

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, APRIL 26, 2012 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH APRIL 9,**
6 **2012 AND APRIL 16, 2012.**

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

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner
Kim Vann, Henrico Police

8
9 Ms. Harris - Good morning. Welcome to the April 26, 2012
10 meeting of the Henrico County Board of Zoning Appeals. Please stand and recite
11 the **Pledge of Allegiance**.

12
13 Good morning, Mr. Blankinship. Please read the rules that govern this meeting,
14 and let us know if there are any withdrawals or deferrals.

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

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

35 And finally, out in the foyer there is a binder containing the staff report for each
36 case, including the conditions that have been recommended by the staff.
37 Particularly for applicants on use permit cases, it's very important that you be
38 familiar with those conditions.

39

40 We do not have any requests for deferral or withdrawal this morning that I'm
41 aware of.

42

43 Ms. Harris - Thank you. Please call the first case.

44

45 **CUP2012-00012** **RAE ANN MCGHEE** requests a conditional use
46 permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the
47 side yard at 10245 Greenwood Road (Greenwood Park) (Parcel 780-764-2262),
48 zoned R-4, One-Family Residence District (Fairfield).

49

50 Ms. Harris - All persons who plan to speak to this case please
51 stand and be sworn in.

52

53 Mr. Blankinship - Raise your right hands, please. Do you swear the
54 testimony you're about to give is the truth and nothing but the truth so help you
55 God?

56

57 Ms. McGhee - Yes.

58

59 Ms. Harris - Please state your case after you identify yourself.

60

61 Ms. McGhee - My name is Rae Ann McGhee—M-c-g-h-e-e. And I'm
62 here to apply for the permit for the side yard to get our pool put in. We were here
63 a couple years ago. And one of the things that I needed to do was to get my
64 septic system changed over to the County sewer, which I have done. And we
65 have upgraded to a better pool. It's a Kayak pool, and it's rectangular instead of
66 circular.

67

68 There's only a small portion of the side yard that the pool will be in, but it's ten
69 and a half feet over from the backyard. But in order to have my shed and my
70 pool, I had to apply for the special use permit. The people at the County were
71 very nice in trying to figure out ways we could do it without doing this, but
72 however, as you know, we're here again requesting it.

73

74 Ms. Harris - Do your neighbors know where you're planning to
75 place this pool?

76

77 Ms. McGhee - Excuse me?

78

79 Ms. Harris - Are your neighbors familiar with what you're trying to
80 do here?

81
82 Ms. McGhee - The last time we tried to do this they sent letters out
83 to our neighbors and nobody objected. So I assume that would still be the case;
84 it's the same people.
85
86 Mr. Blankinship - We have not heard from any of the neighbors.
87
88 Ms. Harris - Are there any questions from Board members?
89
90 Mr. Baka - I have one. This a resubmittal of a previous
91 conditional use permit that expired, correct? Are there any substantial changes
92 to what you received approval for the previous time?
93
94 Ms. McGhee - Just that I upgraded to County septic—or the County
95 sewer; I'm sorry. We took the septic tank out. That was a big thing the last time.
96
97 Mr. Blankinship - This one is actually a resubmission of an application
98 that was denied in the previous hearing. The reason I think the Board denied it
99 last time, was that the pool was far forward, near Greenwood Road. The reason
100 for that was the septic system was located behind it. But now that they've
101 connected to County sewer they don't need the septic system, and they are able
102 to put the pool back almost entirely in the rear yard. So it's the same property
103 and it's still a pool, but it's a substantially different request.
104
105 Mr. Baka - And that's because it's further into the rear yard,
106 definitely. Is there any opportunity to move it further away from the side line, or
107 does that interfere with the trees that are shown on the photographs and the
108 plat?
109
110 Ms. McGhee - Where we plan on putting it—I guess you have the
111 photographs where the shed is.
112
113 Mr. Baka - Yes.
114
115 Ms. McGhee - Okay. We're going to turn the shed sideways on the
116 back lot, and the pool will go up where the shed—from the fence line up.
117
118 Mr. McGhee - Along the side of the house.
119
120 Ms. McGhee - Along the side of the house.
121
122 Mr. McGhee - Looks like it's far enough away—
123
124 Ms. Harris- Sir? Would you identify yourself?
125
126 Mr. McGhee - I'm sorry. Leonard McGhee.

127
128 Ms. Harris - You were explaining the condition?
129
130 Mr. McGhee - As she was saying, we're going to turn the shed
131 sideways. As you can see in one of the photos, as you're looking down the
132 driveway the shed runs parallel to the back fence. We're going to turn it sideways
133 where it will give us more room. The shed it like a ten by fifteen, and if we turn it
134 sideways and push it further back against the side property line, the yellow
135 house that you see, that gives us an extra seven or eight feet more.
136
137 Ms. Harris - I have a question about the six-foot privacy fence.
138 Will that be of wood construction?
139
140 Ms. McGhee - We're going to construct it. We have estimates here
141 from the fence company.
142
143 Ms. Harris - What material?
144
145 Ms. McGhee - I'm doing vinyl.
146
147 Ms. Harris - Vinyl?
148
149 Ms. McGhee - Yes.
150
151 Mr. McGhee - One of the questions is if we put—
152
153 Ms. McGhee - Privacy slats that you can put in. The deck sits three
154 feet up from the ground and then another four feet is the deck. So it would be
155 seven feet up. And it's a Kayak pool, so it's completely surrounded by fencing.
156 They said we could put privacy—
157
158 Mr. McGhee - Kind of like a lattice around it.
159
160 Ms. McGhee - So you cannot see into the pool. Would that suffice?
161
162 Mr. McGhee - Or do we still need the privacy fence blocking
163 Greenwood Road?
164
165 Ms. McGhee - Because you wouldn't be able to see into the pool. I
166 guess that's the reason?
167
168 Ms. Harris - Let's look at the conditions to see if we address that.
169
170 Ms. McGhee - I have a picture. We have a brochure of the pool, if
171 you need it, where it will show you the fencing and how high and everything it's
172 going to be up.

173

174 Mr. Blankinship - You're concerned about condition number two, then,
175 which is two sentences. The first one requires the six-foot-tall fence and does not
176 describe what kind of a fence. And that's enclosing the pool. And I believe that's
177 a building code requirement for safety to make sure no one—

178

179 Ms. McGhee - Yes. That's why we bought the pool with the deck
180 already on. And the pool steps lock so nobody can get into the pool. And like I
181 said, it would be seven feet up. And then they told us we could put privacy things
182 around it so you cannot see into it.

183

184 Mr. Blankinship - The second sentence just reads, "The applicant shall
185 screen the pool from street view," and doesn't define how you screen it.

186

187 Ms. McGhee - Okay. I want to make sure I do everything right.

188

189 Mr. Blankinship - I appreciate that.

190

191 Mr. Bell - Mr. McGhee was talking about the reorientation of the
192 shed. He said he will also re-orientate the shed to maximize the use of the area.
193 Does that have to be made a condition or is it just something that he's going to
194 do?

195

196 Mr. Blankinship - That's a good question. I guess the first part of my
197 answer would be if he did not reorient the shed would you be inclined to deny the
198 permit. If so, then it should be a condition. But if it's not something that's make-
199 or-break for you, then it doesn't necessarily need to be a condition. Condition
200 number one requires that they use the plan submitted with the application. So I
201 think if they did not follow the plan and it caused some kind of problem, we could
202 go back to them and say this is the plan that you submitted, this is the plan the
203 Board approved, and we need you to follow this plan.

204

205 Mr. Bell - Thank you.

206

207 Ms. Harris - That's under sworn testimony. He did say they would
208 reorient the existing shed. How close are you to your side and rear neighbors?

