actually, I think it's probably even more than 100. There's
607 so much space that we don't even use, that's just a gigantic grass vacant lot. We're
608 really actually closer to the back portion, away from the road, so I would think we're
609 even more than 100 feet. It is all self-enclosed in temporary fencing, and it's the same
610 layout that we've had in the past. We really haven't, and we have no intention of
611 changing it; it's worked well, and we have a lot of repeat customers, and the residents
612 enjoy it. I don't see any need to make it bigger or to change anything. It's been working
613 well, so we're happy with it.
614
615 Mr. Blankinship - I'm afraid the plan has gotten separated from the file, so
616 that's why it didn't get copied.
617
618 Ms. Dwyer - My main concern is just making sure that it's 100 feet from
619 the roadway; that's not a problem, as far as the applicant's concerned, so I think we'll
620 just add that in the conditions, and then we're covered.
621
622 Ms. Harris - Last year, the picture that we have here, how many feet is
623 this from the road, do you remember?
624
625 Mr. Simond - Like I said, we placed it in the same spot. I would say that's
626 at least between 100 and 200 feet, at least 100 feet. Like I said, we're further away
627 from Gayton and Ridgefield, but closer to the shopping center parking lot; we're almost,
628 because the plat that you're showing there - it's got a small square in the right-hand
629 corner. We're not even near that. We're toward the back portion of that plat, closer to
630 the parking lot.
631
632 Ms. Dwyer - Probably you want to make it convenient for people to park

633 in the lot.
634
635 Mr. Simond - And also to keep the children more safe, further away from
636 the right-of-ways of the traffic.
637
638 Mr. Nunnally- Any further questions of Mr. Simond? Is anyone here in
639 opposition? That concludes the case. UP-22-2005.
640
641 Mr. Blankinship - I have the plan here, if anyone wants to see it. I apologize
642 that we didn't get it in the presentation, but if you want to see the sketch that they
643 submitted, it's here.
644
645 Ms. Dwyer - I move that we approve the case UP-22-2005, with two
646 changes to the conditions. One is to simply specify that the amusements be at least
647 100 feet away from the roadway at Gayton and Ridgefield. I think they've committed to
648 that, but I just want to make sure that that's there. Also, we had some discussion about
649 Building Inspections and the Health Department, which, as Ms. Harris pointed out, was
650 in the other amusement case, and it's not in this one. Mr. Blankinship, do you see any
651 point in having them check this out? I don't think they sell food, but they do have some
652 kind of children's amusement playthings.
653
654 Mr. Blankinship - It never hurts to tie those other requirements to the use
655 permit.
656
657 Ms. Dwyer - Well, I'd like to add that Building Inspections and the Health
658 Department, as necessary, that they comply with any conditions that those departments
659 may impose on their activities.
660
661 Mr. Wright - I'll second.
662
663 Mr. Nunnally - That includes that 200 feet from the road?
664
665 Ms. Dwyer - One hundred feet from the road; it already says 200 from the
666 R District.
667
668 Mr. Wright - My second includes those changes.
669
670 Mr. Nunnally - Motion by Ms. Dwyer, second by Mr. Wright, that it be
671 approved with those conditions added. All in favor, say aye. Opposed? It's been
672 approved.
673
674 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
675 Wright, the Board **granted** application **UP-22-2005** for a temporary conditional use
676 permit to operate a temporary sales stand and amusement at 12496 Gayton Road
677 (Parcel 732-751-4078). The Board granted the use permit subject to the following
678 conditions:

- 679
680 1. The property shall be used in substantial conformance with the plan filed with the
681 application. No changes or additions to the layout may be made without the approval of
682 the Board of Zoning Appeals.
683
684 2. Hours of operation shall be limited to 10:00 AM - 9:00 PM, October 1 - November
685 1, 2005.
686
687 3. Temporary outdoor sales lots and stands shall be located at least 200 feet from
688 any R district.
689
690 4. This use shall not interfere with the parking lot or vehicular circulation of the
691 shopping center.
692
693 5. All amusement devices and displays shall be removed from the site on or before
694 November 2, 2005, at which time this permit shall expire.
695
696 6. [ADDED] The applicant shall satisfy all requirements of the Virginia Department
697 of Health and the Department of Building Construction and Inspections.
698
699 7. [ADDED] The amusement devices shall be set back at least 100 feet from
700 Gayton Road and Ridgefield Parkway.

701
702 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
703 Negative: 0
704 Absent: 0
705

706 The Board granted the request because it found the proposed use will be in substantial
707 accordance with the general purpose and objectives of Chapter 24 of the County Code.
708

709 **UP- 23-2005 RICHMOND RUGBY FOUNDATION LTD.** requests a conditional
710 use permit pursuant to Sections 24-12(b) and 24-52(a) to operate a
711 private recreation facility at 514 Whiteside Road (Parcel 833-710-
712 5988), zoned A-1, Agricultural District (Varina).
713

714 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
715 please stand and raise your right hand?
716

717 Mr. Blankinship - Sir, would you raise your right hand. Do you swear that the
718 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
719 help you God?
720

721 Mr. Sweet - Yes. Mr. name is Pete Sweet; I'm the Trustee and Chairman
722 of the Richmond Rugby Foundation. We're requesting a conditional use permit to play
723 rugby and/or soccer on this facility.
724

725 Ms. Dwyer - Is this adult soccer or children's soccer, or any soccer club?
726
727 Mr. Sweet - The only conversations I've had with the YMCA concerned
728 adult soccer in the future when they have an overrun in that area. I was instrumental in
729 coaching soccer at the YMCA, and they have plenty of youth facilities there for now.
730 They're getting ready to remodel their fields there and change them so they suit adult
731 soccer in the long run, and children's soccer in the sideways. Our main emphasis is on
732 rugby at this point, and my conversation with the Director of the Y, is just for future
733 concern of overruns in one or the other.
734
735 Mr. Wright - Mr. Sweet, have you read the conditions that have been
736 proposed for this case?
737
738 Mr. Sweet - If it wasn't sent to me in the mail, no sir. If it was, then I
739 have.
740
741 Mr. Wright - They're sent out, I think there are nine conditions. I just want
742 to make sure you've read those and you're in accord with what the staff has proposed.
743
744 Mr. Sweet - I have read them; I do not have them with me, and I'm not up
745 to date, and my Club Historian and fellow Administrator, Mr. Rose, is here with me and
746 could maybe be up to date on them more than I am.
747
748 Mr. Wright - This is just for the month of March, is that correct?
749
750 Mr. Sweet - No sir. I don't know where that came from.
751
752 Mr. Wright - You will begin in March?
753
754 Mr. Sweet - Yes sir, that's the tentative plan.
755
756 Ms. Dwyer - Should we pass over this and allow him a chance to look at
757 all those conditions, because they're all pretty important. Have you read these; are you
758 familiar with them, or would you like some time to look them over?
759
760 Mr. Sweet - I have not read them; I'm not familiar with them, and I would
761 like some time, if that's okay. I can do it in a few minutes.
762
763 Mr. Nunnally - Would you like to pass this over for a few minutes, and we'll
764 call the next case, and then after that, we'll call you back sir.
765
766 Mr. Blankinship - We could hear from the other two speakers if you want.
767
768 Ms. Dwyer - He might need to listen to them though.
769
770 Mr. Nunnally - Let's just pass over this for the time being, and then we'll let

771 him come back.

772

773 ***(Case is resumed after A-95-2005 is heard.)***

774

775 Mr. Sweet - Mr. Chairman, I apologize for not reading these. I sat at a
776 stoplight for fourteen minutes, the Staples Mill stoplight was down, and there was a line
777 of traffic coming in here, and I just kind of rushed in here. I had a couple of concerns,
778 no problems with them, but there are two things I wanted to clear up about it. It said
779 remove dead plants as far as landscaping goes, and I guess that refers to future
780 landscaping we'll do?

781

782 Mr. Blankinship - Right.

783

784 Mr. Kirkland - Yes

785

786 Mr. Sweet - There's no problem with that. And then it said there's a
787 maximum of 60 participants at a time, and that is typical, I believe we talked on the
788 phone about the participants, and typically,

789

790 Mr. Wright - Which one are you talking about now? I want to make sure
791 I'm on the same page with you.

792

793 Mr. Sweet - I believe it was the last one, # 9, "No more than 60
794 participants shall be permitted at any one event." That is typical on a typical rugby, not
795 soccer. Soccer varies in the amount of people who play. In a typical rugby, there are
796 two games a day, with fifteen participants in each event. That's typical; there'll never be
797 more than sixty participants on a typical day. Sometimes you have substitutions, so
798 there may be 65 or 64, but lately there's been less than that amount. I was at a game at
799 Dorey Park last Saturday, and there were probably fifty.

800

801 Mr. Blankinship - What number would you be comfortable with?

802

803 Mr. Sweet - A maximum at any one time would be ninety.

804

805 Mr. Wright - Ninety? What does the event mean? Does it mean each
806 particular match. What do you have, rugby matches, is that what you call them, each
807 match or the whole day?

808

809 Mr. Blankinship - I would take it to mean at any one time, on the property at
810 any time.

811

812 Mr. Wright - So that means there wouldn't be a cumulative number then.
813 If they have a match at 9:00 o'clock, and had 60, and had another one at 11:00 o'clock,
814 and had sixty, that's 120, but that's not what you're talking about, is it?

