

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 OCTOBER 27, 2016 AT 9:00 A.M., NOTICE**  
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH OCTOBER**  
6 **10, 2016, AND OCTOBER 17, 2016.**  
7

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

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

8  
9 Mr. Baka - Good morning and welcome to the October 2016  
10 meeting of the Board of Zoning Appeals. Mr. Blankinship, would you please read  
11 our rules?  
12

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

24 After the Board has heard all the testimony and asked any questions, they will take  
25 that matter under advisement, and they will proceed to the next public hearing.  
26 They will render all of their decisions at the end of the meeting. So if you wish to  
27 hear their decision on a specific case, you can either stay until the end of the  
28 meeting, or you can check the Planning Department website—we usually get it  
29 updated within the hour after the end of the meeting—or you can call the Planning  
30 Department this afternoon.  
31

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

36 Finally, there is a binder in the foyer which includes the staff report for each case.  
37 So anybody who is interested in more information on a specific case is welcome  
38 to review that.

39  
40 I am not aware, as I mentioned, of any deferrals or withdrawals at this point.

41  
42 Mr. Baka - Okay. So with no deferrals or withdrawals at this point,  
43 Mr. Blankinship, would you call our first case for the record?

44  
45 Mr. Blankinship - CUP2016-00020, Curles Neck Properties, LLC.

46  
47 **CUP2016-00020 CURLES NECK PROPERTIES, LLC** requests a  
48 conditional use permit pursuant to Sections 24-52(d) and 24-103 of the County  
49 Code to extract materials from the earth at 4721 Curles Neck Road (Parcels 833-  
50 666-1289 and 834-666-2189) zoned Agricultural District (A-1) (Varina).

51  
52 Mr. Blankinship - Would everyone who intends to speak to this case  
53 please stand and be sworn in? Do you swear the testimony you're about to give is  
54 the truth, the whole truth, and nothing but the truth so help you God?

55  
56 Mr. Lewis - I do.

57  
58 Mr. Blankinship - Thank you. Mr. Gidley?

59  
60 Mr. Gidley - Thank you, Mr. Secretary. Good morning,  
61 Mr. Chairman, members of the Board. This case was deferred from last month's  
62 public hearing so the property owner could work out some concerns with the  
63 adjacent property owners.

64  
65 The subject property is located at 4721 Curles Neck Road, which is part of Curles  
66 Neck Farm. It's located off of Route 5 in the Varina District. Sand and gravel  
67 extraction has occurred here since the 1950s. Use of the property as a working  
68 farm goes back to 1638, and it was also the site of two Civil War battles.

69  
70 The property itself contains 125 acres and is the site of this 12,500-square-foot  
71 Georgian Revival mansion, which was built in 1896. This home is listed on the  
72 National Register of Historic Places and the Virginia Landmarks Register. The  
73 historic designation also applies to 17 other structures on the property, including a  
74 store, stables, and blacksmith shop.

75  
76 Today's request would allow for the extraction of sand and gravel from 72 of the  
77 125 acres of this property as shown here.

78  
79 Mr. Blankinship - Let me interrupt you briefly, Mr. Gidley. Late in the  
80 process, there was a change on this application. I should have gotten this map  
81 updated, members of the Board; I apologize for that. But as you go on down to the

82 site plans, you will see that on the eastern edge where you have that curve along  
83 the access road, some of that area is now taken out of the mining area. I apologize  
84 for not bringing you up to date on that before now, Mr. Gidley. It's now 68 acres, I  
85 believe.

86

87 Mr. Gidley - Okay, thank you.

88

89 Evaluation. First, is the request consistent with the Comprehensive Plan and  
90 Zoning Ordinance. The property is zoned A-1, Agricultural District, and is  
91 designated as Prime Agricultural on the 2026 Comprehensive Plan. Sand and  
92 gravel extraction is permitted in the A-1 district with the issuance of a conditional  
93 use permit.

94

95 I guess this is the older one too. During excavation, however, there would be a  
96 significant—are they still—I'm sorry; I've been out of town. Are the buildings still  
97 impacted?

98

99 Mr. Blankinship - Most of the buildings are. You'll notice the silos there  
100 are now no longer in the area to be excavated.

101

102 Mr. Gidley - Okay. Thank you.

103

104 You do have these outbuildings for the mansion, which are a part of the overall  
105 setting. And these would be impacted if there was a sand-and-gravel operation as  
106 shown here. The mansion itself, which was shown earlier, would be preserved.  
107 Several of the outbuildings, however, as I noted, would be demolished.

108

109 Mr. Bell - Are they of historical significance?

110

111 Mr. Blankinship - They are what are called *contributing structures*,  
112 Mr. Bell. The National Register—I'm trying to think of the name for the form you  
113 submit. *Nomination*, I think is the term—was focused on the house itself. But when  
114 they review those, they also look at contributing structures on the same property.  
115 So I guess the way to look at that is any one of those structures probably would  
116 not have been put on the National Register. But because they're part of the historic  
117 setting of the house, they're included within the nomination for the historic  
118 designation for the house.

119

120 Mr. Bell - Thank you.

121

122 Mr. Berman - I believe that's symbolic; it doesn't guarantee  
123 protection.

124

125 Mr. Blankinship - Yes, that's correct.

126

127 Mr. Gidley - Okay. Upon completion of the extraction operation, the  
128 land will be reclaimed and may be returned to an architectural use. The  
129 reclamation plan shown here indicates the establishment of permanent vegetation  
130 with a 5 percent slope on the property. It would drain towards a pond proposed for  
131 the center of the site, located right here. Upon restoration, the site will be similar  
132 to the rest of Curles Neck Farm, and thus is consistent with both the Zoning  
133 Ordinance and the Comprehensive Plan.

134  
135 Most of the surrounding Curles Neck Farm consists of reclaimed sand and gravel  
136 mines. The nearest residence is over one mile away. Typically, the most significant  
137 impact from sand and gravel operations is the truck activity associated with  
138 removal of the sand and gravel. However, sand and gravel extracted at Curles  
139 Neck has always been removed by barge on the James River. That would continue  
140 with this operation here, so there would be no real trucking activity out on Route 5  
141 or impact in that regard.

142  
143 There is a change to the standard condition for extraction operations. Due to the  
144 complexity of the site, the applicant would prefer 180 days to get their permitting  
145 in order rather than the standard 90 days. Staff is okay with this change, and the  
146 conditions in your staff report were amended to reflect this change.

147  
148 Mr. Baka - That condition number, Paul, is?

149  
150 Mr. Blankinship - Two, three, four, and five?

151  
152 Mr. Baka - All four of them?

153  
154 Mr. Blankinship - Yes. Each one of them has 180—

155  
156 Mr. Baka - Change each one of them.

157  
158 Mr. Blankinship - —rather than 90. It's not the standard condition, but it's  
159 also not unusual. We have done that before when an applicant has known in  
160 advance that it was going to take them more than 90 days to go through the  
161 permitting process.

162  
163 Mr. Baka - Thank you.

164  
165 Mr. Gidley - In conclusion, because the proposed use is consistent  
166 with the Comprehensive Plan and the intent of the Zoning Ordinance and will have  
167 no substantial detrimental impact on nearby property, staff recommends approval  
168 subject to the conditions found in the staff report.

169  
170 This concludes my presentation. I'll be happy to answer any questions you have.

171

172 Mr. Baka - Thank you for your presentation. Questions from  
173 members of the Board?

174  
175 Ms. Harris - Yes. Mr. Gidley, in the report we see that 11 out of 17  
176 buildings will be demolished. Are the silos the reason why we're not counting—you  
177 say 11 out of 17? So what are the buildings that are not being demolished? Do you  
178 know?

179  
180 Mr. Blankinship - When I drafted the report, Ms. Harris, I took that  
181 number off of the National Register nomination. I could not locate all of those  
182 buildings on the site. Paul, can you bring up the reclamation plan, please?

183  
184 Mr. Gidley - Sure.

185  
186 Mr. Blankinship - I can show you a couple of examples.

187  
188 Mr. Gidley - Right here.

189  
190 Mr. Blankinship - Yes. Just at the north edge of the site, if you could  
191 zoom just a—yes. You see the four-story frame building? That's one of the  
192 nominated buildings, but it's outside of the mining area. And then just to the north  
193 and west from there, you see another dwelling and an outbuilding. Yes, there is  
194 one. There are some other buildings. I'm not sure which ones exactly were part of  
195 the nomination and which ones were not. But there are other buildings on the larger  
196 Curles Neck site that are not within the mining site.

197  
198 Ms. Harris - So the number we're dealing with is 11, right?

199  
200 Mr. Blankinship - Yes ma'am.

201  
202 Ms. Harris - Okay. Our report for the conditions shows 180 days.  
203 Are we changing that or is that what we're recommending?

204  
205 Mr. Blankinship - One hundred eighty days is staff's recommendation.

206  
207 Ms. Harris - So we have no changes as far as that is concerned?

208  
209 Mr. Blankinship - That's correct.

210  
211 Mr. Baka - Correct.

212  
213 Ms. Harris - Thank you.

214  
215 Mr. Blankinship - There was some confusion in different versions of the  
216 report going different directions. So we just wanted to make sure everyone  
217 understood that.

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Ms. Harris - We received some information this morning, the introduction, the mining methods and haul roads and access roads. How different is that from the report we already received?

Mr. Blankinship - One change is the one I pointed out while Mr. Gidley was speaking, which is the change in the fifth line under the introduction: "Owns 125.7-acre site of which only 68 acres will be mined." That had previously been 72, but they revised the area, made it slightly smaller.

On the other one I'm not sure of the exact wording change, but under "Haul Road and Access Roads," when Curles Neck was mined between the 1950s and say the last decade, the sand and gravel was hauled all the way to the south end of Curles Neck Farm and loaded on barges there.

Since this property has now been divided off from that larger property, they had to find a different site. So there is now going to be—yes, where the cursor's pointing on your map there, they're going to establish a new barge landing there. So they won't be hauling the sand and gravel through the rest of Curles Neck; it will all be done on this property.

Mr. Lewis can tell us if there are any other changes when he comes up. I believe those are the two significant changes. And then the map, again, shows that change at the eastern end where the mining area had followed the haul road all the way over almost parallel to the pond off to the east. It has now been brought back on the opposite side of the other haul road. Sorry, I don't know a clearer way to state that.