209

210 Mr. McGhee - How close would the—

211

212 Ms. Harris - Pool be.

213

214 Mr. McGhee - The pool would be? Seven and a half feet off of that
215 side property fence line, the wood privacy fence. It's going to be seven and a half
216 feet before the deck even starts. And then the deck is eight feet wide.

217

218 Ms. Harris - And the other neighbor?

219
220 Ms. McGhee - We have like a property between us that is wooded;
221 nobody lives there.
222
223 Mr. McGhee - I think it's County property.
224
225 Mr. Blankinship - Yes. It's right-of-way, street right-of-way.
226
227 Ms. Harris - Are there any other questions from Board members?
228
229 Mr. Wright - Yes. We still require that six-foot fence, right?
230
231 Mr. Blankinship - Yes. That's a building code requirement.
232
233 Mr. Wright - And they understand that.
234
235 Mr. McGhee - Yes.
236
237 Mr. Wright - Okay.
238
239 Mr. Baka - Is there any opposition from any neighbors recorded?
240
241 Mr. Blankinship - We have not heard anything.
242
243 Ms. Harris - Would the building permit specify the construction for
244 the fence?
245
246 Mr. Blankinship - Yes ma'am.
247
248 Ms. Harris - It will. Okay. Be sure that the fence you are
249 proposing, the lattice type that does not allow you to see in—
250
251 Ms. McGhee - This is a solid fence. We have the brochure on it if
252 you would like to see it. Home Depot are the ones that would be putting it in.
253
254 Ms. Harris - I'm sorry, can you repeat that?
255
256 Ms. McGhee - Home Depot are the constructors on that.
257
258 Ms. Harris - Are there any more questions? All right, that
259 concludes the case. Thank you.
260
261 Ms. McGhee - Thank you.
262
263 Ms. Harris - Is there anyone else who wishes to speak to this
264 case? If not, that concludes this case.

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

Ms. Harris - What is your pleasure?

Mr. Wright - I move we approve this application for a use permit on the grounds it will not adversely affect the health, safety, and welfare of the persons on the premises and in the neighborhood. It won't unreasonably impair the adequate supply of light and air, nor increase congestion in the streets, nor increase public danger from fire, nor impair the character of the district or adjacent district, nor be incompatible with the general plans and objectives of the official Land Use Plan, nor likely to reduce or impair the value of buildings or property in the surrounding area. And it will be in substantial accordance with the general purpose and objectives of this chapter.

Ms. Harris - Is there a second?

Mr. Bell - Second.

Ms. Harris - Okay. Motion made by Attorney Wright, seconded by Mr. Bell that this case be approved. Are there any questions on this motion? I want to complement the McGhee's on what they did to get this property prepared for this conditional use permit and connecting to the water service.

All in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Bell, the Board **approved** application **CUP2012-00012, RAE ANN MCGHEE's** request for a conditional use permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the side yard at 10245 Greenwood Road (Greenwood Park) (Parcel 780-764-2262), zoned R-4, One-Family Residence District (Fairfield). The Board approved the conditional use permit subject to the following conditions:

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

2. The swimming pool shall be enclosed by a 6 foot tall fence. The applicant shall screen the pool from street view.

310 3. The pool decking and shed shall maintain the following setbacks: 5 feet to
311 rear property line, 6 feet to other accessory structures, and 10 feet to the
312 dwelling.

313
314 4. The applicant shall obtain all necessary building permits for the installation of
315 the above ground swimming pool, pool decking, stairs, water pump and filtering
316 system.

317
318
319 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
320 Negative: 0
321 Absent: 0

322
323

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

326

327 **CUP2012-00013** XIAO HUA PAN requests a conditional use permit
328 pursuant to Section 24-12(d) of the County Code to allow a pigeon loft at 3913
329 Split Rail Road (Stoney Creek) (Parcel 807-727-5913), zoned R-3AC, One-
330 Family Residence District (Conditional) (Varina).

331

332 Ms. Harris - All persons who plan to speak to this case, please
333 stand and be sworn in.

334

335 Mr. Blankinship - Raise your right hand, please. Do you swear the
336 testimony you're about to give is the truth and nothing but the truth so help you
337 God?

338

339 Mr. Pan - Oh, I'm sorry, my English no good.

340

341 Mr. Blankinship - Are you going to tell the truth.

342

343 Mr. Pan - Yes.

344

345 Mr. Blankinship - Okay.

346

347 Ms. Harris - Please go ahead and present your case, what it is
348 that you wish to do.

349

350 Mr. Pan - Oh. My name is Xiao Hua Pan—X-i-a-o H-u-a. Last
351 name P-a-n. I live [unintelligible] this pigeon about one year. I working restaurant.
352 I really like pigeons. This pigeon is [unintelligible] Every year I [unintelligible]
353 pigeon here. I have nice pigeons in here. I talked to my neighbor and he said it's
354 okay. I'm sorry.

355

356 Mr. Blankinship - That's okay; you're doing fine.
357
358 Ms. Harris - If you want, you can pass the pictures around.
359
360 Mr. Pan - I have many pigeons now.
361
362 Ms. Harris - Are you familiar with the County requirements, the
363 County code, as to how your pigeon loft should have been constructed, how it
364 should have been built?
365
366 Mr. Wright - How many pigeons do you have?
367
368 Mr. Pan - Eight. I just bought one year.
369
370 Mr. Wright - How long have you had the pigeons?
371
372 Mr. Pan - One year.
373
374 Mr. Wright - One year.
375
376 Mr. Pan - Yes. I'm from China. In China I have pigeons for
377 about ten years. About ten years, yes. It's AU. AU Pigeon. It's AU Pigeon.
378
379 Mr. Nunnally - American Pigeon Union.
380
381 Mr. Wright - So you are a member of the American Racing Pigeon
382 Union, Inc.
383
384 Mr. Pan - Yes.
385
386 Mr. Wright - What does that mean? What do you do?
387
388 Mr. Pan - I race pigeons.
389
390 Mr. Wright - You race pigeons.
391
392 Mr. Pan - Yes, yes.
393
394 Ms. Harris - Raise?
395
396 Mr. Wright - Race. It says R-a-c—racing. Racing pigeons.
397
398 Ms. Harris - Okay.
399
400 Mr. Wright - What does that involve? How does it work?
401

402 Mr. Pan - Okay. I'm raising pigeon, old pigeon making baby
403 pigeon. I mail to AU Pigeon, you know, racing.
404
405 Mr. Wright - Where do you race these?
406
407 Mr. Pan - There and back.
408
409 Mr. Wright - Race from your house?
410
411 Mr. Pan - Yes. I mail to other states. Come back. Number one,
412 number two, number three, like that.
413
414 Mr. Wright - Never heard of that.
415
416 Mr. Pan - No flying pigeon at house. Baby, make baby. I mail to
417 AU Pigeon. Somebody meet together. Racing.
418
419 Mr. Baka - Where do you meet?
420
421 Mr. Wright - Where does this take place? Where does it start
422 from? The race, where does the race start from? Your house?
423
424 Mr. Pan - Yes. Come back. Yeah. Start at my house, yes.
425
426 Mr. Bell - They breed homing pigeons?
427
428 Mr. Pan - Homing pigeons.
429
430 Mr. Bell - Yes. They breed homing pigeons that are real fast
431 flyers. And then the club might go to Maryland and release them. And then the
432 one that gets back to the house first—the pigeon—wins.
433
434 Mr. Pan - Yes, yes.
435
436 Mr. Wright - You race your own pigeons. You don't race
437 somebody else's?
438
439 Mr. Pan - I racing somebody.
440
441 Mr. Bell - A competition you're running.
442
443 Mr. Pan - Like member. Member race together pigeons.
444
445 Mr. Wright - How often does this take place? How often do you do
446 this?
447