815

816 Mr. Sweet - Right. The first sixty had left. That would be a problem.

817 We're not going to have parking to accommodate all of them.
818
819 Mr. Wright - The question is, what do you mean by one event? If it's all
820 day long, that's one thing. If it's each particular match, that's something else, the way I
821 see it.
822
823 Mr. Sweet - I agree. Then I've got no problem or questions, if it's read
824 that way.
825
826 Ms. Harris - How close are you to the Y?
827
828 Mr. Sweet - It's approximately half a mile.
829
830 Ms. Harris - On the opposite side of the street?
831
832 Mr. Sweet - Yes ma'am.
833
834 Ms. Dwyer - Do we have a plan? I don't see a plan in here.
835
836 Mr. Sweet - A plan for our operation?
837
838 Ms. Dwyer - Like where are you going to put the fields, and that kind of
839 thing?
840
841 Mr. Sweet - I had sent it in. Basically, it's just a little drawing I sent in.
842 The front we cleared years ago, anticipating on moving it, and it's been sitting there,
843 being overgrown. Sometimes we bushhog it, sometimes I get one of the neighbors to
844 bush hog it, just to kind of keep it down. Part of it has grown back up a little bit; the local
845 church asked me to keep it down. When I can, I do. The back of it is where we're going
846 to put the athletic field. It's actually back inside the wood line. The athletic events
847 would not even be in view of any of the neighbors that I know of. The parking would be.
848
849 Ms. Dwyer - The parking – are you familiar with when it requires a
850 transitional buffer 10 or a transitional buffer 25? Are you familiar with what that means?
851
852 Mr. Sweet - Is that a turn lane.
853
854 Ms. Dwyer - No, that relates to the number of plants that you're going to
855 have to put in to buffer the parking lot from the neighbors.
856
857 Mr. Sweet - On both sides? I will familiarize myself with it. I've done
858 developing. Engineers normally do that, and I don't, but it's not a problem. It's being
859 overgrown in part of it anyway.
860
861 Ms. Dwyer - So how much will you be clearing.
862

863 Mr. Sweet - The parking lot area is already being cleared; the back is
864 already cleared. Some years back I had a talk with the association about doing the
865 clearing for them as kind of a sponsor, and putting my horses back there on the land,
866 temporarily. We're being forced to escalate our plans because Parks and Recreation is
867 being less and less able to accommodate us, and so we're kind of escalating that plan
868 and trying to push us back there ahead of time. It's already cleared. We've had some
869 piles of stumps sitting back there for four or five years, anticipating burning them, and
870 then we found out the Fire Marshal wouldn't give a burn permit, so as soon as we're
871 able to use the field, then we're going to go ahead and contract to haul those off.
872 They're already down; there's nothing else planning on coming down that's not already
873 down.

874
875 Ms. Dwyer - And you're not going to need lights?
876

877 Mr. Sweet - Oh we'd love to have lights in the future, but we're forty
878 years in this, and that might be forty years from now. Forty years ago I was in
879 Tuckahoe Little League when we started that, and you saw what kind of success they
880 had. I believe it was '63 and '64 when I was going to Tuckahoe; by '68 we were in the
881 World Series. I'd love to see something like this happen with a local rugby.
882

883 Ms. Harris - When you have competition in the Y, is there a problem with
884 parking? I know that sometimes they park on the street.
885

886 Mr. Sweet - We haven't gotten there yet, so we don't know. I'd love to
887 think in the future that I'd have a problem with people there. Right now we don't have
888 enough people. When I played the game, we had three games a day, and the sport has
889 kind of died in this area. In other major metropolitan areas, we're falling way behind. I
890 played in the '70's, and we were a dominant force. We could play anybody in the
891 country. Now we're way down the list and barely have enough people to play. I'm
892 hoping this will help us. A big part of it is, when we started in Henrico, we were at
893 Virginia Randolph's field, and they moved us from field to field to field over the years,
894 and Henrico Parks and Recreation is probably one of the best in the country, and I've
895 been around the country to see, but they can't accommodate every event and every
896 group, and when Virginia Randolph Association got bigger and bigger, they moved us to
897 Dorey Park. At that time Jack Kent and Tom Blekicky said this was our permanent
898 home, forever and ever, in the foreseeable future, and that lasted a few years, and we
899 developed a policy that we can't play in the rain, which rugby's meant to be played in
900 the rain, and so every time that the local rugby club cannot play a home game, they get
901 fined \$500 to \$800 by the league, plus we forfeit the league. Every time we can't make
902 a practice, spring a year ago, all that rain, we didn't make any practices before our first
903 game, so all that has to do with why we're here. We just can't participate in our league,
904 using Henrico fields like we've been.
905

906 Ms. Dwyer - Looking at Condition # 7, which limits your hours, 10:00 to
907 5:00 on Saturdays and 6:30 to 8:30 on Tuesdays and Thursdays, if we approve this, this
908 is what you're limited to, and if you want to change it, you'd have to come back to us, so

909 I'm just wondering how practical that is.
910
911 Mr. Sweet - I think it's very practical. Our practice has always been on
912 Tuesdays and Thursdays, and I don't know that they'll be able to practice there any time
913 soon, because they can only practice until the time changes anyway. We've gotten so
914 used to that in recent years, Henrico's been treating us the same way. Last year, we
915 would practice at Dorey Park without lights; that's the way it's been for years and years.
916 The club's really struggled because of it, and if they want to have an event other than
917 this, they can come back for a temporary permit or something.
918
919 Ms. Dwyer - I'm just suggesting that it would be easier for you, if it's
920 agreeable to this Board, to not limit yourselves to Tuesdays and Thursdays, in case you
921 wanted to change.
922
923 Mr. Sweet - In the future, when the Y's do take on the planning, that may
924 very well be
925
926 Ms. Dwyer - It doesn't make sense to me to limit it, if we're going to allow
927 it to be used for recreation, it seems that it should be any day of the week.
928
929 Mr. Sweet - I agree, and I was answering just like the '60's question, just
930 like the "typical," not the maximum, but
931
932 Ms. Dwyer - Thinking ahead, that would prevent you from having to come
933 back to us and filing another application and going through all of that, just to have a
934 practice on Wednesday.
935
936 Mr. Sweet - It may very well be that the Y, if we're talking young adults,
937 may want to do it after school hours, but I don't see us wanting to do anything later than
938 that, simply because it's being a courtesy to the neighbors, I don't think we should be
939 there any later than 9:00 o'clock.
940
941 Ms. Dwyer - I think this is too limiting.
942
943 Mr. Blankinship - Five days a week certainly makes more sense.
944
945 Ms. Dwyer - And why not after school? Why not 3:00 to – I'm not sure
946 what the purpose of limiting it in this way is, if you've reached a point where you wanted
947 to share these fields with the Y kids, for example, there's no reason why this should be
948 limited.
949
950 Ms. Sweet - I agree. Thank you for suggesting that.
951
952 Ms. Harris - Is there an expiration date on this use permit, Mr.
953 Blankinship?
954

955 Mr. Blankinship - No.
956
957 Mr. Wright - This is like all the swimming pools.
958
959 Mr. Sweet - They asked for a time on the application, and I didn't answer
960 because I don't want it to ever end.
961
962 Mr. Blankinship - We use the same form for temporary permits that we use for
963 permanent ones.
964
965 Ms. Dwyer - No tree preservation on this plan. I think we should have
966 one.
967
968 Mr. Sweet - Which tree do you want me to save? It's in the woods.
969 We've cleared up a spot already. We've got to create a buffer, so
970
971 Ms. Dwyer - You're showing a perimeter of trees around the field. Is that
972 two feet or twenty feet or fifty feet? There's no dimension on that, and I think there
973 needs to be some.
974
975 Mr. Sweet - This land is 322 feet wide in the back and 308 feet wide in
976 the front, going by memory. I've only been out there a thousand times. Our rugby pitch
977 and/or soccer pitch needs to be a maximum of 70 meters wide, which in feet would
978 translate back to putting the us within 55 feet of both sidelines. If there's ever room for
979 spectators or sidelines, we're crowded as it is. If we have to put a buffer back in,
980 anything we do is going to crowd us if we have to do it to comply. But right now we've
981 got trees on the property line, inside the property line, no more than fifteen feet at the
982 max, probably an average of seven or eight feet, we've got trees inside our property
983 line. We just didn't want to clear them again, because of the neighbors' property.
984 Whatever the buffer you're talking about is required, is what we'll have to accommodate,
985 but anything we do is going to crowd us, the athletic field. The parking lot we've got
986 plenty of room to put trees.
987
988 Ms. Dwyer - Mr. O'Kelly or Mr. Blankinship, do you have any thoughts
989 about tree preservation along the perimeter? I'm just wondering if we should require
990 tree preservation around the perimeter of the property.
991
992 Mr. Sweet - In the front, to the north, I believe it's Mr. Nash's property is
993 already, he keeps that field clear, and there are no trees on that front line. I believe he
994 actually cuts over on ours, which is fine, but I'm not positive. It's pretty close.
995
996 Mr. Blankinship - If some of that land were converted to development in the
997 future, it would be nice to have a buffer there, but I don't know
998
999 Mr. O'Kelly - Wouldn't that require a revised permit if they expanded in the
1000 future? To come back to this Board?