Mr. Baka - Makes sense. Okay. Other questions from members of the Board? Not at this time. Thank you. At this point, we would hear from the applicant.

Mr. Gidley - Thank you, Mr. Chair.

Mr. Lewis - Good morning. My name is Monte Lewis. L-e-w-i-s. I'm with Lewis and Associates. We're the civil engineers on the project. I'll be happy to answer any questions.

Just to get you up on the process of where we are as far as the historical and environmental permits. John has applied for those and had a pre-meeting with DHR, DEQ, all of them. He's getting ready to submit the plan probably within the next week. So what you see on my plan as far as what buildings are going to be demolished really depends on the state. If the state declares that certain buildings have to be preserved, then we'll have to adjust our plan to take them out of the mining area.

264 It was a little confusing. I have a map here where I tried to highlight the buildings  
265 that are old and are within the mining area. Do you want me to put it up there?  
266

267 Mr. Blankinship - Please, Miguel, could you help him with the camera?  
268 Fred, we're going to go to the document camera, please. Maybe Fred has stepped  
269 out of the booth.

270  
271 Mr. Berman - No, there's somebody in there.

272  
273 Mr. Blankinship - Oh, there we go.

274  
275 Mr. Lewis - We do have John Brooks and Jerry Cable here. Jerry's  
276 the owner. John is the environmental expert from Timmons who's working on the  
277 permits. The light's all right. Can we get a little better focus on that? Okay. That's  
278 pretty good.

279  
280 Mr. Baka - That's good.

281  
282 Mr. Lewis - The yellow buildings are the ones that are older. The  
283 buildings that have "new" were probably built since 2000. Some of them are pole  
284 barns. Some of them are sheds with farm equipment because it is an active farm.  
285 Right now I think they have soybeans planted everywhere, but I think I've seen it  
286 rotated between soybeans and corn.

287  
288 You can see the mansion building off to the left. There's a 200-foot setback to the  
289 mansion building. The RPA (Resource Protection Area) is 100 feet from the bank  
290 of the James River. And we are substantially further away from that than what's  
291 required by the County and the State.

292  
293 I would like to point out one thing. In the report, it said the nearest residence was  
294 a mile away. There is one that's closer. It's about 1,000 feet from the property line,  
295 and it's north of this site. A very nice house that's up there. I'm not sure if they're  
296 renting it or if it's a weekend retreat or a yearlong residence.

297  
298 Mr. Blankinship - I must have mistaken it for a farm building or  
299 something. I apologize.

300  
301 Mr. Lewis - As you can see, there are mining sites all around this  
302 that have been reclaimed when Vulcan was working on the site. They did an  
303 excellent job of reclaiming the sites. The farm is working well. It looks very nice.  
304 And I understood that they got several awards for that reclamation. I'm only saying  
305 that because we were involved with the other permits that Vulcan got over the  
306 years on this side of the road and across Route 5, which was called The Slash.

307  
308 If you have any questions, I'd be glad to answer them.

309

310 Mr. Blankinship - Could we begin with Ms. Harris's question of what has  
311 changed in the narratives from the original one to the one that we distributed?  
312

313 Mr. Lewis - Okay. Like Ben pointed out, the silos that you see on  
314 the right-hand side of this are not on the property. I mistakenly had the line going  
315 around those. That was not correct, so we pulled that line back. We're 100 feet  
316 from the property line in all directions. So that decreased.

317  
318 I made it a little bit clearer that the haul road is completely on our site. There's not  
319 going to be any hauling off the site of any materials. It's confined on site. There  
320 was some confusion if we were going to reuse the old barge area that's over there  
321 on the farm; we are not.

322  
323 Other than that, it's just some—I think some of the conditions we had worked  
324 through because of the permits that we have to get through the State and the timing  
325 that the State takes in getting those permits. Although we've applied and are  
326 working with the State, they have not made any mention that this is not going to  
327 work for them. But we just have to go through their process.

328  
329 Mr. Baka - Very good. Any other questions?

330  
331 Mr. Bell - Did I understand that—getting back to the buildings  
332 and sheds and stuff—that the State will have the final decision whether they should  
333 be kept or can be destroyed for the extraction of materials?  
334

335 Mr. Lewis - Yes sir. As part of the environmental permit, when you  
336 send in a permit to the State, they send it to all of their agencies, one of them being  
337 the historical people. They review it, give their conditions. That is going to be under  
338 review. John Brooks can speak in more detail about that if you need some better  
339 information.

340  
341 Mr. Bell - It's not needed.

342  
343 Mr. Lewis - The State does have to approve them. Even if the State  
344 approves them, we still have to document them as part of the condition that Ben  
345 has written up.

346  
347 Mr. Bell - Thank you.

348  
349 Mr. Lewis - Yes sir.

350  
351 Mr. Berman - Would you be agreeable to adding to condition #16 a  
352 time frame that would allow a response of the Preservation Society to come in and  
353 do the documentation and/or the possibly the purchase and removal of those if  
354 you're going to remove those? I just wanted to kind of time-box it because what I  
355 don't—

356

357 Mr. Lewis - Purchase and removal in case somebody—let's say a  
358 scenario where the State says yes, you can take it down, but somebody wants it?

359

360 Mr. Berman - Well and even just to give people enough time to  
361 document it. I'm not an archeologist, but I think that if you told them all right, it's  
362 going to be knocked down tomorrow, they wouldn't have a chance to respond. So  
363 I'm wondering if we could give some sort of time frame—30, 60 days?

364

365 Mr. Lewis - We have to document it before we start any work. Is  
366 that what you're talking about or are you talking about documentation from—

367

368 Mr. Berman - From an external source, a preservation society.

369

370 Mr. Lewis - Some other preservation society.

371

372 Mr. Baka - Or from Virginia Department of Historic Resources.

373

374 Mr. Lewis - Yes. I don't have any problem with writing them into  
375 that condition because they're going to be voting on it anyway.

376

377 Mr. Blankinship - Would that same 180 days work?

378

379 Mr. Lewis - I think so.

380

381 Mr. Berman - Okay. I'll add the motion when appropriate.

382

383 I understand the business aspect of being able to do this. But my question in  
384 preserving the history and pride of days gone by, are they aware that there are tax  
385 breaks towards expenses of maintaining these sites if they chose to leave them  
386 up?

387

388 Mr. Lewis - I'm not sure of that. I've just been commissioned to get  
389 a mining plan.

390

391 Mr. Berman - I understand. Okay. That's all.

392

393 Mr. Blankinship - I'm sure they are aware, Mr. Berman. I'm sure they're  
394 aware of those programs.

395

396 Mr. Berman - Okay. Thank you.

397

398 Mr. Baka - And to clarify, since these structures that are proposed  
399 to be removed are all contributing structures to the original mansion, contributing  
400 in their historic nature. If one of those contributing structures were found to be a  
401 historic resource that is significant in itself that the Virginia Department of Historic

402 Resources did not approve of its demolition, then are you suggesting today that  
403 that structure would remain on site and would—

404  
405 Mr. Lewis - Yes sir.

406  
407 Mr. Baka - The excavation would work around it somehow.

408  
409 Mr. Lewis - Yes sir.

410  
411 Mr. Baka - Okay, just to be clear on that. That's what I understood.

412  
413 Mr. Lewis - There are some structures on there, and I don't know  
414 if they lend themselves to it, but there was also talk with the State of if they had a  
415 structure that they wanted to preserve and if we could move it, do the mining,  
416 re-grade, and then move it back, that's also a possibility.

417  
418 Mr. Baka - Okay.

419  
420 Mr. Lewis - It really depends on what the State says.

421  
422 Mr. Baka - Thank you. That helps make it clearer to me.

423  
424 Mr. Berman - Any of the structures that are thought to be removed,  
425 are any of them in such disrepair that they couldn't be restored?

426  
427 Mr. Lewis - That I don't know. Would you know—

428  
429 Mr. Berman - It's hard to tell from the pictures.

430  
431 Mr. Baka - Typically that would be at the discretion of the  
432 architectural historian, based at the Virginia Department of Historic Resources,  
433 from my experiences.

434  
435 Mr. Berman - Would they be condemned because they're in such  
436 disrepair?

437  
438 Mr. Lewis - Just to my eye, some of them look pretty rough,  
439 especially that one that's off to the left and high. It's grouped where I have it listed  
440 as modern sheds. There are sheds around it. And in the middle it looks like—if you  
441 walk by it, you say oh, this is an old chicken coup. Because it's probably been used  
442 for multiple things over the years. Some of the others look to be in fair shape, but  
443 I didn't go in them to see if they were structurally sound. Some of them are being  
444 used for shops right now for the modern farm equipment being stored inside.

445  
446 Mr. Berman - I didn't want to make a big fuss over something that's  
447 just going to fall apart if somebody sneezes on it.

448  
449 Mr. Lewis - Right. Probably picked up on the study that's done by  
450 the—  
451  
452 Mr. Baka - As this project goes forward, sir, would you all be willing  
453 to send a final report of the findings of the Virginia Department of Historic  
454 Resources to the secretary of the Board of Zoning Appeals just simply as  
455 information to pass along to this Board for future cases?  
456  
457 Mr. Lewis - Yes sir. That is one of the conditions that we're doing.  
458  
459 Mr. Blankinship - They'll send it to Recs and Parks, and they'll coordinate  
460 that.  
461  
462 Mr. Baka - Okay. And this Board will have the opportunity in the  
463 future to simply review the findings after the case for future edification.  
464  
465 Mr. Blankinship - Sure.  
466  
467 Mr. Baka - Thanks.  
468  
469 Ms. Harris - Mr. Lewis, a couple of questions. Did you say 180 days  
470 was ample time for you to get the project?  
471  
472 Mr. Lewis - We would always like more, but Mr. Blankinship said  
473 that he was a little uncomfortable with extending that because he's used the 180  
474 in the past, and it's worked fine with them. As far as historic and environmental,  
475 John, are you still okay with 180?  
476  
477 Mr. Blankinship - If we get five months out and you can see that you're  
478 not going to make 180, we can just come back to the Board and adjust things.  
479  
480 Mr. Lewis - Yes.  
481  
482 Ms. Harris - Okay. Another question. What about the dairy barn?  
483 Would that be destroyed?  
484  
485 Mr. Lewis - The dairy farm?  
486  
487 Ms. Harris - Barn. The barn.  
488  
489 Mr. Lewis - The barn?  
490  
491 Ms. Harris - I know you're going to demolish some buildings.  
492

493 Mr. Lewis - I know we took down the old dairy long ago, but I don't  
494 know what other—.

495

496 Ms. Harris - I think that's something that is unique to Curles Neck  
497 Dairy. I was just hoping that would be preserved.