448 Mr. Blankinship - Once a week, once a month, once a year?
 449
 450 Mr. Wright - Once a week, once a day or?
 451
 452 Mr. Pan - Come back?
 453
 454 Mr. Wright - Yes, how—
 455
 456 Mr. Pan - One day, 200—300 miles come back.
 457
 458 Mr. Blankinship - When's the next time you do it?
 459
 460 Mr. Pan - I don't know. Every year it's May and September.
 461
 462 Mr. Blankinship - Okay, so twice a year.
 463
 464 Mr. Pan - Yes.
 465
 466 Mr. Wright - Twice. Two times a year.
 467
 468 Mr. Pan - Exactly. About—one year, one time—maybe one or
 469 two times. The members who have pigeons, it's one year, two times.
 470
 471 Mr. Wright - What happens to the pigeons between the races? Do
 472 they all just stay there in the coup, the loft?
 473
 474 Mr. Pan - No.
 475
 476 Mr. Wright - Where do they go?
 477
 478 Mr. Pan - Can you say again, please?
 479
 480 Mr. Nunnally - Where do you keep the pigeons?
 481
 482 Mr. Pan - I like pigeons.
 483
 484 Mr. Blankinship - You keep them there, right?
 485
 486 Mr. Pan - Oh, yes, yes. My home. Yes.
 487
 488 Mr. Wright - Do they fly every day out?
 489
 490 Mr. Pan - No, no fly home. No fly.
 491
 492 Mr. Wright - They stay in the loft?
 493

494 Mr. Pan - Yes.
495
496 Mr. Wright - Until you race them.
497
498 Mr. Pan - Yes, no—yes.
499
500 Mr. Bell - How do you train them? How do you keep them
501 healthy so they can fly if you don't fly them?
502
503 Mr. Pan - It's not my pigeons. I need to make baby, mail to
504 pigeon club. It's no fly outside. I buy the pigeons.
505
506 Mr. Blankinship - But they're not the ones you race.
507
508 Mr. Pan - No, no, no.
509
510 Mr. Blankinship - You just race the babies.
511
512 Mr. Pan - Yes, yes.
513
514 Mr. Wright - Oh, okay.
515
516 Mr. Pan - I fly. I fly, she go home. No stay at my home. I fly this
517 pigeon, she fly home. I just fly sometimes.
518
519 Mr. Blankinship - Okay.
520
521 Mr. Wright - All right.
522
523 Ms. Harris - Do you know that you have to build the loft at least a
524 minimum of two feet off of the ground?
525
526 Mr. Pan - [Unintelligible.]
527
528 Ms. Harris - This loft, this structure does not comply, does not
529 pass County code.
530
531 Mr. Pan - No.
532
533 Ms. Harris - Right. So how can you make it pass the inspection?
534 Do you have a copy of this report?
535
536 Mr. Wright - If he doesn't pass County code, you're not allowed to
537 have it there.
538
539 Ms. Harris - Page two of three.

540
541 Mr. Wright - I was wondering if we could defer this case and have
542 him get with Mr. Blankinship or somebody that they can interpret his language so
543 they can work out these details. We're not getting anywhere.
544
545 Ms. Harris - Yes. I just want to see if he understands on page two
546 of three.
547
548 Mr. Wright - Have you met with him?
549
550 Mr. Blankinship - No. This is the first time I've seen him.
551
552 Mr. Wright - Don't you think Planning staff should do something?
553 He needs to get an interpreter.
554
555 Ms. Harris - The first paragraph.
556
557 Mr. Pan - I'm sorry.
558
559 Ms. Harris - That's okay.
560
561 Mr. Blankinship - One more from where you are.
562
563 [Indistinct conversation amongst Board members; inaudible.]
564
565 Ms. Harris - We have a proposal from our Board. Mr. Wright,
566 would you care to tell him your suggestion?
567
568 Mr. Wright - What you need to do is to have a meeting with our
569 Planning staff of the County—
570
571 Mr. Pan - County, yes.
572
573 Mr. Wright - —so they can explain to you what you need to do.
574
575 Mr. Pan - I just like pigeons.
576
577 Mr. Wright - Yes, but we don't understand—you don't understand
578 what we're trying to say about the loft and those things. If you could get with
579 them and work it out, then come back to this Board, then we would have a good
580 idea of what you need to do, and you would have an idea of what you need to
581 do.
582
583 Mr. Pan - I just like pigeons. I like pigeons.
584
585 Mr. Blankinship - But the building, the structure that you keep them in—

586
587 Mr. Pan - I keep, yes.
588
589 Mr. Blankinship - That does not meet the Code. We need you to
590 change that.
591
592 Mr. Pan - Change that?
593
594 Mr. Blankinship - So we need to be able to work out with you what
595 needs to be changed.
596
597 Mr. Pan - Change that?
598
599 Mr. Blankinship - Yes.
600
601 Mr. Pan - This can't use? Too small or?
602
603 Mr. Blankinship - It needs to be up off the ground, and some other
604 things.
605
606 Mr. Pan - Oh, I understand.
607
608 Mr. Blankinship - So we have to meet with you and try to explain all
609 that, exactly what you need to do.
610
611 Mr. Pan - Okay.
612
613 Mr. Blankinship - So what the Board wants to do is not make a decision
614 today.
615
616 Mr. Pan - Mmm-hmm.
617
618 Mr. Blankinship - Give us time to meet with you, and then we'll come
619 back at another meeting, and they can make a decision.
620
621 Mr. Pan - Oh. I can use this pigeon of house, right?
622
623 Mr. Blankinship - It needs to be changed.
624
625 Mr. Pan - Changed?
626
627 Mr. Blankinship - Yes.
628
629 Mr. Pan - Okay. How change, what you want?
630
631 Mr. Blankinship - Well, we need to sit down and work all that out.

632
633 Mr. Pan - Okay.
634
635 Mr. Blankinship - We don't want to do it right now. It would take too
636 long to do it right now.
637
638 Mr. Pan - Okay, okay. Not right now change; I don't have time. I
639 working two week. Maybe two week, three week.
640
641 Mr. Wright - It's not going to affect him; he's doing it anyway.
642
643 Mr. Blankinship - Right. Okay.
644
645 Ms. Harris - We need to have a motion.
646
647 Mr. Wright - I move that we defer this case until the next meeting
648 in order that the applicant can have an opportunity to meet with the Planning
649 Office to work out the details respecting the loft and the other matters that he
650 needs to understand before we can consider this case.
651
652 Ms. Harris - Is there a second.
653
654 Mr. Baka - Second.
655
656 Mr. Wright - Would that be long enough, you think, Ben?
657
658 Mr. Blankinship - If not, we can work that out.
659
660 Ms. Harris - It's been moved by Attorney Wright and seconded by
661 Mr. Baka that we would defer this case until the next meeting. I do have a
662 question. Do we have any interpreters on the County's list to assist with this
663 explanation?
664
665 Mr. Blankinship - Whether they have a Chinese interpreter, I don't
666 know. The County does maintain a list of interpreters.
667
668 Ms. Harris - So we understand that the County will get an
669 interpreter. Okay, that's great. Any more questions?
670
671 Mr. Pan - Sorry.
672
673 Mr. Blankinship - That's fine.
674
675 Ms. Harris - Any more questions on the motion? All in favor of
676 deferring this until the next meeting say aye. All opposed say no. The ayes have
677 it; the motion passes.