1001
1002 Mr. Blankinship - Yes. Right.
1003
1004 Mr. Kirkland - Any land that developed adjacent to them would have to
1005 have buffers also, wouldn't it?
1006
1007 Mr. Blankinship - If it's residential against residential, we don't normally require
1008 a buffer.
1009
1010 Mr. Sweet - The land coming in there across from the Y, you may know
1011 this better than me, I was told up until a few months ago that was the next elementary
1012 school there, and then something happened with that deal, and I guess that got put on
1013 the wayside. That's not the land adjoining it, but it's the land adjoining the land that's
1014 adjoining mine. I'm pretty sure development's coming to that area in the not too distant
1015 future.
1016
1017 Mr. Nunnally - Any other questions? Anyone else wish to speak on this
1018 case in opposition?
1019
1020 Mr. Rose - My name is Thomas Rose; I'm speaking in favor of the
1021 proposal. I've been a member of the rugby club and an officer of the Foundation since
1022 1970. Obviously, Mr. Sweet has expanded on the fact that rugby needs a very large
1023 open field to play on. In the past, the County of Henrico Parks and Recreation has
1024 assisted greatly our efforts to hold these athletic events. This particular land was
1025 purchased in approximately 1988 and has been paid for. We are mortgage free, and no
1026 one on the property. We're paying faithfully, the real estate property tax, and we would
1027 like to develop this land for athletic purposes. Obviously, we're trying to assist the
1028 County in various community efforts in rugby; we're listed with their community service
1029 program, as a contact for people who are interested in rugby, and we've just submitted
1030 for the 2005 directory to be a contact for people who are interested in that sport. I've
1031 been fortunate to have traveled to Bermuda several times; I've gone to Ireland and
1032 England and seen what rugby is really played overseas, on foreign soil, with clubhouse,
1033 and with expansive fields. The Bank of England facility, bar none, is the best in the
1034 world. I've been at the international sites of Twickenham, which is in London; I've been
1035 at Lansdowne Road in Dublin, and those events are worldwide covered and
1036 internationally renown. We're not proposing that we have Lansdowne Road on
1037 Whiteside Road, but in fact, we do need the ability to play rugby in the elements, not
1038 permitted principally now by the County's careful conservativeness on their properties,
1039 in terms of the grass that's being grown year-round. In some cases, rugby is played in
1040 the mud, and this is a fact of life. Thank you very much.
1041
1042 Mr. Nunnally - Anyone else? Please state your name, sir.
1043
1044 Mr. Davis - Hello, my name is Henry Davis, and I represent Bethany
1045 Baptist Church. I'm a Trustee there, and we're located at 500 Whiteside Road. Our
1046 stance on this is that we're concerned about the traffic. We would like to have, talking

1047 with the developer of this property, to get more of an understanding of how he is going
1048 to handle the traffic. Normally on Saturdays, I know that at the YMCA is overflow of
1049 parking. Our issue is, how will the parking be addressed, and also as far as the
1050 neighbors across from this, how will they be affected, so we would like to ask for a
1051 deferral until we have a meeting with them so that we can properly say yea or nay to
1052 this.

1053
1054 Mr. Kirkland - Mr. Blankinship, in suggested Condition # 3, wouldn't that
1055 address the parking requirements for this property?

1056
1057 Mr. Blankinship - I gave the applicant my set of the conditions. Yes, that
1058 would require them to comply with the Code, yes.

1059
1060 Mr. Kirkland - Number of spaces per number of people?

1061
1062 Mr. Blankinship - Right.

1063
1064 Mr. Nunnally - You say you're having problems with the YMCA, how are
1065 you working that out?

1066
1067 Mr. Davis - We don't have a problem with the parking right now, but we
1068 see what's happening at the YMCA when they have, on Saturdays, the parking is just
1069 unbelievable. They have to park on the streets, and we have a one-lane street,
1070 basically, so that's like a one-lane road down there on Whiteside Road, so when there's
1071 a lot of traffic, there's going to be a lot of congestion. We just want to know what's
1072 going to happen, once this development takes place, and eventually, we see that the
1073 YMCA is going to ask them to use their field, so eventually they're going to come down
1074 there, so there's going to be an increase of traffic based on this.

1075
1076 Mr. Nunnally - Isn't your church down further than this?

1077
1078 Mr. Davis - We're like right across from it, about 20-30 feet away from it.

1079
1080 Ms. Harris - You can actually see the church from the site?

1081
1082 Mr. Davis - Yes.

1083
1084 Ms. Harris - Have you seen these conditions? The hours of operation
1085 are to be Saturday, 10:00 to 5:00, and Tuesday and Thursday, 6:30 pm to 8:30 pm.

1086
1087 Mr. Kirkland - That's it. We also restricted the number of participants that
1088 can play in each match.

1089
1090 Mr. Wright - If they were to increase that number, they would have to
1091 come back. We'd have to have another hearing.

1092

1093 Mr. Davis - That was our concern.
1094
1095 Mr. Kirkland - We've locked them in.
1096
1097 Mr. Wright - We've locked them in to a certain number of people, and
1098 then we would have to consider other conditions if they increase the number.
1099
1100 Mr. Davis - I'm comfortable with that. The church would like to have
1101 seen the presentation of it, so that we would be familiar.
1102
1103 Mr. Nunnally - Thank you for your comments. Anyone else?
1104
1105 Ms. Dwyer - Were we going to consider increasing the participant number
1106 from sixty to ninety?
1107
1108 Mr. Wright - He said that wasn't necessary, because if you take it by
1109 each match, it's 60, but not the entire day or all of the matches. They would have no
1110 more than 60 at one time, is what he said.
1111
1112 Ms. Dwyer - How many fields will you have?
1113
1114 Mr. Sweet - One, hopefully in the future, we would have two. It will be
1115 one for the foreseeable future. In the future, when we have two, there will be 60 people
1116 on those two fields at the same time. That is years, not days, away. Right now there's
1117 31, counting the referee, 40 if you count all the guys yelling at the referee. I wanted to
1118 address Mr. Davis. You already did, as far as Mr. Davis' traffic concerns, and in my
1119 affiliation with the Y, they were always out of there by 1:00 o'clock. We used to play at
1120 8:00, 9:00, 10:00, and as they grew bigger, maybe 11:00. The rugby doesn't start until
1121 after that. The seasons also coincide a little bit, but there's traffic coming down
1122 Whiteside Road right at the beginning of it, but it's 15 minutes of traffic, and then
1123 games, and then 15 more minutes of traffic, and they're Saturdays, not Sundays. I
1124 purposefully didn't apply for Sunday games because, if they do, they can come back
1125 and do something different, because I know the church there is concerned. I have
1126 friends who are members of the church. I don't think the traffic is a problem. As far as
1127 parking goes, we're going to put the parking there. Again, a deacon from the church
1128 called me a couple of years ago, asking me to try to keep that ground cut, and I
1129 anticipated they could use our parking lot if they have an overrun. One of the neighbors
1130 there has already asked me about using the parking lot.
1131
1132 Mr. Harris - Have you met with the church representatives?
1133
1134 Mr. Sweet - No ma'am. I've been out there working, and several people
1135 have come over and talked to me. The priest does work for me. He actually helped
1136 clear the land and cut it. His wife goes to one of those churches on a regular basis, and
1137 several of his people have been introduced to me through other people there. Again,
1138 they've called me. They got my phone number through our mutual acquaintances, and

1139 they've called me and asked me about clearing the land and keeping it clear. We're not
1140 going to do what I did; we let it grow up, and now it's got little pine trees, about 10 feet
1141 tall, just in the corners, actually that blocks our sight line from the church, and I was
1142 waiting to see if that wouldn't be beneficial to them or not. Before I get out and do that
1143 parking lot, I will approach them and make sure they're informed on what we're doing.

1144
1145 Ms. Harris - There are other churches too, right? At least two churches?

1146
1147 Mr. Sweet - They built another one right down the street.

1148
1149 Ms. Harris - My granddaughter plays soccer at the Y, so I'm very familiar
1150 with the traffic.

1151
1152 Mr. Sweet - It's real periodic, and it's just Saturday morning. It's hectic
1153 through there on Saturday mornings.

1154
1155 Mr. Nunnally - Thank you sir. That concludes the case. UP-23-2005,
1156 Richmond Rugby.

1157
1158 Mr. Wright - Move we approve it.

1159
1160 Mr. Kirkland - Second.

1161
1162 Mr. Nunnally - Motion by Mr. Wright, second by Mr. Kirkland, that we
1163 approve it. All in favor say aye.

1164
1165 Ms. Dwyer - Could we have some discussion? I really think that when he
1166 submitted it, he limited the hours of operation, based on what they're doing now. If they
1167 end up sharing this, and if it's anything like the explosion of soccer in the West End,
1168 they're going to need all the fields they can get to accommodate children practicing
1169 through the Y. Just with that in mind, I would suggest that the hours be extended,
1170 because I think it's unnecessarily narrow, so I would suggest from 3:00 to 8:30 Monday
1171 through Friday, and maybe 9:00 to 6:00 on Saturdays, to expand it a little bit, and
1172 leaving the Sunday out, although I personally wouldn't have a problem with it being on
1173 Sunday afternoons, but I think because of the church being here, maybe they wouldn't
1174 want to be a party to any changes on Sunday.

1175
1176 Ms. Harris - In view of the opposition that we had, with the lack of input
1177 from the church area, and he did agree to the conditions that we mentioned, I think that
1178 the conditions that were recommended by the County should remain as they are. I'd
1179 like to see them work together as a community.

1180
1181 Mr. Wright - I think the purpose of Ms. Dwyer's recommendation would
1182 be basically for practice. I don't think they would be entering into any full fledged games
1183 on Wednesday or anything like that.

1184

1185 Ms. Dwyer - Typically, I think it's the youth soccer, at least in my
1186 experience, that causes all the traffic and the turnover, and that seems to be what they
1187 were saying about the Y, so the afternoon practices, that would allow for after-school
1188 practices.

1189
1190 Mr. Wright - Probably have minimal traffic for that, I would think.

1191
1192 Ms. Dwyer - That would allow for after-school practice.

1193
1194 Ms. Harris - But he said he had no problem with the conditions; we were
1195 the ones to make the change. They used to be at Virginia Randolph, and they did stay
1196 in the evening. They saw no need for us to change it. They were in accord with it. It
1197 was our decision to do that. We have to be sensitive to the community; we don't need
1198 to create problems that are not existing.

1199
1200 Mr. Nunnally - Since he was happy with it, why don't we just let it go with
1201 that? If they want to change it later on, they can come back.