498

499 Mr. Lewis - I have photos here and numbering on these buildings  
500 if you want to see what they look like. It's hard to go through them and then put  
501 them with the plan. If you look at the plan, the numbers are on here.

502

503 Mr. Baka - Yes sir.

504

505 Mr. Brooks - John Brooks—B-r-o-o-k-s—with Timmons Group. I'm  
506 the environmental scientist charged with getting the environmental permitting. The  
507 dairy barns were removed probably ten years ago as a part of the earlier mining  
508 processes to the north. So they are no longer on the property.

509

510 Mr. Blankinship - That explains why I couldn't locate them.

511

512 Mr. Brooks - They weren't on this property.

513

514 Ms. Harris - That is in the report. The horse barn—

515

516 Mr. Blankinship - Yes, that was part of the National Register  
517 documentation. But that, of course, was prepared prior to what he's talking about.

518

519 Ms. Harris - Okay, thank you.

520

521 Mr. Baka - Thank you, sir. Is there anyone else who would like to  
522 speak about this case on in opposition to this case? Seeing none, the Board will  
523 move on to the next case. As is tradition, the Board will hear all the cases first, and  
524 the votes are at the end of the meeting.

525

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

529

530 Mr. Baka - What is the pleasure of the Board?

531

532 Mr. Mackey - I make a motion that we approve with an added  
533 condition.

534

535 Mr. Blankinship - Number 16 adding a limit of 180 days for them to  
536 complete the survey.

537

538 Mr. Mackey - Yes.

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Mr. Baka - Is there a second to that motion?

Mr. Bell - Second.

Mr. Baka - Motion's been made and seconded. Is there any discussion of the motion? All those in favor of the motion, signify by saying aye. Opposed? The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Mackey, seconded by Mr. Bell, the Board **approved** application **CUP2016-00020, CURLES NECK PROPERTIES, LLC's** request for a conditional use permit pursuant to Sections 24-52(d) and 24-103 of the County Code to extract materials from the earth at 4721 Curles Neck Road (Parcels 833-666-1289 and 834-666-2189) zoned Agricultural District (A-1) (Varina). The Board approved the conditional use permit subject to the following conditions:

1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of the County Code.
2. Within 180 days of approval, the applicant shall post a financial guaranty in an amount of \$216,000, guaranteeing that the land will be restored to a reasonably level and drainable condition, consistent with the elevation of the land prior to the beginning of excavation. In the event of termination of that financial guaranty, this permit shall be void, and excavation shall cease. Within 180 days of termination, the applicant shall restore the land as provided for under the conditions of this use permit. Termination of such financial guaranty shall not relieve the applicant from its obligation to indemnify the County of Henrico for any breach of the conditions of this use permit.
3. Within 180 days of approval, the applicant shall submit environmental compliance plan to the Department of Public Works (DPW) for review and approval. The applicant shall continuously satisfy DPW that erosion control measures are in accordance with the approved plan and are properly maintained. As site conditions change, updated plans and bonds may be required as determined by DPW.
4. Within 180 days of approval, the applicant shall obtain a mine license from the Virginia Department of Mines, Minerals and Energy.
5. Within 180 days of approval, the areas approved for mining under this permit shall be delineated on the ground by five-foot-high metal posts at least five inches in diameter and painted in alternate one foot stripes of red and white. These posts shall be so located as to clearly define the area in which the mining is permitted.

- 584 6. Throughout the life of this permit, the applicant shall comply with the  
585 Chesapeake Bay Preservation Act and all state and local regulations administered  
586 under such act applicable to the property, and shall furnish to the Planning  
587 Department copies of all reports required by such act or regulations.  
588
- 589 7. Hours of operation shall be Monday through Friday, 6:00 a.m. to 6:00 p.m. when  
590 Daylight Saving Time is in effect, and 7:00 a.m. to 5:00 p.m. at all other times.  
591
- 592 8. No operations of any kind are to be conducted at the site on Saturdays,  
593 Sundays, or national holidays.  
594
- 595 9. All access to the property shall be from the established entrance onto New  
596 Market Road or by barge from the James River.  
597
- 598 10. The applicant shall maintain gates at the entrance to the property. These gates  
599 shall be locked at all times, except when authorized representatives of the  
600 applicant are on the property.  
601
- 602 11. The applicant shall post and maintain a sign at the entrance to the mining site  
603 stating the name of the operator, the use permit number, the mine license number,  
604 and the telephone number of the operator. The sign shall be 12 square feet in area  
605 and the letters shall be three inches high.  
606
- 607 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet  
608 along the perimeter of the property. The letters shall be three inches high. The  
609 applicant shall furnish the Chief of Police a letter authorizing the Division of Police  
610 to enforce the "No Trespassing" regulations, and agreeing to send a representative  
611 to testify in court as required or requested by the Division of Police.  
612
- 613 13. All material excavated from the property shall be moved by barge on the James  
614 River. No trucks hauling material excavated from the property shall travel on New  
615 Market Road.  
616
- 617 14. All roads used in connection with this use permit shall be effectively treated  
618 with calcium chloride or other wetting agents to eliminate any dust nuisance.  
619
- 620 15. The applicant shall maintain the property, fences, and roads in a safe and  
621 secure condition indefinitely, or convert the property to some other safe use.  
622
- 623 16. Within 180 days of approval, and before beginning any work on the site, each  
624 structure to be demolished shall be documented with an architectural survey and  
625 photographed, and an archeological survey shall be performed for the 125-acre  
626 site. The applicant shall provide copies of the resulting documents to the  
627 Department of Recreation and Parks. If, during excavation, the applicant discovers  
628 evidence of cultural or historical resources, or an endangered species, or a

629 significant habitat, it shall notify appropriate authorities and provide them with an  
630 opportunity to investigate the site.

631  
632 17. If water wells located on surrounding properties are adversely affected, and  
633 the extraction operations on this site are suspected as the cause, the effected  
634 property owners may present to the Board evidence that the extraction operation  
635 is a contributing factor. After a hearing by the Board, this use permit may be  
636 revoked or suspended, and the operator may be required to correct the problem.

637  
638 18. Open and vertical excavations having a depth of 10 feet or more, for a period  
639 of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect  
640 the public safety.

641  
642 19. Topsoil shall not be removed from any part of the property outside of the area  
643 in which mining is authorized. Topsoil shall be stockpiled within the authorized  
644 mining area and provided with adequate erosion control protection. Sufficient  
645 topsoil shall be stockpiled on the property for respreading in a layer five inches  
646 deep. If the site does not yield sufficient topsoil, additional topsoil shall be brought  
647 to the site to provide the required five-inch layer of cover. All topsoil shall be treated  
648 with a mixture of seed, fertilizer, and lime as recommended by the County after  
649 soil tests have been provided to the County.

650  
651 20. The reclamation of the property shall take place simultaneously with the mining  
652 process. The final grading of the site shall be consistent with the elevation of the  
653 land prior to the beginning of excavation as shown on the approved reclamation  
654 plan. Reclamation shall not be considered completed until the mined area is  
655 covered completely with permanent vegetation.

656  
657 21. If it is necessary to bring topsoil or fill material to the site for reclamation, such  
658 material shall be brought in by barge on the James River. No trucks hauling topsoil  
659 or fill material to be placed on the property shall travel on New Market Road.

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

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

672  
673 24. A progress report shall be submitted to the Board every year on or about  
674 October 31. This progress report shall include how much land has been mined to



721 Mr. Blankinship - Would anyone who intends to speak to this case  
722 please stand and be sworn in. Raise your right hands, please. Do you swear the  
723 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
724 so help you God? Thank you. Mr. Gidley?

725

726 Mr. Gidley - Thank you, Mr. Secretary.

727

728 The subject property is located at 5808 Grayley Court in the western part of the  
729 County. If the site looks familiar, that's because back in July the owners received  
730 a conditional use permit for a pool house and outdoor kitchen that was also located  
731 in the side yard. Following this approval, the pool contractor came in to obtain a  
732 building permit for a swimming pool to be located in the side yard. Like accessory  
733 buildings, swimming pools are also required to be located in the rear yard or maybe  
734 placed in the side yard with the issuance of conditional use permit.

735

736 The property is zoned A-1, Agricultural District, and is designated as Rural  
737 Residential on the Comprehensive Plan. One-family dwellings are consistent with  
738 both designations, and the proposed swimming pool is allowed as an accessory  
739 use to a dwelling in the A-1 district.

740

741 Although the Zoning Ordinance limits accessory structures to the rear yard, this lot  
742 is oddly shaped due to its location on a cul-de-sac. The front of the house faces  
743 the bulb of the cul-de-sac. As a result, the side of the house here faces the actual  
744 rear yard, whereas the back of the house faces the side yard here. As a result, one  
745 could argue the proposed location of the proposed swimming pool is consistent  
746 with the intent of the regulation, because most people driving up the cul-de-sac  
747 here are going to look at the house and think this is the backyard. Although again  
748 under the Zoning Ordinance it's actually a side yard.

749

750 As far as any detrimental impacts on nearby properties, the lot actually slopes  
751 downward from where the house is towards the side property line here. Between  
752 the downward slope and also the existing house, the pool obviously would not be  
753 visible from the street.

754

755 The swimming pool's proposed location is actually further from the closest  
756 neighbor, which would be right here at 5812 Grayley Court. It would be further from  
757 them than if it was actually placed in the rear yard. If they followed code to the T,  
758 it would be located somewhere in here. But instead, they're proposing a location  
759 here. If the conditional use permit were approved, it would actually be further away  
760 from this residence than if they followed the strict letter of the law here.

761

762 It would also not be visible to the properties in the rear along Willscott Place. That's  
763 because in the back here you have a wooded area, and I don't anticipate the trees  
764 being taken down because there are wetlands in there. So they should stay in  
765 perpetuity.

766

767 As a result, staff does really see any substantial detrimental impact to any  
768 neighbors from this request.

769  
770 This is where the swimming pool would go. Again, in the back you can see the  
771 trees and the wetland area that's located right here. And they provide a good  
772 screen and a good buffer from neighboring properties.