678
679 After an advertised public hearing and on a motion by Mr. Wright, seconded by
680 Mr. Baka, **CUP2012-00013, XIAO HUA PAN's** request for a conditional use
681 permit has been deferred until the May 24, 2012 meeting.
682

683
684 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
685 Negative: 0
686 Absent: 0
687

688
689 Ms. Harris - At the next meeting we will make a decision.
690 Meanwhile, you would get with Mr. Blankinship—
691

692 Mr. Pan - Okay.
693

694 Ms. Harris - —to see what you need to do to change your building.
695

696 Mr. Pan - I change building.
697

698 Ms. Harris - Yes. All right. Thank you so very much for coming in.
699 These are you pictures.
700

701 Mr. Pan - Next time I come, can you have—can I have one
702 Chinese Mandarin translator?
703

704 Mr. Blankinship - We will try to do that.
705

706 Mr. Pan - Okay.
707

708 Ms. Harris - Thank you. These are your pictures. We thank you for
709 coming in.
710

711 Mr. Baka - May I add, Madam Chairman? May I say for the
712 applicant's sake, if you know anyone as a friend who speaks Mandarin very well
713 that you'd like to accompany you to this meeting, you certainly have the privilege
714 to do that also. Just to be clear.
715

716 Ms. Harris - Are there any questions that you have? Do you have
717 any questions at this time?
718

719 Mr. Pan - No. I don't know English, that's why I want a translator
720 to come in.
721

722 Ms. Harris - Thank you so very much.
723

724 Mr. Pan - Okay, thank you.

725

726 Ms. Harris - Mr. Blankinship, would you call the next case, please.

727

728 **VAR2012-00003** **KAREN M. WHITE** requests a variance from Section
729 24-94 of the County Code to build a one-family dwelling at 502 Wilmer Avenue
730 (Chamberlayne Estates) (Parcel 790-746-5807), zoned R-4, One-Family
731 Residence District (Fairfield). The lot width requirement is not met. The applicant
732 proposes 53 feet lot width, where the Code requires 65 feet lot width. The
733 applicant requests a variance of 12 feet lot width.

734

735 Ms. Harris - All persons who wish to speak to this case please
736 stand to be sworn in.

737

738 Mr. Blankinship - Raise your right hand, please. Do you swear the
739 testimony you're about to give is the truth and nothing but the truth so help you
740 God?

741

742 Ms. White - Yes I do.

743

744 Ms. Harris - Okay, Ms. White, you may state your case.

745

746 Ms. White - Yes ma'am. My name is Karen White—W-h-i-t-e. I am
747 seeking to obtain a variance to build a one-family dwelling at 502 Wilmer
748 Avenue. The property was originally purchased as two separate lots—lots eight
749 and nine—with two separate deeds in the Chamberlayne Estates subdivision in
750 1956 by my parents (500 Wilmer Avenue and 502 Wilmer Avenue). Lot nine
751 contains a one-story family dwelling, while lot eight is vacant. The home on lot
752 nine is set back .22 feet from the side property line with lot eight. Lot eight has
753 been counted toward the home's setback requirements. Since I wish to sell lot
754 eight for use as a separate building lot, this would place the current home in
755 violation of setback requirements.

756

757 To address this we are proposing to relocate the property line between these two
758 lots seven feet west, resulting in lot nine having a 67-foot lot width, and lot eight
759 having a 53-foot lot width. This would leave lot eight with insufficient lot width of
760 fifty-three feet. Therefore, I am seeking a variance of twelve feet. I believe
761 there's a plat showing the line adjustment; I think all of you have that.

762

763 Therefore, it does not meet the current standards for lot width of sixty-five feet. I
764 have fifty-three feet and am requesting a variance of twelve feet lot width. It does
765 meet the exception standards of 6,000 square feet and current standards of
766 8,000 square feet; the lot is 8300 square feet. Therefore it does meet the pre-
767 sixty standards of 6,000 square feet and width of 50 feet. We will be able to build
768 a house approximately twenty-eight feet wide. The surrounding properties all
769 have 60-foot lot widths, although there are two 50-foot-wide lot widths at the end

770 of the block. It would not pose any detriment to any other adjacent properties,
771 and we would build a comparable home for the neighborhood.

772

773 A variance was granted in March of 2010, but because of my mother's death in
774 May of 2010—two months later—and a declining real estate market, we did not
775 feel it was a good time to pursue selling the lot. Part of the reason why we
776 wanted to get the original variance in March of 2010 was to pay for my mother's
777 long-term care in a nursing home. When she died two months later, it just wasn't
778 a priority to sell the lot.

779

780 We fully understand that the shed on the property needs to be removed,
781 because it was a condition of the last variance, as well as part of the driveway.
782 It's a concrete driveway and it would have to be taken out. Then we would put in
783 a gravel driveway.

784

785 I do have additional photographs. It shows the neighborhood and the lots—the
786 lot widths between the houses.

787

788 Ms. Harris - Since the variance was approved in March of 2010,
789 have any changes been made in your request?

790

791 Ms. White - No ma'am.

792

793 Ms. Harris - It's an identical request.

794

795 Ms. White - Yes ma'am.

796

797 Mr. Baka - Did that variance expire after one year or two years'
798 time?

799

800 Ms. White - It was a two-year variance.

801

802 Mr. Baka - So if it was a two-year variance, the three suggested
803 conditions we have today don't list a time frame.

804

805 Mr. Blankinship - It's stated in the rules of procedure that if a variance
806 is not—if the applicant doesn't make any use of the variance within two years,
807 then it expires. So they have to apply for their building permit for that.

808

809 Mr. Baka - So it is not necessary for that to be a suggested
810 condition?

811

812 Mr. Blankinship - No, no. It will be stated in their letter that we send
813 after the hearing.

814

815 Ms. Harris - Who lives in the house on lot nine?

816
817 Ms. White - I have a renter in the house, and she's fully aware of
818 what we're proposing to do. And she's okay with that. Before we even set up the
819 meeting, we went to her and told her what we were proposing to do, that the
820 shed would have to come down, because she is using that shed. She's fully
821 aware of that and she's okay with that.
822
823 Ms. Harris - Okay. Are there questions from Board members?
824
825 Mr. Baka - Lot seven is definitely sixty feet wide? You can't go
826 any further that way with the lot line adjustment between seven and eight?
827
828 Ms. White - That's what I'm told, yes. And I've met with Planning
829 as well on that.
830
831 Mr. Wright - Mr. Blankinship, would this meet all the other
832 requirements of the code with the house that they propose to build?
833
834 Mr. Blankinship - Yes sir. They would be able, at least, to meet the
835 setbacks.
836
837 Mr. Wright - Setbacks, front, rear, and also the number of square
838 feet in the lot.
839
840 Mr. Blankinship - Yes sir. If the lot had originally been divided this way it
841 would be a lawful exception lot. It meets the exception standards. But because
842 she's creating a new lot, it does not meet the current standards. That's why she's
843 here.
844
845 Mr. Wright - That's sort of a technicality.
846
847 Mr. Blankinship - Yes. She's sort of caught in between.
848
849 Mr. Wright - Yes.
850
851 Ms. Harris - Are there any other questions? Thank you, Ms.
852 White, for coming in.
853
854 Ms. White - Thank you.
855
856 Ms. Harris - Is there anyone else who wishes to speak to this
857 case? If not, that concludes this case. Mr. Blankinship, please call the next case.
858
859 **[After the conclusion of the public hearings, the Board discussed the case**
860 **and made its decision. This portion of the transcript is included here for**
861 **convenience of reference.]**

862 Ms. Harris - What is the pleasure of the Board regarding this
863 variance?

864
865 Ms. Harris - Okay. I'm going to move that this variance be
866 approved. Without this variance this property would have no use—it would be
867 just vacant land—and the fact that the variance was approved for the same
868 property in March of 2012.

869
870 Mr. Wright - I'll second that motion.

871
872 Ms. Harris - Okay. It's been moved by Helen Harris, seconded by
873 Mr. Nunnally that this case be approved. Are there any questions on the motion?