1202
1203 Mr. Kirkland - If they get involved with the Y, there are going to have to be
1204 some other changes made too, I think.

1205
1206 Ms. Dwyer - I was just trying to save them and us the administrative
1207 hassle of coming back, when it seems to me that it would not have a negative impact on
1208 the neighborhood to have a practice on Wednesday, instead of Tuesday. At this point,
1209 if they want to practice on Wednesday, they have to come back and file and come back
1210 to us, and I think it's just a question of inexperience on the part of the applicant. They're
1211 not familiar with how these things work, and he just wrote down, "this is how we use the
1212 fields now," but it's not a big issue. It just seems unnecessary to limit it and require
1213 them to come back for such a simple change. The motion was made.

1214
1215 Mr. Nunnally - The motion was made by Mr. Wright, seconded by Mr.
1216 Kirkland, that we approve it. All in favor? Opposed? It's been approved.

1217
1218 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1219 Kirkland, the Board **granted** application **UP-23-2005** for a conditional use permit to
1220 operate a private recreation facility at 514 Whiteside Road (Parcel 833-710-5988). The
1221 Board granted the variance/use permit subject to the following conditions:

1222
1223 1. Only the improvements shown on the plan filed with the application may be
1224 constructed pursuant to this approval. Any substantial changes or additions may
1225 require a new conditional use permit.

1226
1227 2. Prior to any land disturbing activity, the applicant shall obtain an approved
1228 Erosion and Sedimentation Control Plan in accordance with Henrico County Code,
1229 Chapter 10, Environment, and submit an Erosion Control Bond, which must remain
1230 active until released in writing. Throughout all land disturbing phases necessary for

1231 construction of the facility, the applicant must satisfy the Department of Public Works
1232 Environmental Section that erosion and sediment control is inspected and maintained in
1233 accordance with the approved plan and Environmental Section policy.

1234
1235 3. The parking lot, driveways, and loading areas shall be subject to the
1236 requirements of Section 24-98 of Chapter 24 of the County Code.

1237
1238 4. The property, including the parking area and sports field(s), shall not be lighted.

1239
1240 5. A stop sign meeting County standards shall be placed at the entrance(s) onto
1241 Whiteside Road.

1242
1243 6. A detailed landscaping plan shall be submitted to the Planning Department with
1244 the building permit for review and approval. This shall include a minimum of a
1245 transitional buffer 10 as defined in Chapter 24 of Henrico County Code, between the
1246 parking area and adjacent property to the south and a transitional buffer 25 between the
1247 parking area and the adjacent property to the north. All landscaping shall be maintained
1248 in a healthy condition at all times. Dead plant materials shall be removed within a
1249 reasonable time and replaced during the normal planting season.

1250
1251 7. Hours of operation shall be limited to 10:00 AM to 5:00 PM on Saturdays, and
1252 6:30 PM to 8:30 PM on Tuesdays and Thursdays.

1253
1254 8. Public address and sound amplification equipment shall not be audible beyond
1255 the limits of the property.

1256
1257 9. No more than 60 participants shall be permitted at any one event.

1258
1259 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1260 Negative: 0
1261 Absent: 0

1262
1263 The Board granted the request because it found the proposed use will be in substantial
1264 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1265
1266 **A - 94-2005** **ROBERT C. IRBY III** requests a variance from Sections 24-95(d)(1)
1267 and 24-9 to build a one-family dwelling at 1290 Chaffins Bluff Lane
1268 (Parcel 803-679-3723), zoned R-2A, One-family Residence District
1269 (Varina). The lot width requirement and public street frontage
1270 requirement are not met. The applicant has 70 feet lot width and 0
1271 feet public street frontage, where the Code requires 150 feet lot
1272 width and 50 feet public street frontage. The applicant requests a
1273 variance of 80 feet lot width and 50 feet public street frontage.

1274
1275 Mr. Nunnally - A-94-2005 – deferred until next month.

1276

1277 Upon a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **deferred** application
1278 **A-94-2005**, from the September 22, 2005, to the October 20, 2005, meeting.

1279
1280 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1281 Negative: 0
1282 Absent: 0

1283
1284 The Board deferred the request to allow you time to provide further details of your
1285 request.

1286
1287 Mr. Blankinship - Case A-94-2005 has been deferred to next month.

1288
1289 **A - 95-2005** **RICKY L. YOUNG** requests a variance from Section 24-94 to build
1290 a one-family dwelling at 3374 Britton Road (Parcel 823-697-8142),
1291 zoned A-1, Agricultural District (Varina). The lot width requirement
1292 is not met. The applicant has 100 feet lot width, where the Code
1293 requires 150 feet lot width. The applicant requests a variance of 50
1294 feet lot width.

1295
1296 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
1297 please stand and raise your right hand?

1298
1299 Mr. Blankinship - Raise your right hand, please. Do you swear that the
1300 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1301 help you God?

1302
1303 Ms. Young - I do. My name's Alicia Young, and we're here for a variance
1304 for the lot width to build a house.

1305
1306 Mr. Nunnally - You have 100 feet lot width, and you need 150 feet, right?

1307
1308 Ms. Young - It's 107, but yes.

1309
1310 Ms. Dwyer - And this is a parcel that's being separated from an existing
1311 home?

1312
1313 Ms. Young - It has been separated.

1314
1315 Mr. Kirkland - Do you own the property?

1316
1317 Ms. Young - My brother-in-law does, Ricky Young. He's building the
1318 house.

1319
1320 Mr. Kirkland - He's building the house, and you're doing the talking?

1321
1322 Ms. Young - Right.

1323
1324 Mr. Wright - So you're speaking on his behalf.
1325
1326 Mr. Blankinship - You're the representative; he's the applicant.
1327
1328 Ms. Young - It's all family. We're builders; we're going to be building it,
1329 and our son's going to be renting it from him, so it's all a family thing.
1330
1331 Ms. Harris - Does the rear of your property abut the James River?
1332
1333 Ms. Young - Oh no.
1334
1335 Ms. Dwyer - Mr. Blankinship, what was the purpose of having a 150-foot
1336 lot width?
1337
1338 Mr. Blankinship - One of the main concerns there is to prevent lots from being
1339 extremely long and narrow if you have a one-acre minimum lot size, but no minimum lot
1340 width. In some cases, you'll get the 50 feet of street frontage, and then that would run
1341 back 800 feet or whatever. By regulating the lot width and by regulating each lot at the
1342 setback line, also, it prevents flag lots and pipe stem lots and that sort of thing.
1343
1344 Ms. Dwyer - Which is what this is. It's a long, narrow

1345
1346 Mr. Blankinship - Almost, because it does widen some as it gets back. Yes, it
1347 does reach the 150 feet farther back.
1348
1349 Mr. Wright - It looks like it's 150 feet back a little past half-way back.
1350
1351 Ms. Young - It's about 115 feet right there, where it juts out, where it
1352 starts widening out.
1353
1354 Ms. Dwyer - Do you know if you have any other issues as far as buildable
1355 area, wetlands, anything like that?
1356
1357 Ms. Young - No. It had to have an alternative septic system, but other
1358 than that, no.
1359
1360 Ms. Dwyer - It had to have an alternative septic system because you
1361 didn't have enough property, or

1362
1363 Ms. Young - No, it didn't have to do with the property; it was just the soil.
1364
1365 Mr. Kirkland - The land didn't perk.
1366
1367 Ms. Young - Right.
1368

1369 Mr. Wright - She's got to have 150 feet at the building line; that's the
1370 problem. The building line's how far back, 50 feet?
1371
1372 Mr. Blankinship - Yes sir.
1373
1374 Mr. Wright - So she couldn't put it anywhere else to satisfy the Code.
1375
1376 Mr. Nunnally - We don't have any problem with the street frontage, do we,
1377 Mr. Blankinship?
1378
1379 Mr. Blankinship - No sir, that requirement is only 50 feet. They are a little over
1380 100 at the street front.
1381
1382 Mr. Kirkland - Have you read all the conditions of the case, especially # 3?
1383
1384 Ms. Young - I did, but I don't remember what # 3 is.
1385
1386 Mr. Blankinship - It's the standard building permit requirement, actually, that
1387 you have to comply with the Chesapeake Bay Preservation Act. It's just a form that
1388 goes with your building permit.
1389
1390 Ms. Young - Yes, and we've already filed for the building permit. As far
1391 as I know, everything else has gone through at this time.
1392
1393 Mr. Nunnally - When you get something from the County, read it all,
1394 because you're going to be asked a lot of questions.
1395
1396 Ms. Harris - Could we see the aerial photo? Where is the private road
1397 here?
1398
1399 Mr. Wright - That's a public road.
1400
1401 Ms. Harris - The one that will be closer to, that you will use to access
1402 your property?
1403
1404 Ms. Young - At this point, we'll be using Mr. Ricky Young's driveway,
1405 because it goes back to his house and his mother's house, which is beyond this piece of
1406 property.
1407
1408 Mr. Blankinship - The property actually abuts Britton Road, so that's why we
1409 don't have the conditions on there about access and maintenance.
1410
1411 Ms. Young - It could use Britton Road as the road frontage. There's just
1412 not a need to put a driveway in right now, because we're going to use Ricky Young's
1413 driveway
1414