773  
774 In conclusion, the proposed swimming pool is consistent with both the Zoning  
775 Ordinance and the Comprehensive Plan. It is not expected to cause any  
776 substantial detrimental impact to nearby property. As a result, staff recommends  
777 approval of this request subject to the conditions found in your staff report.

778  
779 That concludes my presentation. If you have any questions, I will be happy to  
780 entertain them.

781  
782 Mr. Baka - Thank you. Questions of staff? Thank you very much.

783  
784 Mr. Gidley - Thank you, Mr. Chairman.

785  
786 Mr. Baka - Do we want to hear from the applicant? Would  
787 someone representing the applicant please come forward to the podium?

788  
789 Mr. Dunn - Daniel Dunn—D-u-n-n—with River Pools. There's  
790 really nothing to add further to that, but I will answer any questions.

791  
792 Mr. Baka - Thank you. Any questions of the applicant on this  
793 case?

794  
795 Ms. Harris - Yes, Mr. Dunn. Do you know if there will be an auto lid  
796 or a fence enclosure? Have you decided yet?

797  
798 Mr. Dunn - Yes. We're planning on an auto cover for the pool.

799  
800 Ms. Harris - Okay, thank you.

801  
802 Mr. Berman - Could you describe how that works, please?

803  
804 Mr. Dunn - The auto cover is basically a device that will be  
805 recessed within the patio at the deep end of the pool. It's lockable so it can be  
806 locked; nobody would be able to access it without a key. It's pretty much just press  
807 a button and it closes or opens. That's about it.

808  
809 Mr. Blankinship - Is that connected also with an alarm in the house?

810  
811 Mr. Dunn - Typically, an alarm in the house is only going to be  
812 required by code if there is a fence where the house is used as part of the fence.

813

814 Mr. Blankinship - Okay.

815

816 Mr. Dunn - So there would not be an alarm in this case, but it would  
817 be easy to provide one.

818

819 Mr. Blankinship - It's closed and locked. You don't really need the alarm  
820 I guess.

821

822 Mr. Baka - I'll just point out that condition 5 as drafted states that  
823 either an automatic cover lid or a fence is installed. For the owner's sake, if the  
824 added expense of the automatic cover lid is not proceeded with, then a fence is  
825 required. Just to be aware.

826

827 Mr. Dunn - Correct.

828

829 Mr. Baka - Any other questions of the applicant at this time?

830

831 Mr. Berman - I'm still trying to figure out what is automatic about it. In  
832 other words, what is there to protect like the neighbor's kid from waltzing into the  
833 area with the pool uncovered?

834

835 Mr. Dunn - What's automatic is that basically with the push of a  
836 button it will close as opposed to manually putting on the cover. So it's not going  
837 to close on its own. Somebody would need to actually do that. There's no timer on  
838 it or anything like that.

839

840 Mr. Berman - I thought that the ordinance for the fence surrounding  
841 the pool was to prevent an animal or a person from falling into the pool accidentally.  
842 I don't see how this cover replaces that requirement.

843

844 Mr. Mackey - Mr. Chairman, if I may. I thought all inground pools  
845 required a minimum of a four-foot safety fence around the pool.

846

847 Mr. Dunn - Most counties that I've experienced are allowing auto  
848 covers to take the place of a fence. But traditional settings, a fence is what's  
849 required.

850

851 Mr. Baka - A question of the staff then in that instance. What has  
852 been previous staff policy on recommendations on other cases just like that?

853

854 Mr. Blankinship - It's a Building Code requirement, so normally we don't  
855 try to do their job for them. We just require compliance with the Building Code,  
856 which of course it's required anyway. We really list it in the condition as much to  
857 put them on notice as anything else that there is a Building Code requirement they  
858 have to comply with. I think the reason we drafted it the way we did is that I don't

859 know exactly what the Building Code official will accept or won't or under what  
860 circumstances they'll require one or the other. So we would just leave that to their  
861 expertise and confine ourselves to the planning and zoning aspects of the case  
862 normally.

863  
864 Mr. Baka - So if this case is approved with condition 5 as written,  
865 they'll have the discretion to do either/or. At a future date, should the staff contact  
866 the building official and ask for further clarification for a future meeting?

867  
868 Mr. Mackey - I think that would be a good idea.

869  
870 Mr. Blankinship - I would be happy to do that.

871  
872 Mr. Baka - Yes sir.

873  
874 Mr. Parikh - Good morning, Board members. I'm the owner of the  
875 property.

876  
877 Mr. Baka - Yes. Would you please state your name and spell it for  
878 the record?

879  
880 Mr. Parikh - Nikunj Parikh. The reason I'm here is not for this  
881 approval because it's already there. As the owner, the house is big in a way where  
882 we are trying to do everything in the back of the house like the way it's supposed  
883 to be done actually. Considering the builder years ago when he submitted the front  
884 and the side and the side and back, it's making it difficult for the owner, actually,  
885 that he has to go through every time in meeting and wait for months to come back.  
886 Because even the contractor does not know this answer.

887  
888 So my request to you guys, maybe change the whole zoning and say the house  
889 is—front and side is not on the side to side, so every time I have to do something  
890 in the backyard or a side yard or something, I can apply it according to that. There  
891 is a need for that. Otherwise, we can just go directly to approval like it's the way  
892 it's supposed to be instead of going to a special request every time. I think that will  
893 be my request to you guys to change. It should have been done probably when  
894 the house was built actually, but it was never done probably.

895  
896 Mr. Baka - Thank you for your feedback. That clearly is a  
897 challenge not just for yourself, but every landowner who may live on a cul-de-sac  
898 or have a pie-shaped or triangular-shaped lot where the naturally thought-of rear  
899 yard is in fact actually the side yard based on the Zoning Code.

900  
901 You do have criteria in this case which would appear to make it very reasonable  
902 to approve this conditional use permit request. In fact, when I drove by in the cul-  
903 de-sac and looked in, it was hard to see the backyard. The natural topography  
904 slopes off to the rear with a large wooded area and the distance from the neighbor's

905 house. Your case posses a number of criteria that this Board tends to look for when  
906 considering an approval. So thank you for your feedback. I appreciate it.

907  
908 Mr. Bell - One real quick question. Have you had any comments  
909 about your putting a pool in either positive or negative from neighbors or anyone?

910  
911 Mr. Parikh - No, no. They know exactly what we are trying to do in  
912 the back, actually. Most of the neighbors are surprised that I have to go and wait  
913 for this thing every month for a meeting. They say why can't the County just go  
914 through and make this as a backyard instead of a side yard so you don't have to  
915 go through the same thing again. So that's actually why I'm here. While you guys  
916 are approving the pool, at the same time you can make it as a back of the house,  
917 as a backyard instead of the side. It will be easier for us to do some projects in the  
918 future also.

919  
920 Mr. Baka - Thank you for the feedback. Any other questions of the  
921 applicant today?

922  
923 Mr. Berman - Have you read and understand and agree to the  
924 conditions set forth?

925  
926 Mr. Parikh - Sure.

927  
928 Mr. Berman - Is there a precedent to do what Mr. Parikh is asking us  
929 to do?

930  
931 Mr. Blankinship - I don't think that's within this Board's jurisdiction. I think  
932 the Supervisors would do that. We are reviewing the entire Zoning Ordinance over  
933 the next couple of years to see what we can improve. I'm sure this issue will be  
934 raised.

935  
936 Mr. Berman - Okay, thanks.

937  
938 Mr. Blankinship - There are a lot of things in our Zoning Ordinance that  
939 were written with a straight rectangular lot fronting on a street in mind that are  
940 difficult to interpret in other cases.

941  
942 Mr. Baka - Thank you very much for appearing today. Is there  
943 anyone who would like to speak in opposition to this case? Seeing none, we'll  
944 move on to our next case.

945  
946 **[After the conclusion of the public hearings, the Board discussed the case  
947 and made its decision. This portion of the transcript is included here for  
948 convenience of reference.]**

949  
950 Mr. Baka - The pleasure of the Board is?

951  
952 Mr. Berman - I'd like to make a motion to accept CUP2016-00022 in  
953 that it meets the staff-recommended conditions based on meeting the two CUP  
954 evaluation requirements

955  
956 Mr. Baka - Is there a second?

957  
958 Ms. Harris - I second. I think that someone said on the Board that  
959 our Supervisors are taking a second look at how we identify these properties that  
960 are located in cul-de-sacs as to what is a front yard, a side yard. So I do second  
961 this motion because I think it is needed.

962  
963 Mr. Baka - Very good. Any further discussion or are we ready for  
964 a vote? All in favor say aye. All opposed say no. The ayes have it; the motion  
965 passes.

966  
967 After an advertised public hearing and on a motion by Mr. Berman, seconded by  
968 Ms. Harris, the Board **approved** application **CUP2016-00022, RIVER POOLS &**  
969 **SPAS'** request for a conditional use permit pursuant to Section 24-95(i)(4) of the  
970 County Code to allow a pool in the side yard at 5808 Grayley Court (HENLEY)  
971 (Parcel 732-774-7197) zoned Agricultural District (A-1) (Three Chopt). The Board  
972 approved the conditional use permit subject to the following conditions:

- 973  
974 1. This conditional use permit applies only to the construction of an in ground  
975 swimming pool in the side yard. All other applicable regulations of the County Code  
976 shall remain in force.  
977  
978 2. Only the improvements shown on the plans filed with the application may be  
979 constructed pursuant to this approval. Any additional improvements shall comply  
980 with the applicable regulations of the County Code. Any substantial changes or  
981 additions to the design or location of the improvements shall require a new  
982 conditional use permit.  
983  
984 3. The applicant shall provide a minimum 10-foot setback from the edge of the  
985 swimming pool to the principal residence and a minimum 10-foot setback from the  
986 side property line to the interior pool wall.  
987  
988 4. If land disturbance will affect over 2,500 square feet of land area, before  
989 beginning grading, or other land disturbing activity, the applicant shall submit an  
990 environmental compliance plan to the Department of Public Works.  
991  
992 5. The pool shall be built with the auto cover lid as shown on the plans, or  
993 enclosed by a fence as required by the Building Code.