874
875 Mr. Baka - Seconded by Mr. Wright, I believe.

876
877 Ms. Harris - I'm sorry. Mr. Wright? Okay, I'm sorry. Correction.
878 Any questions on the motion? All in favor say aye. All opposed say no. The ayes
879 have it; the motion passes.

880
881 After an advertised public hearing and on a motion by Ms. Harris, seconded by
882 Mr. Wright, the Board **approved** application **VAR2012-00003, KAREN M.**
883 **WHITE's** request for a variance from Section 24-94 of the County Code to build
884 a one-family dwelling at 502 Wilmer Avenue (Chamberlayne Estates) (Parcel
885 790-746-5807), zoned R-4, One-Family Residence District (Fairfield). The Board
886 approved the variance subject to the following conditions:

887
888 1. This variance applies only to the lot width requirement for one dwelling. All
889 other applicable regulations of the County Code shall remain in force.

890
891 2. The dwelling shall not exceed one and one-half stories in height.

892
893 3. A certificate of occupancy for the proposed dwelling shall not be approved
894 until and unless the accessory building straddling the relocated property line has
895 been removed.

896
897
898 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
899 Negative: 0
900 Absent: 0

901
902
903 **[At this point, the transcript continues with the public hearing on the next**
904 **case.]**

905
906 **CUP2012-00014 REITHOFFER SHOWS** requests a temporary
907 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to

908 allow a carnival at 10101 Brook Road (Parcel 785-771-0111), zoned B-3C,
909 Business District (Conditional) (Fairfield).

910

911 Ms. Harris - All persons who wish to speak to this case, please
912 stand to be sworn in.

913

914 Mr. Blankinship - Raise your right hand, please. Do you swear the
915 testimony you're about to give is the truth and nothing but the truth so help you
916 God?

917

918 Ms. Harris - Please state your case.

919

920 Ms. Hrudka - Good morning. My name is Patty Hrudka—H-r-u-d-k-
921 a. We are here to get approval for a carnival at Virginia Center Commons. We
922 would like to come in and put approximately fifteen rides, twelve games, and four
923 food booths. We've been working with the County on getting everything ready for
924 this. We've met with Kim Vann and Cindy Woods about security. We're working
925 with the mall and everything. We just did an event at the Showplace, with your
926 approval there. And everything seemed to go okay there. And we're here to ask
927 approval for another event.

928

929 Ms. Harris - Do you know the square footage of the area that you
930 plan to use in the Virginia Center Commons parking area here?

931

932 Ms. Hrudka - It's approximately like 300' by 600', I believe that area
933 is. And then it has parking lots on both sides of it, so it's on the sides of the
934 Dillard's store that we would be using for parking.

935

936 Ms. Harris - And you've done this before?

937

938 Ms. Hrudka - Yes. In fact we had been at this location probably five,
939 six years ago.

940

941 Ms. Harris - How much insurance do you have?

942

943 Ms. Hrudka - Five million.

944

945 Ms. Harris - Okay. In looking at your plan, I didn't see the Ferris
946 wheel, even though we know that there's one there.

947

948 Ms. Hrudka - Would you like to come and ride it?

949

950 Mr. Baka - I'll ask the same question that I asked on the previous
951 case we had a couple months ago. What is the height of that Ferris wheel, then,
952 since it's on the edge of the property?

953

954 Ms. Hrudka - It's approximately sixty feet tall.
955
956 Mr. Baka - Okay. And then I guess a question for Planning or
957 from the aerial photograph—this is the sketch plan. What's sixty feet away from
958 the ring road? Are there any structures within sixty feet of where that's placed?
959 Just that ring road.
960
961 Ms. Hrudka - Just the ring road and then it looks like it goes into
962 that vacant lot there.
963
964 Mr. Rojas - My name is Marty Rojas. As far as anything that
965 would obstruct it in the aerial?
966
967 Mr. Baka - Any shed or small garage, or any trash dumpster.
968
969 Mr. Rojas - We usually put it up isolated. And a lot of times that's
970 required by the state inspectors that come out.
971
972 Mr. Baka - Okay, that's fine. Thanks.
973
974 Ms. Harris - Mr. Rojas, spell your last name, please.
975
976 Mr. Rojas - Rojas—R-o-j-a-s.
977
978 Ms. Harris - R-o-j-s.
979
980 Mr. Rojas - R-o-j-a-s. First name is Martin.
981
982 Ms. Harris - Have you all had any complaints in past years?
983
984 Mr. Rojas - No ma'am. Actually we just did the event with—
985 Lieutenant Bob [unintelligible] was there pretty much through the event. And we
986 had a pretty good run. We just did the Showplace in Henrico County. We had no
987 incidents of any type.
988
989 Ms. Harris - We were concerned about the traffic there when this
990 case came up before.
991
992 Mr. Rojas - We had two officers outside and in cars. Plus we had
993 the crosswalk.
994
995 Mr. Blankinship - What size crowds did you get at the Showplace?
996
997 Mr. Rojas - Well, we didn't do very well.
998
999 Mr. Blankinship - And you're hoping this location will do better.

1000
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1045

Mr. Rojas - Yes. We're going to do a little more advertising, and it's at a more visible location.

Mr. Baka - This location appears to have more parking available.

Mr. Blankinship - Ms. Harris, to answer your earlier question. The lot area to be covered by this is about 160,000 square feet, which is about three and two-thirds acres.

Ms. Harris - Are there other questions from Board members? Thank you so very much. Is there anyone else who wishes to speak to this case?

Mr. Blankinship - Kim Vann is here. She's available to answer any questions.

Ms. Harris - We did have a police report, and also fire report, I believe. Are there any other questions? Okay, I think that concludes the case. Thank you. Mr. Blankinship, please call the next case.

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

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

Mr. Baka - I make a motion that we approve this conditional use permit with the twenty-one suggested conditions, with the understanding that it will not adversely impact the neighboring properties, and that the conditions will sufficiently address any impact on the community and adjacent properties.

Mr. Nunnally - Second.

Ms. Harris - Okay. It's been moved by Mr. Baka, seconded by Mr. Nunnally that this case be approved. Are there any questions on the motion? All in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr. Nunnally, the Board **approved** application, **CUP2012-00014, REITHOFFER SHOWS'** request for a temporary conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a carnival at 10101 Brook Road (Parcel 785-771-0111), zoned B-3C, Business District (Conditional) (Fairfield). The Board approved the temporary conditional use permit subject to the following conditions:

1. This use permit is for the approval of a carnival to be held at Virginia Center

1046 Commons Mall from Monday, May 14, 2012 through Monday, May 21, 2012. The
1047 carnival shall be limited to the following dates and times:

1048

1049 Set-up: Monday, May 14, 2012 to Tuesday, May 15, 2012

1050 Hours of operation: 9:00 am to 6:00 pm.

1051

1052 Carnival: Wednesday, May 16, 2012 to Sunday, May 20, 2012

1053 Hours of operation: Wednesday through Thursday: 5:00 pm to
1054 10:00 pm

1055 Friday and Saturday: 12:00 pm to 11:00 pm

1056 Sunday: 12:00 pm to 10:00 pm.

1057 Break-down: Monday, May 21, 2012

1058 Hours of operation: 7:00 am to 6:00 pm.

1059 All tents, trailers, mechanical equipment, rides, and accessory
1060 structures shall be removed from the site at the end of business
1061 day, at which time this permit shall expire.

1062

1063 2. Carnival activities that generate noise, light or glare beyond the property lines
1064 shall cease one hour after closing and shall not resume until 7:00 am the
1065 following day.

1066

1067 3. The applicant shall comply with the Division of Police recommendations as
1068 outlined in their Inter-office Memorandum dated April 16, 2012 (see attached).