1415 Ms. Harris - And the picture that we have, the switched road, this is a
1416 private road, right?
1417
1418 Ms. Young - Oh yes, yes, and the reason that you probably have that
1419 picture is that it's going along side the property.
1420
1421 Mr. Nunnally - Any other questions of Ms. Young? Does anyone else want
1422 to speak on this case? All right sir, come forward. Are you in opposition?
1423
1424 Mr. Hicks - My name is Shirley Hicks. I live on Britton Road; I've been a
1425 resident there for 45 years. My main concern is adjusting the zoning to build a house
1426 there. I was in here several months ago. This room was packed. Nobody wanted to
1427 change 150-foot frontage. We had two meetings here. I've also got another problem.
1428 It's where it's located. There is a competition bike track. I'm 450 feet away. When
1429 they're running their bikes, I have to wear ear protection. If they're running their bikes,
1430 my wife has to get in the house, because she's got asthma; the dust is so bad, they
1431 have to put their brakes on, on Britton Road to keep from having a wreck. The noise is
1432 louder than a jet. I've got a picture right here**(stepped away from microphone;**
1433 **unintelligible)** You cannot see Mr. Young's house or **(unintelligible)**
1434
1435 Mr. Blankinship - Speak into the microphone for us, please.
1436
1437 Mr. Nunnally - We understand that the noise, but this Board doesn't have
1438 anything to do with that. I think what you're going to have to do is check with the police
1439
1440
1441 Mr. Hicks - I have, I've had them out there about ten times.
1442
1443 Mr. Nunnally - And you're not getting any results?
1444
1445 Mr. Hicks - I've contacted just about everybody. When I leave here
1446 now, I'm going to the Magistrate's Office and see what else I can do, because our style
1447 of life has drastically changed, and I'd hate to see somebody build a house within 50 or
1448 60 feet of that track.
1449
1450 Ms. Dwyer - Where is the track? I'm not familiar with that? Is it a
1451 motorcycle, dirt bike track?
1452
1453 Mr. Hicks - It's a competition thing; they've got jumps and everything in
1454 it. The County let them put it in there, in a residential area. I can write my name on my
1455 house and the other houses around there, in the dust.
1456
1457 Ms. Dwyer - Looking at this picture, can you tell us where the track is. Is
1458 it within this view?
1459
1460 Mr. Hicks - Right across the drive from me.

1461
1462 Mr. Kirkland - What's your address?
1463
1464 Mr. Hicks - 3393 Britton Road.
1465
1466 Ms. Dwyer - So it's across the street from you, through the woods, in that
1467 dirt area?
1468
1469 Mr. Hicks - No, I'm right across on Britton Road.
1470
1471 Mr. Blankinship - Where is the track located?
1472
1473 Mr. Hicks - The track is located on the road going back to the Young
1474 place.
1475
1476 Ms. Dwyer - Is it 3410, what we have labeled as 3410 Britton Road?
1477
1478 Mr. Kirkland - Or does it run off our picture?
1479
1480 Mr. Hicks - I'm not sure what the address is of the Smith's place.
1481
1482 Mr. Young (***From audience***)- It's a field, and the kids ride bikes out there.
1483
1484 Mr. Blankinship - The open field on 3410 Britton Road.
1485
1486 Mr. Young (***From audience***)- (***Unintelligible***)go down my driveway, right
1487 beside of it.
1488
1489 Mr. Wright - That doesn't have anything to do with this case.
1490
1491 Ms. Dwyer - That's not your property, sir. But your concern is that this
1492 house will
1493
1494 Mr. Hicks - Well, if mine's impacted, you know one 50 or 60 feet is going
1495 to be terribly impacted.
1496
1497 Mr. Wright - That's their problem.
1498
1499 Mr. Hicks - You've got that right. It is their problem, but I know, it hasn't
1500 been too long ago, that Planning and Zoning, and the Supervisors were building a
1501 subdivision right by the rock quarry, and they didn't know the quarry was there. I'm
1502 letting you know that this does exist, and it does impact me, and I'm about 450 feet
1503 away.
1504
1505 Mr. Wright - That may help you, Mr. Hicks. If somebody else gets there,
1506 that might give you some allies to

1507
1508 Mr. Hicks - No, it's not going to help me at all.
1509
1510 Mr. Wright - It would help you if they cause them to cut it out.
1511
1512 Mr. Hicks - Yeah, if they cut it out.
1513
1514 Mr. Kirkland - They might complain like you, and you'd get help.
1515
1516 Mr. Hicks - I don't think the County's going to do anything like that.
1517 Anyway, I hate to see that you alter A-1 zoning just to build a house. We need to
1518 control growth. This year there have been thousands of houses that qualify for the
1519 zoning that have been built in Varina.
1520
1521 Mr. Wright - This has nothing to do with zoning. The zoning will be the
1522 same. We're not changing the zoning. We don't have the authority to change the
1523 zoning.
1524
1525 Mr. Hicks - You're not altering the zoning?
1526
1527 Mr. Wright - No sir. We have nothing to do with that. It's going to remain
1528 the same. I just want to show you, we don't have anything to do with zoning.
1529
1530 Ms. Dyer - It'll still be A-1, although the law does require the 150 feet.
1531
1532 Mr. Wright - I understand that, but this has nothing to do with zoning; this
1533 is not a zoning case.
1534
1535 Mr. Nunnally - Thank you, Mr. Hicks. Anyone else want to speak on this
1536 case? If not, that concludes the case. Thank you for appearing. A-95-2005.
1537
1538 Mr. Wright - Move we approve it.
1539
1540 Mr. Nunnally - Motion by Mr. Wright that we approve it. Is there a second?
1541
1542 Mr. Kirkland - Second.
1543
1544 Mr. Nunnally - Second by Mr. Kirkland. All in favor say aye. Opposed? It's
1545 approved.
1546
1547 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1548 Kirkland, the Board **granted** application **A-95-2005** for a variance to build a one-family
1549 dwelling at 3374 Britton Road (Parcel 823-697-8142). The Board granted the
1550 variance/use permit subject to the following conditions:
1551

1552 1. This variance applies only to the minimum lot width requirement. All other
1553 applicable regulations of the County Code shall remain in force.

1554
1555 2. Approval of this request does not imply that a building permit will be issued.
1556 Building permit approval is contingent on Health Department requirements, including,
1557 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1558 of a well location.

1559
1560 3. At the time of building permit application, the applicant shall submit the
1561 necessary information to the Department of Public Works to ensure compliance with the
1562 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1563 water quality standards.

1564
1565 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1566 Negative: 0
1567 Absent: 0

1568
1569 The Board granted this request, as it found from the evidence presented that, due to the
1570 unique circumstances of the subject property, strict application of the County Code
1571 would produce undue hardship not generally shared by other properties in the area, and
1572 authorizing this variance will neither cause a substantial detriment to adjacent property
1573 nor materially impair the purpose of the zoning regulations.

1574
1575 Mr. Nunnally - Now do you want to go back to the other one, Mr.
1576 Blankinship, UP-23-2005?

1577
1578 **A - 96-2005** **DARREN AND LORI NORWOOD** request a variance from Section
1579 24-9 to build a one-family dwelling at 8476 Green Peace Lane
1580 (Parcel 854-677-9894), zoned A-1, Agricultural District (Varina).
1581 The public street frontage requirement is not met. The applicant
1582 has 0 feet public street frontage, where the Code requires 50 feet
1583 public street frontage. The applicant requests a variance of 50 feet
1584 public street frontage.

1585
1586 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
1587 please stand and raise your right hand?

1588
1589 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1590 truth, the whole truth, and nothing but the truth, so help you God?

1591
1592 Ms. Woolard - I do. I'm Sandra Woolard, the mother of Lori Norwood, who
1593 is the applicant with me. She's requesting 50 feet public street frontage so she can
1594 build a house on Green Peace Lane, which is the street we live on, which is a private
1595 road. We need the 50 feet of public street so she can do that.

1596
1597 Mr. Wright - How would she access the property?

1598
1599 Ms. Woolard - There's a private road, which is Green Peace Lane, that
1600 comes off of Monguy, which is right at the end of Far Side Trail, the old Henrico Fire
1601 Trail.
1602
1603 Mr. Wright - Who maintains Green Peace?
1604
1605 Ms. Woolard - All of the residents.
1606
1607 Mr. Wright - Do they have an agreement or something like that?
1608
1609 Ms. Woolard - They don't really have, it's like a verbal agreement, and just
1610 about everybody has a tractor, and they put gravel down, and it's kept really nice.
1611
1612 Mr. Wright - How wide is it?
1613
1614 Ms. Woolard - That I'm not sure of.
1615
1616 Mr. Wright - Can two cars pass on it?
1617
1618 Ms. Woolard - We don't have a problem with it; you can see ahead of time
1619 if someone's coming, and everybody just kind of pulls into each other's driveway to let
1620 the other cars pass.
1621
1622 Mr. Wright - How far is it from where this proposed house would be to the
1623 public highway?
1624
1625 Ms. Woolard - I'm not sure. We live at 8470, and my other daughter lives at
1626 8480, and she'll be in between the two of us. I guess it's maybe a tenth of a mile
1627 maybe.
1628
1629 Ms. Dwyer - Eight hundred feet, according to the staff report.
1630
1631 Ms. Harris - Can we see the two photos on the screen please. All right,
1632 the pictures in your packet, do you have these? The picture at the top, that's the street,
1633 right? The picture at the bottom is what?
1634
1635 Ms. Woolard - The top one is Green Peace Lane. The bottom one may be
1636 facing the land from Green Peace; it appears to be that.
1637
1638 Ms. Harris - So this is actually the same street? That you said was
1639 maintained by the neighbors?
1640
1641 Ms. Woolard - The residents.
1642
1643 Ms. Harris - This is not the site of your property; this is actually the road.