994  
995  
996 Affirmative: Baka, Bell, Berman, Harris, Mackey 5

997 Negative: 0  
998 Absent: 0  
999

1000  
1001 **[At this point, the transcript continues with the public hearing on the next**  
1002 **case.]**  
1003

1004 Mr. Blankinship - Mr. Chairman, the next two cases are companions.  
1005 With your permission, I'll call them together. Although at the end of the meeting,  
1006 we will have to vote separately on them. They are conditional use permits 2016-  
1007 00023 and 00024. They are both Home Depot.  
1008

1009 **CUP2016-00023 HOME DEPOT** requests a conditional use permit  
1010 pursuant to Section 24-116(d)(1) of the County Code to allow a temporary sales  
1011 stand at 6501 W Broad Street (Parcel 768-742-3277) zoned Business District (B-  
1012 3) (Tuckahoe).  
1013

1014 **CUP2016-00024 HOME DEPOT** requests a conditional use permit  
1015 pursuant to Section 24-116(d)(1) of the County Code to allow a temporary sales  
1016 stand at 11260 W Broad Street (Parcel 742-762-4307) zoned Light Industrial  
1017 District (M-1C) and West Broad Street Overlay (WBSO) (Three Chopt).  
1018

1019 Mr. Blankinship - Would everyone who intends to speak to this case  
1020 please stand and be sworn in. Do you swear the testimony you're about to give is  
1021 the truth, the whole truth, and nothing but the truth so help you God?  
1022

1023 Mr. Blankinship - Thank you. Mr. Madrigal.  
1024

1025 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the  
1026 Board.  
1027

1028 Before you are two similar requests to allow temporary sale stands in the parking  
1029 lots of two home improvement stores.  
1030

1031 The first site is a Home Depot location at 6501 West Broad Street, which is part of  
1032 an existing shopping center containing Burlington Coat Factory, Aldi, Office Max,  
1033 and O'Charley's. Home Depot's building sits independently and is 109,000 square  
1034 feet in area with an attached 22,500-square-foot garden center. Open parking is  
1035 provided predominately at the front of the store. You can see that here on the site  
1036 plan.  
1037

1038 The second site is at 11260 West Broad, which is part of the Brookhollow Shopping  
1039 Center consisting of Target, Hobby Lobby, and Kohl's. The Home Depot building  
1040 sits in line with the other anchors and is 106,800 square feet in area with an  
1041 attached 25,500-square-foot garden center. Open parking is shared and provided  
1042 along the front of the stores.

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In both instances, the applicant is requesting the installation of a 40-by-60-foot tent to be temporarily installed in the parking lots at the front of the garden center for each store. The tents will be used for Christmas tree sales between November 2nd and December 26th, and will temporarily displace approximately 14 parking stalls during that time.

Both locations allow for Christmas tree sales within the garden center without the need for a CUP. However, the plan of development for each site prohibits outside storage as a condition of approval. Because of this requirement, a CUP is required for the outdoor sales.

In both instances, a home improvement store is consistent with both the zoning and Comprehensive Plan designations for each respective site. The seasonal sale of Christmas trees is a customary use accessory to a home improvement store and is not out of character with the principal use. Although the applications for each site do not state why Christmas tree sales can't be conducted within the garden centers, the only detrimental impact that staff anticipates with these requests is congestion in each store's parking lot. Again, the proposed tents will displace approximately 14 parking stalls.

With respect to the first location at 6501 West Broad Street, in years past, the shopping center had complied with minimum parking requirements. After the addition of Aldi to the center in 2015, required parking was slightly impacted by approximately 32 parking stalls. Although it is impacted, similar requests have been approved over the last four years, and the Planning Department has not received any complaints about the use or the lack of parking.

With respect to the Brookhollow Shopping Center location, the center has approximately 153 excess parking stalls. The proposed use should not pose any significant parking issues for this site.

In conclusion, the applicant's requests are consistent with the surrounding land uses, the intent of the Zoning Ordinance, and the Comprehensive Plan. The proposals will be of a short duration, and there appears to be no lasting or substantial detrimental impacts. Specific conditions have been prepared in each case to mitigate any adverse impacts on adjacent uses. For these reasons, staff recommends approval subject to the conditions of approval.

This concludes my presentation.

Mr. Baka - Any questions of Mr. Madrigal?

Mr. Mackey - I have one. Mr. Madrigal, since the addition of Aldi in 2015, would this be the first year that they've had the deficiency in the parking stalls?

1089

1090 Mr. Madrigal - Yes. Over the last four years, Home Depot was short  
1091 approximately 15 stalls if you just considered that site independently. But when  
1092 you consider the whole shopping center, it met parking requirements. Since they  
1093 added Aldi, they had to do some reconfiguration of the parking lot. There were  
1094 some grading issues. And that eliminated a few more stalls. That's why we're at  
1095 32.

1096

1097 Mr. Mackey - Okay.

1098

1099 Mr. Baka - I would add that Aldi is on an almost lower level tier  
1100 topo-wise than the Home Depot, so it's naturally two parking lot areas even though  
1101 it's one shopping center.

1102

1103 Mr. Mackey - All right, thank you.

1104

1105 Mr. Baka - Thank you. At this point we'll hear from the applicant.  
1106 Please state your name and spell it for the record.

1107

1108 Mr. Schneider - Good morning, y'all. My name's Dan Schneider. It's  
1109 spelled S as in Sam, c-h-n-e-i-d-e-r. I'm the assistant store manager at the Short  
1110 Pump Home Depot. I am representing both stores.

1111

1112 With regard to 6501 West Broad Street, Mr. Chairman, you brought up a very good  
1113 point. We really are detached from the shopping center. We are a totally separate  
1114 building. There is about a six-foot retaining wall dividing us from Burlington, Aldi,  
1115 and O'Charley's. In previous years, there have been no issues. It has been a very  
1116 successful community connection operation.

1117

1118 In regard to the site that we reside at, West Broad Street in the Far West End in  
1119 Short Pump, same thing. Each year we have been successful in a community  
1120 connection environment.

1121

1122 If there are any questions, I'll be more than happy to answer them for you.

1123

1124 Mr. Baka - Very good. Any questions?

1125

1126 Ms. Harris - Yes, I have a question. Mr. Schneider, since there is a  
1127 deficiency regarding the 6501 West Broad Street location in the parking spaces,  
1128 why not erect a smaller tent? I know the tent size you're going to use is 40 by 60.  
1129 Have you considered erecting a smaller tent?

1130

1131 Mr. Schneider - There was no consideration of that. We've used the  
1132 same tent each year in that area. It is off to the side close to the retaining wall, so  
1133 it is not in the main I guess you'd say area where people park and/or enter and exit  
1134 the store.

1135  
1136 The tent in Short Pump is actually a 40 by 40. That is a little smaller tent because  
1137 that area is a little more compact. It's a totally different scenario. That is like a strip  
1138 mall kind of thing. We are not separated. We are tagged in the middle of these  
1139 stores. And because of safety and because of area, we decided to make that a  
1140 little smaller to fit the surroundings and the setting.  
1141  
1142 Ms. Harris - I thought in both reports you were dealing with the 40  
1143 by 60.  
1144  
1145 Mr. Schneider - They were. I received a call from the tent company  
1146 yesterday saying that our tent was 40 by 40 in Short Pump and 40 by 60 at 6501  
1147 West Broad.  
1148  
1149 Ms. Harris - Okay. We need to make that change, I think, in the  
1150 report. Have you ever had a security problem? I often wondered when I drive by  
1151 outdoor shrubbery and Christmas tree places will there be a security problem at  
1152 night when no one is manning that area.  
1153  
1154 Mr. Schneider - As far as theft is concerned?  
1155  
1156 Mr. Berman - As far as the public is concerned by it being an outdoor  
1157 area. Do you have problems with security?  
1158  
1159 Mr. Schneider - There is no evidence at either location that we've ever  
1160 had any security issues dealing with theft or safety or protection of our customers  
1161 or associates. There is nothing on record that states any of that for any year that  
1162 we've done this. Corporate does a great job as far as really preplanning this,  
1163 making sure that it's safe and it's sound, that exits have applicable signs, lights.  
1164 Even when the store is closed and the tent power is down, the safety exit lights  
1165 and security lights are still shining through the night.  
1166  
1167 Mr. Berman - To Ms. Harris's point, it's been our best practice to  
1168 recommend a condition where a police notification sign is posted so that after  
1169 hours there's a phone number in case, God forbid, the tent catches on fire or to  
1170 just make it no trespassing so that people don't think they can just roam around  
1171 the tent.  
1172  
1173 Mr. Schneider - Sure.  
1174  
1175 Mr. Berman - So I may make that motion if that's agreeable to you.  
1176  
1177 Mr. Schneider - We have no problems with that. We have security  
1178 surveillance on the front of both stores. So there is 24-hour surveillance. Usually,  
1179 both locations have a great relationship with fire and police. They are monitored.  
1180 As salaried managers, we are on call 24/7 with Tycos, so we are notified if anything

1181 happens as far as fire or alarm. The tent will be set with a fire alarm, so if there is  
1182 a situation, we will be notified immediately. Some salaried manager will go to either  
1183 site.

1184  
1185 Mr. Berman - Good. I'm glad to hear that the tent in Short Pump was  
1186 reduced in size. When we were on site, if you put a 40 by 60 there, it would  
1187 encroach on the cart return area.

1188  
1189 Mr. Schneider - Yes sir. We're probably going to shift that out of the  
1190 way so that it's not a burden to exiting or anything like that. The car corrals are  
1191 stationed in place, but they are able to be moved spots if necessary.

1192  
1193 Mr. Berman - We were kind of tugging on them when we were out  
1194 there.

1195  
1196 Mr. Baka - How are they anchored?

1197  
1198 Mr. Schneider - We just basically went through a parking lot renovation.  
1199 With these new stands, there are mollies that are bolted into the ground with about  
1200 eight-inch little couplings in all eight spots. So all of the bollards are attached to  
1201 these. What you do is you loosen the screw at the bottom, you lift it up. We then  
1202 have to take the molly out and move it.

1203  
1204 So we would temporarily secure—I guess this is the cart we're looking at. We just  
1205 feel uncomfortable that that is a little too close to where the tent will be once we  
1206 use the corrals, the timbers to block off that area to protect customers. So we will  
1207 probably move it farther into the lot.

1208  
1209 Mr. Berman - Okay, great.

1210  
1211 Mr. Schneider - But it is easy. Well, let me say it's not easy to move,  
1212 but it's possible.