1069

1070 4. The applicant shall comply with the Division of Fire recommendations as
1071 outlined in their Inter-office Memorandum dated April 11, 2012 (see attached).

1072

1073 5. Only the improvements shown on the site plan submitted March 30, 2012,
1074 may be constructed pursuant to this approval. Any substantial changes or
1075 additions to the footprint of the carnival will require a new use permit.

1076

1077 6. The applicant shall locate the carnival in the parking lot in front of the former
1078 Dillard's store as indicated on the submitted plans.

1079

1080 7. The applicant shall install vehicular traffic barriers at the driveway entrances
1081 surrounding the parking field that contains the carnival. Additionally, vehicular
1082 traffic barriers shall be installed at either end of the access road in front of the
1083 former Dillard's store including the access drive at the northwest corner of the
1084 former department store. These enclosed areas shall be used exclusively as
1085 pedestrian areas.

1086

1087 8. Existing fire lanes shall be marked and maintained in accordance with the
1088 Fire Prevention Code.

1089

1090 9. The applicant, in coordination with the property manager, shall clearly
1091 designate employee parking and carnival parking areas. Temporary traffic

1092 directional signage shall be used to direct carnival attendees. The carnival's
1093 parking demands shall not impact adjacent restaurants and businesses located
1094 in the outparcels surrounding the mall. Parking attendants shall be provided as
1095 necessary to coordinate parking. Parking fees shall be prohibited.

1096
1097 10. The applicant shall designate an on-site guest loading and unloading zone
1098 near the former Dillard's building. Dropping off of carnival attendees shall be
1099 discouraged on Brook Road and Jeb Stuart Parkway.

1100
1101 11. The sale of alcoholic beverages shall be prohibited at the event.

1102
1103 12. After the purchase of a ticket, re-entry into the carnival shall not be allowed.

1104
1105 13. The applicant shall secure the perimeter of the carnival with appropriate
1106 temporary fencing to ensure safety and security during and after hours to the
1107 satisfaction of the Divisions of Police and Fire. Emergency ingress and egress
1108 shall be provided at their discretion.

1109
1110 14. The existing parking lot light fixtures shall remain on during hours of
1111 darkness (dusk to dawn) for the duration of the event, including carnival set up
1112 and breakdown. At the discretion of the Division of Police, additional lighting may
1113 be required for safety and security during the carnival event.

1114
1115 15. The applicant shall provide adequate restroom (standard and handicap)
1116 facilities throughout the carnival. These facilities shall be serviced daily.

1117
1118 16. The applicant shall obtain necessary building, electrical, and amusement
1119 device permits and shall comply with all required County inspections.

1120
1121 17. All food vendors shall obtain the necessary permits, clearances, and
1122 inspections required by the Health Department.

1123
1124 18. The applicant shall schedule a meeting with the Planning Department 5 – 7
1125 days prior to the event to finalize the carnival plans. Additionally, the applicant
1126 shall request a planning compliance inspection, 24 hours prior to opening.

1127
1128 19. The applicant shall maintain the property so that debris is controlled during
1129 the event. Adequate trash receptacles shall be provided throughout the carnival
1130 with regular pick-ups.

1131
1132 20. Sound generated by the carnival shall not exceed 65 dB at the limits of the
1133 property.

1134
1135 21. The applicant shall institute security measures during and after hours to the
1136 satisfaction of the Division of Police. Loitering shall be prohibited on the property.

1137

1138			
1139	Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
1140	Negative:		0
1141	Absent:		0

1142
1143

1144 **[At this point, the transcript continues with the public hearing on the next**
1145 **case.]**

1146

1147 **CUP2012-00015** **NATHAN KELLEY** requests a conditional use permit
1148 pursuant to Section 24-95(i)(4) of the County Code to allow a garage in the front
1149 yard at 114 Riva Ridge Circle (Cedar Ridge) (Parcel 855-699-4337), zoned R-
1150 2A, One-Family Residence District (Varina).

1151

1152 Ms. Harris - Any and all persons who wish to speak to this case,
1153 please stand so you may be sworn in.

1154

1155 Mr. Blankinship - Raise your right hand please. Do you swear the
1156 testimony you're about to give is the truth and nothing but the truth so help you
1157 God?

1158

1159 Mr. Kelley - I do. Good morning. It's Nathan Kelley. Last name is
1160 K-e-l-l-e-y. As you just heard, the reason I'm here is to build a garage. I originally
1161 came down to get a permit, and that's when I realized that the County considers
1162 the side yard my front yard due to the side yard being two feet shorter than the
1163 actual front yard. And that's the reason I'm here. As you can see from the plans
1164 and pictures you already have, where I'm intending to build a garage is where
1165 one would normally be, at the end of the driveway. It's pretty much the only
1166 location I can put it on the property. The other side you see there is actually
1167 where the drainfields are, the septic is, so I couldn't build there even if I wanted
1168 to. No neighbors have spoken out against it. In fact, my neighbor who I actually
1169 back up to, the only one who would probably have anything against is, actually
1170 wrote a letter. He's out of the country on a trip, but he wrote a notarized letter
1171 speaking for it. He's actually the one that suggested I build a garage because
1172 most people in my neighborhood have garages and I'm one of the few that don't.
1173 That's short and sweet, and pretty much it.

1174

1175 My true front yard is two feet shorter, which is the reason I had to go through all
1176 this.

1177

1178 Mr. Wright - Your house faces River Ridge Circle?

1179

1180 Mr. Kelley - Correct.

1181

1182 Mr. Wright - Have you read the conditions to this case, the
1183 proposed conditions by the staff. Have you read those?

1184
1185 Mr. Kelley - Unless that's what I was sent in the packet.
1186
1187 Mr. Blankinship - Yes.
1188
1189 Mr. Kelley - Yes, yes.
1190
1191 Mr. Blankinship - The last part of the staff report.
1192
1193 Mr. Wright - How about condition number four? It says the garage
1194 shall be set back at least forty-five feet from the right-of-way of Red Coach Lane.
1195 Where you have the garage on this sketch is much closer to Red Coach Lane
1196 than that. You have to understand that's what would be required. So I just want
1197 to ensure that you understand that.
1198
1199 Mr. Kelley - Yes. I wasn't aware of that. The sketch is to scale. It's
1200 exactly twenty-five feet. If that's the case, then it would have to come over
1201 another fifteen feet.
1202
1203 Mr. Wright - I don't know if it would interfere with your shed or not.
1204
1205 Mr. Kelley - I'm tearing that down anyway.
1206
1207 Mr. Wright - You're going to tear the shed down. All right. So the
1208 garage would have to be forty-five feet from Red Coach Lane to satisfy the
1209 requirements of the Code.
1210
1211 Mr. Kelley - Understood.
1212
1213 Ms. Harris - Are there other questions from Board members?
1214
1215 Mr. Baka - Yes. To scale I was showing that the proposed
1216 garage was about—one inch equals thirty scale, if it's true, about twelve or
1217 fifteen feet from Red Coach Lane.
1218
1219 Mr. Blankinship - I read it as ten to fifteen.
1220
1221 Mr. Baka - So I scaled that last night. I'm showing that you may
1222 have to move the garage approximately thirty-two feet to the west, based on
1223 where you showed the square of the garage. Basically, the rear wall of the
1224 garage would be going even past the shed, the western wall of that shed by a
1225 couple feet. Along with Mr. Wright's comments, I just wanted to make sure you
1226 understood the impact of proposed condition four, that you need to meet that
1227 front yard forty-five-foot setback.
1228

1229 Mr. Kelley - Right, yes, I understand. When I drew that sketch,
1230 that's from the property line, not from the street.

1231
1232 Mr. Baka - Okay.