1644
1645 Ms. Woolard - No ma'am. It may be. It's kind of hard to see on the bottom
1646 one. Ours is in black and white.
1647
1648 Mr. Wright - It looks like that's the access to the property that we're
1649 looking at there.
1650
1651 Ms. Woolard - Yes, it looks like it's the access to the property, where her
1652 driveway would go.
1653
1654 Mr. Wright - The road is on the bottom of the photo, that passes by the
1655 property, and it looks like that's the way you go into the property.
1656
1657 Ms. Dwyer - Is that a "For Sale" sign in that photo?
1658
1659 Ms. Woolard - No ma'am. The top one is the road that we have on here;
1660 that's Green Peace Lane. The bottom one looks like it's from Green Peace Lane
1661 looking to where her driveway will go to her property.
1662
1663 Mr. Kirkland - I see the little real estate sign that says Groom Real Estate,
1664 is that correct?
1665
1666 Ms. Woolard - That was the builder who built the house, my dad. My
1667 husband was a subcontractor; he's now a general contractor, and since then, my father
1668 has passed away, so he built my other daughter's house.
1669
1670 Mr. Wright - Have you read the conditions?
1671
1672 Ms. Woolard - Yes, I have.
1673
1674 Mr. Nunnally - Any other questions? Anyone else want to speak on this
1675 case? If not, that concludes the case. Thank you for appearing.
1676
1677 Ms. Woolard - Could I say one more thing, or is it too late? She won't be
1678 able to build this house if we can't do this, as far as getting a County permit.
1679
1680 Mr. Nunnally - A-96-2005.
1681
1682 Mr. Wright - Move we approve it.
1683
1684 Ms. Harris - Second.
1685
1686 Mr. Nunnally - Moved by Mr. Wright, that we approve it; seconded by Ms.
1687 Harris. All in favor, say aye. Opposed? It's approved.
1688

1689 After an advertised public hearing and on a motion by Mr. Wright, seconded by Ms.
1690 Harris, the Board **granted** application **A-96-2005** for a variance to build a one-family
1691 dwelling at 8476 Green Peace Lane (Parcel 854-677-9894). The Board granted the
1692 variance subject to the following conditions:

1693
1694 1. This variance applies only to the public street frontage requirement. All other
1695 applicable regulations of the County Code shall remain in force.
1696

1697 2. At the time of building permit application, the applicant shall submit the
1698 necessary information to the Department of Public Works to ensure compliance with the
1699 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1700 water quality standards.
1701

1702 3. At the time of building permit application the owner shall demonstrate that the
1703 parcel created by this division has been conveyed to members of the immediate family,
1704 and the subdivision ordinance has not been circumvented.
1705

1706 4. Approval of this request does not imply that a building permit will be issued.
1707 Building permit approval is contingent on Health Department requirements, including,
1708 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1709 of a well location.
1710

1711 5. The applicant shall present proof with the building permit application that a legal
1712 access to the property has been obtained.
1713

1714 Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
1715 Negative:		0
1716 Absent:		0

1717
1718 The Board granted this request, as it found from the evidence presented that, due to the
1719 unique circumstances of the subject property, strict application of the County Code
1720 would produce undue hardship not generally shared by other properties in the area, and
1721 authorizing this variance will neither cause a substantial detriment to adjacent property
1722 nor materially impair the purpose of the zoning regulations.
1723

1724 **A - 97-2005** **CHRISTOPHER S. BOWYER** requests a variance from Section 24-
1725 9 to build a one-family dwelling at 3914 Antioch Church Road
1726 (Parcel 847-712-2101 (part)), zoned A-1, Agricultural District
1727 (Varina). The public street frontage requirement is not met. The
1728 applicant has 0 feet public street frontage, where the Code requires
1729 50 feet public street frontage. The applicant requests a variance of
1730 50 feet public street frontage.
1731

1732 Mr. Blankinship - Mr. Chairman, there is a revised plat that was left at your
1733 place this morning.
1734

1735 Mr. Nunnally - Is anyone else here interested in this case? Please raise
1736 your right hand and be sworn.
1737

1738 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1739 truth, the whole truth, and nothing but the truth, so help you God?
1740

1741 Mr. Bowyer - I do. My name is Christopher Scott Bowyer, and I'm
1742 requesting a variance to build a single dwelling.
1743

1744 Mr. Wright - Mr. Blankinship, what is this situation with respect to the
1745 flood plain on this property?
1746

1747 Mr. Blankinship - I was hoping that the revised plat was going to answer that
1748 question, but I'm afraid it doesn't. There is a difference between the County flood plain
1749 and the Federal flood plain here, and they seem to comply with the Federal floor plain
1750 because it says that they're in zone C, but the County flood plain shows a large portion
1751 of the back of this property being in this flood plain. While it's not delineated on here,
1752 I'm pretty comfortable saying that this revised plat is still not going to work. There's not
1753 going to be one acre within this 1.25 acres that is outside of the flood plain. I don't know
1754 how the Board feels about hearing this case before those issues are resolved with
1755 Public Works. They're going to have to be resolved, one way or the other, but it may
1756 very well turn out that the house can't be built in the rear portion of the property, that
1757 they have to divide it differently, and if so, that would just take up another hearing with
1758 you. They would have to resubmit if they were not in the back part of the property at all;
1759 if they moved up toward Antioch Church Road, they would have to come back before
1760 you.
1761

1762 Mr. Wright - What you're saying is they cannot build the house where
1763 they show it on this plat, is that correct?
1764

1765 Mr. Blankinship - The house location itself is outside the flood plain, but the
1766 Code requires that they meet the minimum lot size outside of the flood plain. The
1767 minimum lot size is one acre, and they've shown 1.25 acres, but about half of that, I'm
1768 going to guess, is in the flood plain. At the very least, they're going to have to redesign
1769 this lot to include at least one acre that is outside of the flood plain.
1770

1771 Mr. Wright - What do they have to do to satisfy that?
1772

1773 Mr. Blankinship - They would have to make their lot substantially larger,
1774 particularly with the higher part of the land, rather than adding more low land.
1775

1776 Mr. Kirkland - Could they move the property line further south, is that what
1777 you're trying to say?
1778

1779 Mr. Blankinship - Right, that would be part of it.
1780

1781 Ms. Dwyer - Is this a family division?
1782
1783 Mr. Blankinship - I believe it is.
1784
1785 Mr. Bowyer - It belongs to my aunt.
1786
1787 Mr. Wright - Do you understand what we're trying to get at here, sir?
1788
1789 Mr. Bowyer - Yes sir.
1790
1791 Mr. Wright - If the flood plain requirement is not met, you couldn't build a
1792 house on the lot, as shown on this plat, and it wouldn't do any good for us to approve it.
1793 You couldn't build a house anyhow. I'm not so sure the Board would be in a position to
1794 approve something that you obviously couldn't satisfy. I don't know what the answer is,
1795 unless you want to continue the case until you can get this resolved properly. I take it ,
1796 you'd have to go to an engineer or somebody

1797
1798 Mr. Blankinship - Yes, they'd have to get an engineer to determine the exact
1799 location of the flood plain, and then work with the Department of Public Works to resolve
1800 the issues.
1801
1802 Mr. Nunnally - Mr. Bowyer, would you like to defer this to next month to see
1803 if you can get it worked out with an engineer?
1804
1805 Mr. Bowyer - Yes sir.
1806
1807 Mr. Nunnally - Are you requesting a deferral to next month?
1808
1809 Mr. Bowyer - Yes sir.
1810
1811 Mr. Nunnally - Do I hear a motion?
1812
1813 Mr. Kirkland - I make a motion we defer this to the next meeting.
1814
1815 Ms. Dwyer - Second.
1816
1817 Mr. Nunnally - All in favor, say aye. Opposed, no.
1818
1819 Mr. Kirkland - Mr. Blankinship, you'll give him all the proper names?
1820
1821 Mr. Blankinship - Yes, I'll get with George Robertson at Downing and get him
1822 in touch with the Department of Public Works.
1823
1824 Mr. Nunnally - A-97-2005. Deferred to next month.
1825

1826 Upon a motion by Mr. Kirkland, seconded by Ms. Dwyer, the Board **deferred** application
1827 **A-97-2005** for a variance to build a one-family dwelling at 3914 Antioch Church Road
1828 (Parcel 847-712-2101 (part)).

1829
1830 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1831 Negative: 0
1832 Absent: 0

1833
1834 The Board deferred the request to allow time for further information to be presented.
1835

1836 **UP- 24-2005 GREY OAKS RECREATION, LLC** requests a conditional use
1837 permit pursuant to Section 24-12(b) to provide a recreational facility
1838 for a neighborhood at 5161 Pouncey Tract Road (Parcel 738-772-
1839 9227 (part)), zoned R-2AC, One-family Residence District
1840 (Conditional) Three Chopt).

1841
1842 Mr. Nunnally - Is anyone else here interested in this case? Please raise
1843 your right hand and be sworn.

1844
1845 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1846 truth, the whole truth, and nothing but the truth, so help you God?

1847
1848 Mr. Cochran - I do. Mr. Chairman, Members of the Board, my name is
1849 John Cochran. I am an engineer with Youngblood, Tyler & Associates, and I'm
1850 representing the case. We are generally in agreement with the conditions; however,
1851 there are a few things I'd like to discuss. Condition # 11, concerning the modified right
1852 turn lane, we've discussed this matter with Mr. Mike Jennings of the Traffic Division of
1853 Public Works, and he's agreed to waive this condition. I don't think that's been
1854 communicated properly to Mr. Blankinship, so I'd like to add the statement after the first
1855 sentence, "if required by the Public Works Department."

1856
1857 Mr. Nunnally - He said he would remove that condition?

1858
1859 Mr. Cochran - Yes. Secondly, Condition # 14, concerning the guardrail, the
1860 guardrail is currently required by Public Works standards; however, we believe there
1861 may be a way to lower the grading on the site to remove the necessity for the guardrail.
1862 So I'd like to add similar wording, after the first sentence of Condition # 14, which states,
1863 "if required by the Public Works Department." Other than that, we are in agreement with
1864 all conditions, and I respectfully request that you approve this case.

1865
1866 Mr. Blankinship - We inserted both those conditions and all the other traffic-
1867 related ones, at Mr. Jennings' request, so if he's willing to waive them, we certainly are
1868 too.