1213  
1214 Mr. Berman - Great. In your parking lot reconfiguration, it looks like  
1215 you made some of the handicap spaces temporary. Could you possibly relocate  
1216 the displaced handicap spaces down a couple of aisles?

1217  
1218 Mr. Schneider - As of two days ago I could have. They put our  
1219 permanent signs in place just the other day. We are hoping that the tent's going to  
1220 sit back off the first six spots so that those handicap spots aren't taken away from  
1221 the customers.

1222  
1223 Mr. Berman - Even better.

1224  
1225 Mr. Baka - That's even better.

1226

1227 Mr. Berman - With regards to the lower Broad Street location, there  
1228 is a temporary structure in the place where you intend to put the tree sales. I  
1229 believe it's like a pumpkin patch?  
1230  
1231 Mr. Schneider - Yes sir. That's our pumpkin corral, our harvest  
1232 seasonal area. That will come down Sunday. So that goes away. It's just a  
1233 temporary setting that sits from like September 15th through October 30th.  
1234  
1235 Mr. Berman - Do you do sales out of that?  
1236  
1237 Mr. Schneider - I'm sorry?  
1238  
1239 Mr. Berman - Do you do sales out of that corral?  
1240  
1241 Mr. Schneider - There is not an actual register there. Usually, they will  
1242 pick pumpkins. It's right across from the door and the register there. We do have  
1243 associates that man that to help customers load carts and then to go back and pay  
1244 for them.  
1245  
1246 Mr. Berman - As long as you're not selling mulch out there again.  
1247  
1248 Mr. Schneider - No mulch at this time of year.  
1249  
1250 Mr. Berman - At this time.  
1251  
1252 Mr. Schneider - I guess we'll meet back on that one in the spring.  
1253  
1254 Mr. Berman - Yes. In all seriousness, we really appreciate the  
1255 partnership that Home Depot has with Henrico County. And we understand the  
1256 struggle, that you are in a strip mall, and you share the parking lot. We get that,  
1257 and we want to be able to work with you as best we can.  
1258  
1259 Mr. Schneider - And we appreciate your cooperation. We try to do what  
1260 we can. Corporate is big on community connection. We do a lot with Henrico and  
1261 all other stores in other municipalities. That is an important factor to us.  
1262  
1263 Mr. Berman - Thank you, Mr. Schneider.  
1264  
1265 Mr. Baka - One comment. When the 6501 West Broad Street  
1266 store applies for the conditional use permit process for this, Mr. Blankinship, would  
1267 that also be in order when they need outdoor storage for the similar display there  
1268 for pumpkins?  
1269  
1270 Mr. Blankinship - They technically should, yes.  
1271  
1272 Mr. Baka - Okay.

1273  
1274 Mr. Blankinship - The POD condition prohibits outdoor storage.  
1275  
1276 Mr. Baka - Staff could follow up on that when they reapply for the  
1277 permits.  
1278  
1279 Mr. Schneider - Yes, I can point that out too.  
1280  
1281 Mr. Baka - Thanks. Other questions of the applicant?  
1282  
1283 Mr. Blankinship - I have one. It's almost a curiosity. The one thing about  
1284 these applications that's always concerned me is that you're occupying required  
1285 spaces on Black Friday, on what is typically the busiest shopping day of the year.  
1286 And certainly with Target and Kohl's at the one location, I know that's an issue.  
1287  
1288 For your store, though, it seems to me, from my own experience, that the  
1289 springtime is really your busiest shopping time. Can you talk just a little bit about  
1290 how busy you are at that time of year?  
1291  
1292 Mr. Schneider - As far as the springtime?  
1293  
1294 Mr. Blankinship - Well, comparing that and Black Friday.  
1295  
1296 Mr. Schneider - We have a spring Black Friday. As far as the exterior  
1297 part, the gardens, the whole year is made up in that two weeks in the springtime  
1298 with the mulch. We probably sell upwards of 20,000 to 30,000 bags of mulch and  
1299 different garden soils. So it is a very big time.  
1300  
1301 The Christmas trees bring more of a family environment. After Black Friday, that's  
1302 when sales really start to boom. Our biggest Black Friday of the fall time is basically  
1303 in the store. That's where most of our traffic is in the store for that and spring is  
1304 pretty much out of the store.  
1305  
1306 Mr. Blankinship - In terms of the impact on the parking during that during  
1307 that busiest time of the year.  
1308  
1309 Mr. Schneider - We haven't seen any issues where we've had  
1310 complaints or issues or accidents or reports of any GL claims filed through either  
1311 store. So I feel as though we're pretty fortunate. I think people—it's kind of like—I  
1312 don't know what reference to make, but it's kind of like if you pulled in the parking  
1313 lot and you didn't see the tent, you'd be wondering what happen. Did we close?  
1314 It's kind of like a permanent fixture like you would see at any other retailer.  
1315  
1316 Mr. Blankinship - Thank you.  
1317

1318 Mr. Baka - Thank you. Thank you very much for your presentation  
1319 today.

1320  
1321 Mr. Schneider - Thank you.

1322  
1323 Mr. Baka - Is there anyone else who wishes to speak to either of  
1324 these two cases? Seeing none, we'll move on to our next case.

1325  
1326 **[After the conclusion of the public hearings, the Board discussed the case**  
1327 **and made its decision. This portion of the transcript is included here for**  
1328 **convenience of reference.]**

1329  
1330 Mr. Baka - I will make a motion to approve this case with the five  
1331 conditions as presented in the staff report. This should be a temporary use and it  
1332 will not be a detrimental or substantial impact on any of the neighboring properties  
1333 or parking situations.

1334  
1335 Mr. Berman - I would request that we add the sixth condition  
1336 establishing an after-hours no trespassing and contact information sign.

1337  
1338 Mr. Baka - Okay, very good. I accept that condition and add that  
1339 to the motion.

1340  
1341 Mr. Berman - There is no need for a public safety review, I would  
1342 think. We could just add it.

1343  
1344 Mr. Blankinship - I think they're familiar with this.

1345  
1346 Mr. Berman - Okay.

1347  
1348 Mr. Baka - All right. And you seconded that motion, sir?

1349  
1350 Mr. Berman - I second the motion.

1351  
1352 Mr. Baka - All right. Motion's been made and seconded. Any  
1353 discussion? All in favor say aye. All opposed say no. The ayes have it; the motion  
1354 passes.

1355  
1356 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.  
1357 Berman, the Board **approved** application **CUP2016-00023, HOME DEPOT's**  
1358 request for a conditional use permit pursuant to Section 24-116(d)(1) of the County  
1359 Code to allow a temporary sales stand at 6501 W Broad Street (Parcel 768-742-  
1360 3277) zoned Business District (B-3) (Tuckahoe). The Board approved the  
1361 conditional use permit subject to the following conditions:  
1362

- 1363 1. This conditional use permit applies only to the temporary sale of Christmas  
 1364 trees from November 2 through December 26, 2016. All other applicable  
 1365 regulations of the County Code shall remain in force.  
 1366  
 1367 2. Only one tent, as shown on the plot plan filed with the application, may be  
 1368 erected pursuant to this approval. Any additional improvements shall comply  
 1369 with the applicable regulations of the County Code. Any substantial changes or  
 1370 additions to the design or location of the improvements will require a new use  
 1371 permit.  
 1372  
 1373 3. The applicant shall obtain a building permit for the tent, and shall comply with  
 1374 all requirements and conditions of the Department of Building Construction and  
 1375 Inspections.  
 1376  
 1377 4. The tent shall not interfere with approved landscaping islands or parking lot  
 1378 lighting. All approved landscaping shall be maintained in a healthy condition.  
 1379  
 1380 5. The tent shall be removed from the property no later than January 2, 2017, at  
 1381 which time this permit shall expire.  
 1382  
 1383 6. A sign shall be posted on the tent providing emergency contact information and  
 1384 stating that trespassing after hours is prohibited.  
 1385

1386  
 1387 Affirmative: Baka, Bell, Berman, Harris, Mackey 5  
 1388 Negative: 0  
 1389 Absent: 0  
 1390

1391  
 1392 Mr. Baka - CUP2016-00024, Home Depot at 11260 West Broad  
 1393 Street.  
 1394

1395 Mr. Berman - I move that we approve this request and also add the  
 1396 same condition as the previous CUP for the after-hours signage.  
 1397

1398 Mr. Baka - Okay.  
 1399

1400 Ms. Harris - I second the motion and say that the 40-by-40-foot tent  
 1401 will be used instead of what was indicated in the report, which was 40 by 60.  
 1402

1403 Mr. Berman - That's correct. Entered into the record was the satellite  
 1404 picture. Ms. Harris points out it says 40 by 60; it needs to be 40 by 40.  
 1405

1406 Mr. Baka - Very good. Motion's been made and seconded. Any  
 1407 discussion?  
 1408

1409 Ms. Harris - I think the system is working. And as long as it's  
1410 working, we're not getting complaints, I don't see the need to change it at this time.

1411  
1412 Mr. Baka - Very good. All in favor say aye. All opposed say no.  
1413 The ayes have it; the motion passes.

1414  
1415 After an advertised public hearing and on a motion by Mr. Berman, seconded by  
1416 Ms. Harris, the Board **approved** application **CUP2016-00024, HOME DEPOT's**  
1417 request for a conditional use permit pursuant to Section 24-116(d)(1) of the County  
1418 Code to allow a temporary sales stand at 11260 W Broad Street (Parcel 742-762-  
1419 4307) zoned Light Industrial District (M-1C) and West Broad Street Overlay  
1420 (WBSO) (Three Chopt). The Board approved the conditional use permit subject  
1421 to the following conditions:

- 1422
- 1423 1. This conditional use permit applies only to the temporary sale of Christmas trees  
1424 from November 2 through December 26, 2016. All other applicable regulations  
1425 of the County Code shall remain in force.
  - 1426
  - 1427 2. Only one tent, as shown on the plot plan filed with the application, may be  
1428 constructed pursuant to this approval. Any additional improvements shall  
1429 comply with the applicable regulations of the County Code. Any substantial  
1430 changes or additions to the design or location of the improvements will require  
1431 a new use permit.
  - 1432
  - 1433 3. The applicant shall obtain a building permit for the tent, and shall comply with  
1434 all requirements and conditions of the Department of Building Construction and  
1435 Inspections.
  - 1436
  - 1437 4. The tent shall not interfere with approved landscaping islands or parking lot  
1438 lighting. All approved landscaping shall be maintained in a healthy condition.
  - 1439
  - 1440 5. The tent shall be removed from the property no later than January 2, 2017, at  
1441 which time this permit shall expire.
  - 1442
  - 1443 6. A sign shall be posted on the tent providing emergency contact information  
1444 and stating that trespassing after hours is prohibited.