1233
1234 Mr. Kelley - The streets another, I think, twelve feet from the
1235 property line. So twelve plus eight, you're looking at twenty feet away. So you're
1236 correct, I still have to come twenty feet over. And like I said, that shed is being
1237 moved because everything is going in the garage.

1238
1239 Mr. Baka - Therefore, placing the garage that far west, even west
1240 of the western shed wall won't interfere with anything else on your property?

1241
1242 Mr. Kelley - No, no.

1243
1244 Ms. Harris - I think that will probably be more amenable to the
1245 neighbors, too, because looking at the map of the neighborhood, we noticed that
1246 no one has anything that close to the street on Red Coach Lane. So I think that
1247 would probably make it more attractive. Do you see what I'm saying?

1248
1249 Mr. Kelley - Unfortunately, yes. I mean the sad thing about it is
1250 two feet would get me out of the problem. If my front yard was two feet shorter, I
1251 wouldn't have this issue, we could put it wherever.

1252
1253 Mr. Blankinship - You'd still have to meet a setback from the road.

1254
1255 Mr. Kelley - Okay.

1256
1257 Ms. Harris - Are there any other questions from Board members?
1258 Mr. Kelley, is there anything else you wish to say?

1259
1260 Mr. Kelley - No ma'am.

1261
1262 Ms. Harris - Okay, thank you for coming in.

1263
1264 Mr. Kelley - Thank you.

1265
1266 Ms. Harris - Is there anyone else who wishes to speak to this
1267 case? Okay, that concludes this case. Mr. Blankinship, please call the next one.

1268
1269 **[After the conclusion of the public hearings, the Board discussed the case**
1270 **and made its decision. This portion of the transcript is included here for**
1271 **convenience of reference.]**

1272
1273 Ms. Harris - What is the pleasure of the Board?
1274

1275 Mr. Wright - I move that this conditional use permit be approved
1276 on the grounds that it will not affect the health, safety, and welfare of persons on
1277 the premises or in the neighborhood, not unreasonably impair the adequate
1278 supply of light and air to the adjacent property, nor increase congestion in the
1279 streets, nor increase public danger from fire or otherwise unreasonably affect
1280 public safety, nor impair the character of the district, and it will be in substantial
1281 accordance with the general purpose and objectives of this chapter.

1282
1283 Mr. Nunnally - Second.

1284
1285 Mr. Wright - That includes, of course, the condition that it be
1286 moved forty-five feet, but that's part of the case.

1287
1288 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Nunnally that
1289 this case be approved. Are there any questions on this motion? All in favor say
1290 aye. All opposed say no. The ayes have it; the motion passes.

1291
1292 After an advertised public hearing and on a motion by Mr. Wright, seconded by
1293 Mr. Nunnally, the Board **approved** application **CUP2012-00015, NATHAN**
1294 **KELLEY's** request for a conditional use permit pursuant to Section 24-95(i)(4) of
1295 the County Code to allow a garage in the front yard at 114 Riva Ridge Circle
1296 (Cedar Ridge) (Parcel 855-699-4337), zoned R-2A, One-Family Residence
1297 District (Varina). The Board approved the conditional use permit subject to the
1298 following conditions:

1299
1300 1. This conditional use permit authorizes construction of one detached
1301 accessory structure in the front and side yards. All other applicable regulations of
1302 the County Code shall remain in force.

1303
1304 2. Only the garage shown on the plot plan filed with the application, as amended
1305 by these conditions, may be constructed pursuant to this approval. Any
1306 additional improvements shall comply with the applicable regulations of the
1307 County Code. Any substantial changes or additions to the design or location of
1308 the improvements will require a new use permit.

1309
1310 3. The garage shall match the existing dwelling as nearly as practical in
1311 materials and color.

1312
1313 4. The garage shall be set back at least 45 feet from the right-of-way of Red
1314 Coach Lane.

1315
1316
1317 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

1318 Negative: 0

1319 Absent: 0

1320

1321 [At this point, the transcript continues with the public hearing on the next
1322 case.]

1323
1324 **CUP2012-00016** **THOMAS E. AND ANN H. GOTTWALD** request a
1325 conditional use permit pursuant to Sections 24-52(a) and 24-12(b) of the County
1326 Code to allow a private noncommercial recreation facility at 5995 River Road
1327 (Parcel 764-730-0504), zoned A-1, Agricultural District (Tuckahoe).

1328
1329 Ms. Harris - All persons who wish to speak to this case, please
1330 stand to be sworn in. Please raise your right hand to be sworn.

1331
1332 Mr. Blankinship - Do you swear the testimony you're about to give is
1333 the truth and nothing but the truth so help you God?

1334
1335 Ms. Harris - Please identify yourself and state your case.

1336
1337 Mr. Spencer - Madison Spencer. Last name is spelled S-p-e-n-c-e-r.
1338 And this is John Voight. I'm an architect from Charlottesville, Virginia, and Mr.
1339 Voight is my associate representing the Gottwald's in this matter.

1340
1341 Ms. Harris - You said Voight?

1342
1343 Mr. Spencer - V-o-i-g-h-t.

1344
1345 Ms. Harris - Okay, thank you.

1346
1347 Mr. Spencer - I'm going to read from some of the text that we
1348 presented with the application.

1349
1350 On behalf of the Gottwald's, we're presenting this project. This property has been
1351 used as family retreat since the mid 1960's with the previous owner. The
1352 Gottwald's stewardship aspired to a higher level of operation and stewardship on
1353 the property. They do use the property for family gatherings and events
1354 associated with some of the non-profit organizations they're associated with.

1355
1356 Basically, the intent of the application is to secure permission to continue those
1357 past uses of the property into the future. There is one building that we would like
1358 to adjust and replace, which presently is in a state of disrepair and doesn't meet
1359 many of the zoning and building descriptions that would be applicable to a
1360 property within this floodplain zone. The building we propose to replace it with is
1361 roughly of the same square footage in terms of surface area on ground. But it
1362 would be raised to address the FEMA 100-year elevation and associated County
1363 regulations, to address those construction issues.

1364
1365 In general, our impression is with communication with the County that it would be
1366 a net improvement relative to the conditions that presently exist.

1367
1368 Mr. Wright - Have you read the conditions proposed for this case?
1369
1370 Mr. Spencer - Yes we have.
1371
1372 Mr. Wright - Are you in accord with those?
1373
1374 Mr. Spencer - Yes we are.
1375
1376 Ms. Harris - I have a few questions. What problems have you had
1377 with flooding in the past on this property?
1378
1379 Mr. Spencer - I'll speak professionally. My association with the
1380 Gottwald's in this matter has been limited to the past year or so.
1381
1382 From what we've been able to deduce, the property has been subjected to
1383 flooding. It's at an interesting juncture in the bend of the James, and as a result
1384 of the location of the Kanawha Canal and the wetland area immediately adjacent
1385 to the canal area. As far as flooding is concerned, it doesn't get the principal
1386 force of the flood. I'm startled at how little debris there is on the property as the
1387 result of previous floods. We do know the water level has been as high as six
1388 feet on the property in recent history. But because also of the condition of the
1389 channel of the James at that point, the force of the water flow tends to be further
1390 westward. I think that's why there has been so little debris collected on the
1391 property.
1392
1393 There is a beach that fronts the James, which appears to be a relatively
1394 permanent, natural condition. It doesn't appear to have been unduly damaged by
1395 flooding in the past. The perimeter vegetation appears to be natural. And our
1396 hope is to actually reinforce and improve that over time, and then return the
1397 property to less of a cut lawn arrangement and more of natural meadow, natural
1398 vegetation.
1399
1400 One of the things the County officers were gracious enough to do for us is
1401 forward information relative to their strategies that they've adopted as far as
1402 planting is concerned, and surface treatment, and protection of those.
1403
1404 Ms. Harris - How many feet are you going to raise this building to
1405 avoid some of the devastation on the property? I know you said you would raise
1406 it, but how many feet?
1407
1408 Mr. Spencer - Yes. By County regulations we're required to raise it
1409 one foot above the FEMA baseline. By our calculation we're at the 100-foot.
1410
1411 Mr. Voight - The finished floor would be about eleven feet
1412 above—