1869
1870 Mr. Cochran - I'll be happy to answer any questions you may have.
1871

1872 Ms. Dwyer - Do you have any issues with the hours of operation?
1873
1874 Mr. Cochran - No ma'am.
1875
1876 Mr. Wright - How many families do you propose for this facility to
1877 accommodate?
1878
1879 Mr. Cochran - To answer that question, I'd like to have either Mr. Jason
1880 Loftis or Mr. Michael Pruitt come down and answer. Can you swear them in?
1881
1882 Mr. Blankinship - Raise your right hand please. Do you swear that the
1883 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
1884 help you God?
1885
1886 Mr. Loftis - I do. My name is Jason Loftis. It will probably be
1887 somewhere in the neighborhood of 500 to 532 homes; I don't know how many folks that
1888 equates to, somewhere around 1,000 to 1,200.
1889
1890 Mr. Wright - How many houses do you have in your subdivision?
1891
1892 Mr. Loftis - At total build-out, it will be to participate in the recreation
1893 center, it will be about 500 to 530 houses, or families.
1894
1895 Mr. Wright - Do you come anywhere near the church back in there, at
1896 Nuckols Road?
1897
1898 Mr. Loftis - There's a piece of property that's in between the church and
1899
1900
1901 Mr. Wright - So you don't go all the way back to the church?
1902
1903 Mr. Loftis - No sir.
1904
1905 Mr. Wright - I was just interested to know, eventually that road that
1906 comes out, which is Dominion Parkway, is proposed to come all the way through?
1907 Would that come through your property or around it?
1908
1909 Mr. Loftis - The road that's being built is Grey Oaks Parks Drive,
1910 proposed to extend from Pouncey Tract Road to Nuckols Road to the church that you're
1911 speaking of, the first entrance to Wyndham. The developers that are participating in the
1912 recreation center control the property to a certain point. There's a piece of property
1913 between the church and the Grey Oaks Development.
1914
1915 Mr. Wright - So that Grey Oaks Parks Drive would not go into Old
1916 Dominion Parkway?
1917

1918 Mr. Loftis - It's proposed to, yes sir, but we don't have the control of the
1919 last piece of property that links it together. That fellow hasn't sold his property yet.
1920
1921 Ms. Harris - Is this a pool house, or is this the entire recreational facility?
1922
1923 Mr. Loftis - This is the entire recreational facility. We'll have tennis
1924 courts, a pool, continuing facility snack bar, and then a pump house included with the
1925 parking lots.
1926
1927 Ms. Harris - What's the square footage of the recreational facility?
1928
1929 Mr. Cochran - The property is a little over 5 acres. I don't have the square
1930 footage of the pool and building in my head. We have submitted construction plans,
1931 and that information is included in the construction plans.
1932
1933 Ms. Harris - My question was, the recreational facility itself, do we have
1934 that? I know we have this plan for the pool house, but is there another building?
1935
1936 Mr. Loftis - There is not, no ma'am. Just what we propose to do right
1937 now is have changing facilities, restrooms, and a pump house and a small snack bar
1938 area. There is no great room that is part of the recreation center.
1939
1940 Mr. Nunnally - Any other questions? That concludes the case. Thank you
1941 for appearing. UP-24-2005.
1942
1943 Mr. Wright - I move we approve it.
1944
1945 Mr. Nunnally - Motion by Mr. Wright that we approve it.
1946
1947 Mr. Wright -with changes to the conditions. I don't think that
1948 hurts us. That's the whole purpose of the thing anyway, to satisfy the Department of
1949 Public Works.
1950
1951 Mr. Blankinship - Yes sir.
1952
1953 Mr. Nunnally - Do we have a second?
1954
1955 Mr. Kirkland - Second.
1956
1957 Mr. Nunnally - Second by Mr. Kirkland.
1958
1959 Ms. Dwyer - Those conditions # 11 and # 14, "if required by the
1960 Department of Public Works."
1961
1962 Mr. Blankinship - "if required by the Department of Public Works" would be
1963 added to the first sentence of each condition.

1964
1965 Mr. Nunnally - Motion by Mr. Wright, second by Mr. Kirkland, that it be
1966 approved. All in favor say aye. Opposed? It's approved.
1967
1968 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1969 Kirkland, the Board **granted** application **UP-24-2005** for a conditional use permit to
1970 provide a recreational facility for a neighborhood at 5161 Pouncey Tract Road (Parcel
1971 738-772-9227 (part)). The Board granted the use permit subject to the following
1972 conditions:
1973
1974 1. The property shall be developed in substantial conformance with the plan filed
1975 with the application. Any substantive change must be submitted to the Planning
1976 Department for review and approval.
1977
1978 2. The recreation center shall be operated on a nonprofit basis and be open only to
1979 members and their guests.
1980
1981 3. Hours of operation shall be limited to 6:00 AM to 10:00 PM for outdoor activities
1982 and 6:00 AM to 12:00 midnight for indoor activities. The pool season shall be limited to
1983 May 1 to September 30.
1984
1985 4. Up to four times per year, the pool hours may be extended to 12:00 Midnight for
1986 swimming meets. Public address systems, starter guns and similar equipment may be
1987 used at swimming meets, but at no other time except for emergency purposes.
1988
1989 5. The parking lot, driveways, and loading areas shall be subject to the
1990 requirements of Section 24-98 of Chapter 24 of the County Code.
1991
1992 6. The applicant shall present a complete grading, drainage, and erosion control
1993 plan prepared by a Professional Engineer certified in the state of Virginia to the
1994 Department of Public Works for approval. This plan must include the necessary
1995 floodplain information if applicable.
1996
1997 7. A detailed site lighting plan shall be included with the landscaping plans for
1998 Planning Department review and approval. All exterior lighting shall be shielded to
1999 direct light away from adjacent property and streets. For safety and security, lights
2000 beamed only on the swimming pool, and operated on a timer, shall be provided
2001 whenever water is in the pool.
2002
2003 8. All landscaping shall be maintained in a healthy condition at all times. Dead
2004 plant materials shall be removed within a reasonable time and replaced during the
2005 normal planting season.
2006
2007 9. The swimming pool shall be enclosed by a privacy fence six feet tall. The design
2008 shall be subject to Planning Department review and approval.
2009

- 2010 10. Connections shall be made to public water and sewer.
 2011
 2012 11. [AMENDED] A modified right turn lane shall be installed off of Grey Oaks Park
 2013 Drive if required by the Department of Public Works. The right turn lane shall have a
 2014 minimum of 125 feet of full storage and 75 feet of taper. The face of curb for the full
 2015 storage section shall be 26.5 feet from face of curb of median.
 2016
 2017 12. Right-of-way shall be dedicated for the proposed right turn lane from Grey Oaks
 2018 Park Drive. The required right-of-way dedication is to 7 feet from face of curb.
 2019
 2020 13. The standard Henrico County sidewalk shall be relocated for the turn right lane.
 2021
 2022 14. [AMENDED] A guardrail or other accepted vehicular protection shall be provided
 2023 along the entire northeastern edge of the proposed access road and continue along the
 2024 drive aisle that runs northwest to southeast around the curve to the sidewalk if required
 2025 by the Department of Public Works. The approximate locations of the guardrail or other
 2026 accepted vehicular protection shall be shown on the plans.
 2027
 2028 15. A standard R1-1 Stop Sign and 24 inch white stop bar shall be provided at all
 2029 points of egress from this development.
 2030
 2031 16. Sight distances and sight lines shall be provided on the plan for all access points
 2032 onto public right-of-way. Adequate sight distance must be demonstrated prior to Public
 2033 Works' approval of this plan.
 2034
 2035 17. All curb radii dimensions on the plans shall be labeled.
 2036
 2037 18. Raised, landscaped islands with a minimum width of 9 feet shall be provided at
 2038 the ends of all rows of parking to separate parking areas from driveways.
 2039
 2040 19. This Conditional Use Permit will not be valid unless the property is rezoned to A-1.

2041		
2042	Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright
2043	Negative:	0
2044	Absent:	0

2045
 2046 The Board granted the request because it found the proposed use will be in substantial
 2047 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2048
 2049 **A - 98-2005 RYAN HOMES** requests a variance from Section 24-94 to allow
 2050 existing dwelling to remain at 6301 Oakland Chase Place (Oakland
 2051 Chase) (Parcel 806-705-0504), zoned R-3C, One-family Residence
 2052 District (Conditional) (Varina). The rear yard setback is not met.
 2053 The applicant has 39 feet rear yard setback, where the Code
 2054 requires 40 feet rear yard setback. The applicant requests a
 2055 variance of 1 foot rear yard setback.