1445  
1446

1447 Affirmative:	Baka, Bell, Berman, Harris, Mackey	5
1448 Negative:		0
1449 Absent:		0

1450  
1451  
1452 **[At this point, the transcript continues with the public hearing on the next**  
1453 **case.]**  
1454

1455 Mr. Blankinship - Next is conditional use permit CUP2016-00025, Ken  
1456 Lewandowski.

1457  
1458 **CUP2016-00025** **KEN LEWANDOWSKI** requests a conditional use  
1459 permit pursuant to Section 24-95(i)(4) of the County Code to build a detached  
1460 garage in the side yard at 2730 Kingsland Road (LAKE ZEHLER ESTATES)  
1461 (Parcel 827-679-8766) zoned Agricultural District (A-1) (Varina).

1462  
1463 Mr. Blankinship - Would everyone who intends to speak to this case  
1464 please stand and be sworn in. Raise your right hands, please. Do you swear the  
1465 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
1466 so help you God? Thank you. Mr. Gidley?

1467  
1468 Mr. Gidley - Thank you, Mr. Secretary.

1469  
1470 The subject property is located at 2730 Kingsland Road in the eastern part of the  
1471 County. The property is just over four acres in lot area and slopes upward from  
1472 Kingsland Road to the home site. From there, it slopes downhill to a floodplain that  
1473 is located along the rear of the property line. Here is the view from the street. You  
1474 can see it goes uphill here to the house before it goes back downhill.

1475  
1476 The existing home, as you can see here, contains a two-car garage. The applicant,  
1477 however, would like to have additional space to store a third vehicle along with  
1478 some lawn equipment. As a result, he is proposing to build a two-car garage in the  
1479 side yard located between the existing driveway right here and the side property  
1480 line, which would be right over here. So the location of the proposed garage would  
1481 be right in this general area here. Although the applicant could locate the garage  
1482 in the rear yard, this is made more difficult by the downhill slope. In addition, his  
1483 septic system, along with an underground propane tank, are both located in the  
1484 rear yard.

1485  
1486 As far as the evaluation, the property is zoned A-1, Agricultural District. With the  
1487 exception of the floodplain, it's designated as Suburban Residential 1 on the  
1488 Comprehensive Plan. One-family dwellings are a permitted use in the A-1 district,  
1489 and a detached garage is allowed as an accessory use to a dwelling, obviously.

1490  
1491 The proposed garage would only be visible from two properties. That's the home  
1492 across the street here, which is roughly 300 feet away from the proposed garage  
1493 site. The other home it would be visible from is the home to the east. You can see  
1494 there are a number of trees between this neighbor and the site of the proposed  
1495 garage, so there would be quite a bit of privacy. As a result, staff does not foresee  
1496 any substantial detrimental impact from this proposal.

1497  
1498 In conclusion, the detached garage the applicant wishes to construct is consistent  
1499 with both the Zoning Ordinance and the Comprehensive Plan. It is not expected to

1500 cause any substantial detrimental impact to nearby property. As a result, staff  
1501 recommends approval of the application subject to the conditions in the staff report.  
1502  
1503 This concludes my presentation. If you have any questions, I will be happy to  
1504 answer those.  
1505  
1506 Mr. Baka - Thank you. Questions of staff?  
1507  
1508 Ms. Harris - Mr. Gidley, did you address how close this proposed  
1509 garage will be to the garage that already exists?  
1510  
1511 Mr. Gidley - It shows 25 feet here, Ms. Harris, this being the existing  
1512 home and this being the proposed garage.  
1513  
1514 Ms. Harris - Thank you.  
1515  
1516 Mr. Gidley - Yes ma'am.  
1517  
1518 Mr. Berman - And on that diagram it has three feet from the property  
1519 line. Is that the appropriate setback requirement?  
1520  
1521 Mr. Gidley - Under the Zoning Ordinance, yes sir. Sometimes  
1522 Building Code requires additional, depending up whether it needs to be fire rated.  
1523  
1524 Mr. Berman - Okay. Thanks.  
1525  
1526 Mr. Baka - Thank you, Mr. Gidley.  
1527  
1528 Mr. Gidley - Thank you, Mr. Chairman.  
1529  
1530 Mr. Baka - We'll now hear from the applicant. Good morning.  
1531 Would you please state your name and spell it for the record?  
1532  
1533 Mr. Lewandowski - Good morning. I'm Kenneth Lewandowski. That's L-e-  
1534 w-a-n-d-o-w-s-k-i. I'm the homeowner. Everything that the speaker, Mr. Gidley  
1535 brought up in his presentation we've already taken into consideration to include  
1536 increased fire protection on that wall because we are going three feet from the  
1537 property line instead of the five. So it requires my builder to—what, a one-hour,  
1538 two-hour wall?  
1539  
1540 Male - I'm actually not sure about that.  
1541  
1542 Mr. Lewandowski - Anyway, it has a built-in fire plan.  
1543  
1544 Mr. Baka - Built to fire building department codes.  
1545

1546 Mr. Lewandowski - Right, yes. So that's already been taken into  
1547 consideration. So we're going to ensure that that wall is rated at whatever fire level  
1548 it needs to be.

1549  
1550 Unfortunately, the property that I own, the side yard is actually the only practical  
1551 place for me to put a garage just simply because of the slope in the backyard. And  
1552 then I have an engineered septic system. It's made up of more than just a tank. It's  
1553 a tank with some pods in the back and where the propane tank is. It's just not  
1554 feasible to put anything in the backyard.

1555  
1556 Questions?

1557  
1558 Mr. Baka - Questions?

1559  
1560 Mr. Bell - One quick question. Have you received any complaints  
1561 or other statements regarding construction of this garage from your neighbors or  
1562 anyone?

1563  
1564 Mr. Lewandowski - No I have not. I actually talked to my neighbor, Richard,  
1565 and I told him what I was going to do. He didn't say anything.

1566  
1567 Mr. Bell - Thank you.

1568  
1569 Mr. Lewandowski - You're welcome.

1570  
1571 Mr. Baka - Any other questions?

1572  
1573 Mr. Blankinship - I just had one question. The garage you have now is  
1574 side-loaded, so you pull up from Kingsland Road and then make a left turn into it.  
1575 Is this one going to be straight across from that where you'll come up and make a  
1576 right turn into it?

1577  
1578 Mr. Lewandowski - No sir. This one will actually face the road. So as you  
1579 drive up the driveway, it'll be off to the right and you pull straight in.

1580  
1581 Mr. Blankinship - So are you going to have to widen the driveway as  
1582 well?

1583  
1584 Mr. Lewandowski - No sir. The garage is actually going to take up just a  
1585 small amount of the current driveway now. But we're going to ensure that there is  
1586 at least 25 feet from the existing garage to what would be the side wall of this  
1587 garage.

1588  
1589 Mr. Blankinship - Okay. Thank you.

1590  
1591 Mr. Berman - Do you have a homeowners association?

1592  
1593 Mr. Lewandowski - No sir.  
1594  
1595 Mr. Berman - Okay.  
1596  
1597 Mr. Baka - Thank you very much for appearing, sir.  
1598  
1599 Mr. Lewandowski - You're welcome, sir. Thank you.  
1600  
1601 Mr. Baka - Anyone else who would like to speak to this case?  
1602 Seeing none, we'll move on to the next case.  
1603  
1604 **[After the conclusion of the public hearings, the Board discussed the case**  
1605 **and made its decision. This portion of the transcript is included here for**  
1606 **convenience of reference.]**  
1607  
1608 Mr. Mackey - I move that we accept CUP2016-00025 with the added  
1609 conditions of the staff.  
1610  
1611 Mr. Baka - Okay. Is there a second to that motion?  
1612  
1613 Ms. Harris - I second this motion because we say we want to be  
1614 sure that there are no adverse impacts on the safety, health or welfare of the  
1615 community. And also we're running into the same situation where it's not feasible  
1616 sometimes to place a garage in the place that we would hope, according to the  
1617 code. It's more practical in this case to put it in the side yard. That's the reason for  
1618 my seconding the motion.  
1619  
1620 Mr. Baka - Very good. All in favor say aye. All opposed say no.  
1621 The ayes have it; the motion passes.  
1622  
1623 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
1624 Ms. Harris, the Board **approved** application **CUP2016-00025, KEN**  
1625 **LEWANDOWSKI's** request for a conditional use permit pursuant to Section 24-  
1626 95(i)(4) of the County Code to build a detached garage in the side yard at 2730  
1627 Kingsland Road (LAKE ZEHLER ESTATES) (Parcel 827-679-8766) zoned  
1628 Agricultural District (A-1) (Varina). The Board approved the conditional use permit  
1629 subject to the following conditions:  
1630  
1631 1. This conditional use permit applies only to the location of a detached garage in  
1632 the side yard. All other applicable regulations of the County Code shall remain in  
1633 force.  
1634  
1635 2. Only the improvements shown on the plans filed with the application may be  
1636 constructed pursuant to this approval. Any additional improvements shall comply  
1637 with the applicable regulations of the County Code. Any substantial changes or

1638 additions to the design or location of the improvements shall require a new  
1639 conditional use permit.

1640  
1641 3. The new construction shall match the existing dwelling as nearly as practical in  
1642 materials and color.

1643  
1644 4. If land disturbance will affect over 2,500 square feet of land area, before  
1645 beginning construction the applicant shall submit an environmental compliance  
1646 plan to the Department of Public Works.

1647  
1648 5. All exterior lighting shall be shielded to direct light away from adjacent property  
1649 and streets.

1650  
1651  
1652 Affirmative: Baka, Bell, Berman, Harris, Mackey 5  
1653 Negative: 0  
1654 Absent: 0

1655  
1656  
1657 **[At this point, the transcript continues with the public hearing on the next**  
1658 **case.]**

1659  
1660 Mr. Blankinship - Next is conditional use permit 2016-00026, Kanawha  
1661 Recreation Association.