1413
1414 Mr. Spencer - We're able to do that. I think we've presented the
1415 documents with this application. We're engineering that in such a way that the
1416 supporting structure is open to such an extent that it allows for free-flow of water,
1417 debris, if it were to occur, without risk of damaging the structural integrity of the
1418 structure. At the same time, it will appear more natural.
1419
1420 Ms. Harris - How close are the single-family homes? I know that in
1421 the report it said there were single-family homes north and west of the property.
1422
1423 Mr. Spencer - There is an adjacent owner west of River, an abutting
1424 property owner. The house is probably a quarter mile—.
1425
1426 Mr. Voight - I think the nearest one is really across the canal and I
1427 think it's about three hundred feet away [off mike, unintelligible].
1428
1429 Mr. Spencer - I would say that's probably 300 feet from the property
1430 line. That's beyond the Kanawha Canal and the railroad track.
1431
1432 Ms. Harris - And so the music that you had the last fundraising did
1433 not adversely affect the neighborhood?
1434
1435 Mr. Spencer - We've not been notified. In fact, the Gottwald's have
1436 been proactive in terms of communicating with neighbors, some of whom are
1437 friends, as to what the circumstances have been. In fact, one of the things we've
1438 discussed is increasing the density of planting, and we've devised some
1439 strategies to actually direct sound away from those adjacent property owners. So
1440 we're incorporating some tricks relative to how that might be better controlled.
1441
1442 Ms. Harris - And my last question is, are there other properties on
1443 the James River similar to this property, engaging in basically the same thing?
1444
1445 Mr. Spencer - I can only tell you what I know. The immediate
1446 neighbor, the Sauers, they actually live there, I think, primarily, perhaps. But they
1447 use their property as well for family gatherings. I don't believe at the scale that
1448 the Gottwald's do. I do recognize that they're apparently frequent guests. But I
1449 don't think it's—I think theirs is much more of a family—of more of a primary
1450 family residence.
1451
1452 Ms. Harris - I was just wondering, was there a precedence for
1453 what you are doing? Are there any more questions from Board members?
1454
1455 Mr. Baka - One question for the staff. Has there been any
1456 recorded opposition to this case submitted?
1457
1458 Mr. Blankinship - Nothing.

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Mr. Baka - Thank you.

Ms. Harris - Are there other questions from Board members?
Okay, thank you for coming in.

Mr. Spencer - Thank you.

Ms. Harris - Is there anyone else who wishes to speak to this case? If not, that concludes this case. We are ready to vote. Let's go back to the first case.

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

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

Mr. Baka - I've like to make a motion. I would make a motion to approve this case because it will not adversely affect the health, safety, and welfare of the neighborhood, and it will not impair or devalue adjacent properties. The motion is made with suggested conditions one through eleven.

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

Mr. Wright - Second.

Ms. Harris - Moved by Mr. Baka, seconded by Mr. Wright that this case be approved. Are there any questions on the motion? All in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr. Wright, the Board **approved** application **CUP2012-00016, THOMAS E. AND ANN H. GOTTWALD's** request for a conditional use permit pursuant to Sections 24-52(a) and 24-12(b) of the County Code to allow a private noncommercial recreation facility at 5995 River Road (Parcel 764-730-0504), zoned A-1, Agricultural District (Tuckahoe). The Board approved the conditional use permit subject to the following conditions:

1. This use permit is only for a private nonprofit recreation facility. All other applicable regulations of the County Code must be complied with.

2. Only the improvements shown on the plot plan and building design filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code.

1504 Any substantial changes or additions to the design or location of the
1505 improvements will require a new use permit.

1506
1507 3. The existing cottage shall be demolished prior to the issuance of a building
1508 permit for the proposed recreational building.

1509
1510 4. Prior to construction of the proposed building, the applicant shall apply for
1511 and obtain all necessary permits, including a floodplain permit application and a
1512 no rise certificate from the county engineer.

1513
1514 5. Approval of this request does not imply that a building permit will be issued.
1515 Building permit approval is contingent on Health Department requirements,
1516 including, but not limited to, soil evaluation for a septic drainfield and reserve
1517 area.

1518
1519 6. At the time of building permit application, the applicant shall submit the
1520 necessary information to the Department of Public Works to ensure compliance
1521 with the requirements of the Chesapeake Bay Preservation Act and the code
1522 requirements for water quality standards.

1523
1524 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1525 state and local regulations administered under such act applicable to the
1526 property, and shall furnish to the Planning Department copies of all reports
1527 required by such act or regulations.

1528
1529 8. The property shall be limited to a maximum of two music and entertainment
1530 festival events per calendar year. The applicant shall apply for and obtain the
1531 required music and entertainment festival permits prior to holding these events.

1532
1533 9. The music and entertainment festivals shall comply with the requirements of
1534 Section 4-95 of the County Code, which limits music or entertainment to no more
1535 than eight hours per day. All performances must end no later than 11:00 p.m.
1536 and may begin no earlier than 12:30 p.m. on Sundays.

1537
1538 10. The music and entertainment festival shall comply with the requirements of
1539 Section 4-115 of the County Code, including the requirement that no music shall
1540 be played, either by mechanical device or live performance, in such a manner
1541 that the sound emanating therefrom shall exceed 65 decibels at the property
1542 lines of the property.

1543
1544 11. The proposed building shall not be used as a dwelling.

1545
1546
1547 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1548 Negative: 0
1549 Absent: 0

1550

1551 Ms. Harris - That concludes the vote on the cases. Now let's look
1552 at the minutes of the meeting from March 22nd. Are there any corrections on the
1553 minutes? I have one. On page 8, if you will look at line 336.

1554

1555 Mr. Wright - Change the "by" to "be"?

1556

1557 Ms. Harris - Yes. Please change the "b-y" to "b-e."

1558

1559 Mr. Wright - Little typo.

1560

1561 Ms. Harris - And probably "ed" on "address." Okay. Are there any
1562 other corrections to the minutes? A motion is in order that the minutes be
1563 approved.

1564

1565 Mr. Bell - So moved.

1566

1567 Mr. Wright - Second.

1568

1569 Ms. Harris - Moved by Mr. Bell, seconded by Mr. Wright that the
1570 minutes be approved as corrected. Are there any questions on the motion? All in
1571 favor say aye. All opposed say no. The ayes have it; the motion passes.

1572

1573 On a motion by Mr. Bell, seconded by Mr. Wright, the Board **approved as**
1574 **corrected the Minutes of the March 22, 2012**, Henrico County Board of Zoning
1575 Appeals meeting.

1576

1577

1578 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

1579 Negative: 0

1580 Absent: 0

1581

1582

1583 Ms. Harris - Is there any more business before this body this
1584 morning? If not, a motion is in order that we adjourn.

1585

1586 Mr. Baka - So move.

1587

1588 Mr. Wright - Second.

1589

1590 Ms. Harris - Moved by Mr. Baka, seconded by Mr. Wright that the
1591 meeting be adjourned.

1592

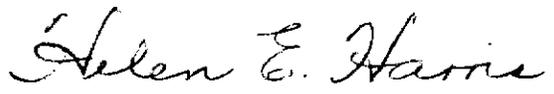
1593 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

1594 Negative: 0

1595 Absent: 0

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Ms. Harris - I don't believe this has to be carried out, but thank you. The meeting is adjourned.



Helen E. Harris
Chairman



Benjamin Blankinship, AICP
Secretary