2056
2057 Mr. Nunnally - Is anyone else here interested in this case? If so, would you
2058 please stand and raise your right hand?
2059
2060 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2061 truth, the whole truth, and nothing but the truth, so help you God?
2062
2063 Mr. Ware - I do. My name is William F. Ware, Jr. I work at Timmons
2064 Group, and I'm representing Ryan Homes in the application for a variance for a single
2065 family residence located in Oakland Chase Subdivision. We're one foot reduction in the
2066 rear yard setback. We were contracted by Ryan Homes to provide the permit plat for
2067 this particular home about a year and a half ago, in April 2004. They changed their
2068 plans this past April for a new house, and when that permit was drawn up, there was a
2069 two-foot by 20-foot, second story cantilever, that was overlooked when we drew the
2070 permit. The permit plat was submitted to the County. The County also had benefit of
2071 the architectural plans for this particular residence, and unfortunately, they overlooked
2072 the second-story cantilever also. The permit plat was approved, we got the request to
2073 stake the house in the location that was indicated on the permit plat, and in that staking,
2074 the second-story cantilever encroached into the rear yard by 7/10 of a foot.
2075
2076 Mr. Wright - Only 7/10 of a foot? That's just the corner of it.
2077
2078 Mr. Ware - It's only the right rear corner of the house.
2079
2080 Mr. Wright - That would look nice if you could cut it so it would be parallel
2081 to the rear line.
2082
2083 Mr. Ware - It wasn't an intentional thing. There were some ideas kicked
2084 around in our office. We considered looking at possibly adding a small sliver of land
2085 into the rear of this lot to make it so that the rear yard was accommodated for; however,
2086 the development to the rear of this lot is known as the Villas at Oakland Chase. It's an
2087 apartment complex that's actually under construction right now. There is a 50-foot
2088 buffer located on that property for the apartment complex, which backs directly up to the
2089 rear line of this particular lot. It being a 50-foot buffer, that could be shifted along if we
2090 were able to get a sliver of land to go with the rear of this lot. However, there is a
2091 garage structure that's under construction right now for the apartment complexes, which
2092 is .08 of a foot off of this buffer, so we're wedged really tight with the proposed
2093 developments that are going on right now.
2094
2095 Mr. Nunnally - Was this building a model home?
2096
2097 Mr. Ware - No sir. It's a residential home that's being purchased by a
2098 lady, which is under contract; it was supposed to go to closing yesterday. It's my
2099 understanding that NVR Settlement Services, which is handling this closing, has
2100 postponed closing for this house due to the situation that we're discussing right now.
2101

2102 Mr. Kirkland - Mr. Blankinship, there was a permit issued for this home,
2103 and they've missed this also.
2104

2105 Mr. Blankinship - The plat from the permit does not show the cantilevered
2106 portion. We were not able to recover the actual building floor plans. Why that is, I'm not
2107 sure, but we tried to get them from Building Inspections, and they weren't available. It
2108 may be that the original building plans conflicted with the plat, or it may be that it wasn't
2109 shown in either place.
2110

2111 Ms. Dwyer - The footprint meets the setback, right.
2112

2113 Mr. Kirkland - It's just the cantilever on one corner.
2114

2115 Mr. Ware - I've got a copy. The cantilever appears on the right rear,
2116 and it shows on the first floor plan.
2117

2118 Mr. Blankinship - It's on the building plan.
2119

2120 Ms. Dwyer - Why was the building set in; why was the footprint set back
2121 on the first floor and cantilevered out on the second floor? Was it because they were
2122 aware of this problem and thought the cantilever didn't matter?
2123

2124 Mr. Ware - No, it's just the house style; I don't think it has anything to do
2125 with the particular lot. It was more, I'm assuming now, it doesn't have anything to do
2126 with a particular person who was purchasing the house, but that would have been a
2127 preference with the purchaser with Ryan. If you look at the permit plan, there is
2128 additional room on the lot itself, if we were about to catch the existence of that two-foot
2129 cantilever in the rear, the house would have still fit, unfortunately. I hate to say that.
2130 The fact is that it was overlooked on our part; it was overlooked at the permit stage and
2131 approval from the County. And it wasn't caught until the final mortgage survey was
2132 performed.
2133

2134 Mr. Wright - Mr. Blankinship, does the overhang count as part of the
2135 house?
2136

2137 Mr. Blankinship - The roof overhang eaves would not, but the cantilever area
2138 does.
2139

2140 Mr. Wright - So the roof overhang doesn't create any problem?
2141

2142 Mr. Blankinship - Right.
2143

2144 Mr. Kirkland - So we're talking about .7 or 8 ½ inches.
2145

2146 Ms. Harris - Mr. Blankinship, is there a margin of error on some of these
2147 measurements?

2148
2149 Mr. Blankinship - There have been times when I've suggested to a surveyor
2150 that he just not pull his tape quite so tight, but they usually don't take my advice on that.
2151 If they're going to put their seal on it, they want it accurate.
2152
2153 Mr. Ware - There have been some suggestions to go out there and
2154 bump the rod or measure it a little bit differently, but the fact is the way it is.
2155
2156 Mr. Blankinship - It's a minimum requirement. They can go as much farther
2157 than that as they want to.
2158
2159 Ms. Harris - Did you build the entire Oakland Chase Subdivision through
2160 Ryan?
2161
2162 Mr. Ware - I want to say that we did, we staked all the houses, Timmons
2163 Group did. I do not believe that we've prepared mortgage surveys for all the individual
2164 houses in that subdivision. It was our subdivision; we did do the subdivision plan. The
2165 subdivision plan was dated December 30, 2003.
2166
2167 Mr. Nunnally - Any other questions of the Board? Okay, that concludes the
2168 case. A-98-2005.
2169
2170 Mr. Kirkland - I make a motion we approve it.
2171
2172 Ms. Harris - Second the motion.
2173
2174 Mr. Nunnally - Motion by Mr. Kirkland that we approve it; seconded by Ms.
2175 Harris. All in favor, say aye. Opposed. It's been approved.
2176
2177 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
2178 Harris, the Board **granted** application **A-98-2005**, for a variance to to allow existing
2179 dwelling to remain at 6301 Oakland Chase Place (Oakland Chase) (Parcel 806-705-
2180 0504). The Board granted the variance subject to the following condition:
2181
2182 1. This approval applies only to the improvements shown on the plan filed with the
2183 application. Any additional improvements shall comply with the applicable regulations
2184 of the County Code. Any substantial changes or additions may require a new variance.
2185
2186 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2187 Negative: 0
2188 Absent: 0
2189
2190 The Board granted this request, as it found from the evidence presented that, due to the
2191 unique circumstances of the subject property, strict application of the County Code
2192 would produce undue hardship not generally shared by other properties in the area, and

2193 authorizing this variance will neither cause a substantial detriment to adjacent property
2194 nor materially impair the purpose of the zoning regulations.
2195
2196 Mr. Nunnally - Let's start from the rear.
2197
2198 Mr. Nunnally - I think we have a set of minutes here. Do I hear a motion on
2199 the minutes?
2200
2201 Mr. Wright - I have some corrections – do you want to take those up, or
2202 do you want a motion beforehand?
2203
2204 Mr. Nunnally - Do you want to make a motion and the corrections at the
2205 same time?
2206
2207 Mr. Wright - I move we approve them with these corrections: Page 27,
2208 line 1195, just a technical thing, normally we put the number, it's got "Affirmative," but
2209 no number out there. Page 54, we don't have a vote at all. It's got, after advertised,
2210 etc., motion by Ms. Harris, second by Ms. Dwyer, the Board granted the application, but
2211 normally we have under that the number of votes for and against. That seems to be
2212 missing. Page 58, line 2629, right at the end, it says "I've ready"; it should be "I've
2213 read." Knock the "y" off.
2214
2215 Ms. Harris - Page 29, line 1316, I think Mr. Wright's name, Ms. Harris
2216 second, his name is missing there.
2217
2218 Mr. Nunnally - We've just got to add the names there.
2219
2220 Mr. Blankinship - You've got to change speakers.
2221
2222 Mr. Wright - You've got "Affirmative, 5," and it should be "Negative, 5," on
2223 the next page, top of 30.
2224
2225 Mr. Blankinship - "Negative, 0."
2226
2227 Mr. Wright - The Board denied the application. Yes, Affirmative for
2228 denial, that's right.
2229
2230 Mr. Kirkland - You want Mr. Wright's name on 1316, is that correct, Ms.
2231 Harris?
2232
2233 Mr. Blankinship - I think we need someone to second the motion on the
2234 minutes.
2235
2236 Mr. Wright - I made the motion.
2237
2238 Mr. Kirkland - I'll second it, with the corrections.

2239
2240 Mr. Nunnally - Motion made by Mr. Wright, seconded by Mr. Kirkland. All in
2241 favor of the minutes with the corrections, say aye. Opposed?
2242
2243 On a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **approved as**
2244 **corrected**, the Minutes of the **May 26, 2005**, Henrico County Board of Zoning Appeals
2245 meeting.
2246
2247 Mr. Blankinship - Mr. Chairman, as you remember, we have a very formal
2248 legal requirement for the motion to go into a Closed Meeting, and I'm passing that down
2249 now. If anyone wants to make that motion, it might be convenient for you just to read it.
2250
2251 Mr. Wright - I move we go into a closed meeting for consultation with
2252 legal counsel concerning litigation in the case of *Simons Hauling Company Inc.* versus
2253 *the Board of Zoning Appeals of the County of Henrico*, case CL05-1029 in the Henrico
2254 Circuit Court, pursuant to §2.2-3711(A)(7) of the Code of Virginia, 1950 as amended.
2255
2256 Ms. Harris - Second the motion.
2257
2258 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2259 Negative: 0
2260 Absent: 0
2261
2262 **As the meeting reconvened:**
2263
2264 Mr. Wright - I move to certify that to the best of each member's
2265 knowledge (i) only public business matters lawfully exempted from open meeting
2266 requirements under this chapter and (ii) only such public business matters as were
2267 identified in the motion by which the closed meeting was convened were heard,
2268 discussed or considered in the meeting, pursuant to §2.2-3712(D) of the Code of
2269 Virginia, 1950 as amended.
2270
2271 Mr. Kirkland - Second the motion.
2272
2273 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2274 Negative: 0
2275 Absent: 0
2276
2277
2278 Mr. Wright - I move we adjourn.
2279
2280
2281 Mr. Kirkland - Second.
2282
2283

2284 There being no further business, and on a motion by Mr. Wright, seconded by Mr.
2285 Kirkland, the Board adjourned until **October 20, 2005**, at 9:00 am.

2286
2287 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2288 Negative: 0
2289 Absent: 0

2290

2291

2292

2293

2294 James. W. Nunnally,

2295 Chairman

2296

2297

2298 Benjamin Blankinship, AICP

2299 Secretary

2300