1662  
1663 **CUP2016-00026 KANAWHA RECREATION ASSOCIATION** requests  
1664 a conditional use permit pursuant to Section 24-12(b) of the County Code to  
1665 expand a noncommercial recreation facility at 8100 Holmes Avenue (Parcel 755-  
1666 735-8779) zoned One-Family Residence District (R-3) (Tuckahoe).

1667  
1668 Mr. Blankinship - Would everyone who intends to speak to this case  
1669 please stand and be sworn in. Do you swear the testimony you're about to give is  
1670 the truth, the whole truth, and nothing but the truth so help you God? Thank you.  
1671 Mr. Gidley.

1672  
1673 Mr. Gidley - Thank you, Mr. Secretary.

1674  
1675 This request is from the Kanawha Recreation Association, which is located at the  
1676 intersection of Holmes Avenue and Zionsville Road. The association has been  
1677 located here since acquiring the property in 1955. Over the years, it has obtained  
1678 a number of conditional use permits to allow an expansion of the facility. Today it  
1679 consists of four swimming pools, nine tennis courts, a snack bar, restrooms, a  
1680 picnic shelter, a playground, and a basketball court that you call all see below you  
1681 here. This pool right here is the lap pool that they wish to replace. And this is a  
1682 picture of this same pool.

1683

1684 The association would like to replace this existing six-lane lap pool that was  
1685 approved in 1967 and replace it with a new eight-lane lap pool. In addition, the  
1686 bleachers that are shown here would be replaced with a newer set of bleachers.

1687  
1688 The property is zoned R-3, One-Family Residence District and is designated as  
1689 Open Space Recreation on the Comprehensive Plan. Private, non-commercial  
1690 recreation areas are permitted by conditional use permit in the R-3 district and are  
1691 consistent with the designation on the Comprehensive Plan.

1692  
1693 As far as any detrimental impact to nearby property, the expansion of the pool from  
1694 six lanes to eight lanes would expand it southward roughly six or seven feet.  
1695 However, the pool would still be located 300 feet from the nearest dwellings to the  
1696 south. As you can see here, there is a tree line right along the southern property  
1697 lines. As such, the neighbors should not notice any real change other than during  
1698 construction, when the existing pool would be removed and the new pool would be  
1699 installed. The existing light poles that are on the site, they would also be reinstalled  
1700 at the same height and same light intensity, so there should not be any impact  
1701 there. As a result, staff does not see any substantial detrimental impact to nearby  
1702 property from the proposed improvements.

1703  
1704 In conclusion, the expansion of the pool should not result in any noticeable change  
1705 to the nearby property owners. Since the proposal is consistent with both the  
1706 Zoning Ordinance and the Comprehensive Plan, staff recommends approval of  
1707 this request subject to the conditions found in your staff report.

1708  
1709 That concludes my presentation. I'll be happy to answer any questions you may  
1710 have.

1711  
1712 Mr. Baka - I have a couple questions, Paul, if I may. We have a 9-  
1713 1/2-acre recreation facility that's been there for many years. I tried to find where  
1714 the impact or where the expansion was. I walked on the site. The pool is changing,  
1715 shifting the number of lanes slightly from one pool to another in the same location.  
1716 The bleachers are shifting slightly from older bleachers to newer bleachers in the  
1717 same location.

1718  
1719 I realize the code—and I'm looking at Section 24-12(b) says that private non-  
1720 commercial recreation areas require a conditional use permit. I'm trying to  
1721 understand why this specific request requires a CUP when it appears to be a  
1722 negligible change.

1723  
1724 Mr. Blankinship - That's a good question. Do you want me to take that?

1725  
1726 Mr. Gidley - Sure.

1727  
1728 Mr. Baka - Question for Ben.

1729

1730 Mr. Blankinship - It is very often a judgment call for us where there is an  
1731 existing permit for something and they apply for an expansion or a change or a  
1732 modification of what's on the ground. What we normally do is pull the last set of  
1733 conditions and look first to see is there a clear statement that says any change to  
1734 this plan requires review by the BZA. If not, then we just kind of look at how much  
1735 has changed since that. Sometimes it's only been a couple years since they've  
1736 had a review and we don't really feel that it needs to come back. Sometimes, like  
1737 in this case, it's been several years since anything has been reviewed by the BZA.  
1738 And most of these sorts of facilities have small changes that take place over time.  
1739 So there is also kind of a cumulative effect of little changes that have been made  
1740 over time that have not been before this Board. And when it gets to a certain point,  
1741 we like to see it reviewed.

1742  
1743 Mr. Baka - I understand.

1744  
1745 Mr. Blankinship - It is sometimes a judgment call. Typically, if there's a  
1746 condition on the approval that says that you're bound by the plan that was  
1747 approved and any changes to the plan have to come back to the Board, if it  
1748 required a building permit, it requires coming back to the Board. But that's not a  
1749 hard and fast rule.

1750  
1751 Mr. Baka - Sure. I appreciate your explanation, Mr. Blankinship,  
1752 because I was looking towards a threshold of would there be an expansion on the  
1753 9-1/2 acres somewhere onto an unimproved area such as grass or the asphalt of  
1754 the basketball courts in the back that is not currently being used for active  
1755 recreation. If you're expanding active recreation into maybe a passive recreation  
1756 area or just open space, then that would definitely need this CUP. But I see what  
1757 you're saying, because I was looking at the improvements are going in the exact  
1758 same location where they were previously.

1759  
1760 Mr. Blankinship - But they are larger.

1761  
1762 Mr. Baka - Slightly larger.

1763  
1764 Mr. Berman - But the non-permeable area remains the same.

1765  
1766 Mr. Gidley - It would expand. Because you're adding two more  
1767 lanes to the lap pool, the pool would expand southward roughly seven feet.

1768  
1769 Mr. Berman - So the concrete patio is expanding?

1770  
1771 Mr. Baka - Into where the bleachers are, slightly.

1772  
1773 Mr. Gidley - Impervious surface would expand; therefore, Public  
1774 Works is going to have a more significant review than just simply a building permit.

1775

1776 Mr. Berman - Okay. I couldn't tell how the footprint was changing. So  
1777 the fence is literally being bumped out?  
1778  
1779 Mr. Gidley - The existing pool is being removed. The bleachers are  
1780 being removed. The new pool will come in and go south seven feet further. The  
1781 bleachers will be put there, and the fence would also be located further to the  
1782 south, as you noted.  
1783  
1784 Mr. Berman - Okay. So to Mr. Baka's point, it is taking up some new  
1785 unimproved areas.  
1786  
1787 Mr. Gidley - Yes.  
1788  
1789 Mr. Berman - All right, I get it.  
1790  
1791 Mr. Gidley - And one thing I would add, in the past, certain  
1792 recreation areas, in so far as their lap pools and swim meets are concerned, have  
1793 generated a substantial amount of input from some of the nearby neighbors. So  
1794 it's probably best to go ahead and at least advertise it and get that out there just in  
1795 case there are some issues we aren't aware of.  
1796  
1797 Mr. Berman - Thank you.  
1798  
1799 Mr. Gidley - Thank you.  
1800  
1801 Mr. Baka - Other questions?  
1802  
1803 Ms. Harris - Mr. Gidley, do you know what installing the new pool  
1804 involves? I know we said we're going to replace it with a larger pool, but what do  
1805 they really have to do? Do you know?  
1806  
1807 Mr. Gidley - Other than removing the existing pool, which would be  
1808 breaking up the concrete and hauling off the debris, they would have to come in  
1809 and install the new one. As far as more details, I guess I'd let the engineer get into  
1810 the construction aspects of it.  
1811  
1812 Ms. Harris - Because they're going to have disturb the earth to  
1813 enlarge it.  
1814  
1815 Mr. Gidley - Yes ma'am.  
1816  
1817 Ms. Harris - Thank you.  
1818  
1819 Mr. Baka - All right. Thank you, Mr. Gidley.  
1820  
1821 Mr. Gidley - Thank you, Mr. Chair.

1822

1823 Mr. Baka - We'll now hear from the applicant.

1824

1825 Mr. Kratzer - Good morning. My name is Karl Kratzer. K-r-a-t-z-e-r. I  
1826 am current president of Kanawha Recreation Association. Thank you very much  
1827 for this hearing.

1828

1829 I did want to add just a few elements. Because this pool is so old, it has reached  
1830 the life expectancy. It's structurally obsolete. So we were going to come back to  
1831 the County for a construction permit for either replacement of the six-lane or  
1832 installation of an eight-lane pool. It's time for us to do that.

1833

1834 We would like to expand this to eight lanes. We do have a very competitive pool,  
1835 so our lap pool is also our competition pool. We also have very active adult swim  
1836 programs in the morning, active after-work swim programs. So at this time, since  
1837 we are taking on this major construction project, we would like to expand to this  
1838 eight-lane pool.

1839

1840 In our application, we said three and sometimes four times a year we have our  
1841 late-night swim meets. We have an enormous team of 250 children, and we often  
1842 go against teams that are also 250 children to 275. So our swim meets can often  
1843 last to 11:30, 12:00 at night, depending on how efficient they are running.

1844

1845 Mr. Blankinship - And whether there's lightning.

1846

1847 Mr. Kratzer - We've all suffered through that. We've actually had a  
1848 couple of good years; so we're due.

1849

1850 Two extra lanes at other pools in our James River Aquatic Association such as—  
1851 well other pools that have had eight lanes, it takes sometimes between 45 minutes  
1852 to an hour off of these competitions, which is a betterment for our neighbors, and  
1853 we recognize that.

1854

1855 Mr. Baka - Good. One question, if I may. Approximately how far  
1856 would your fence be bumped out to the south compared to now?

1857

1858 Mr. Kratzer - If somebody can zoom into the tennis courts—I mean  
1859 not the tennis courts, the basketball court. We held that line. The fence line would  
1860 stay. So we're not going to have to touch the basketball court. I think that fence  
1861 line moves out—

1862

1863 Mr. Blankinship - I think the other basketball court.

1864

1865 Mr. Baka - Yes, you're pointing—that one.

1866

1867 Mr. Kratzer - Yes. Our challenge to our engineers at Timmons was  
1868 to maintain as much of the existing concrete as possible. We did not want to disturb  
1869 the areas between the competition pool and our L-shape pool, which if you can  
1870 pan up. So honestly, our only choice was to bump this to the south with the  
1871 expansion of the two lanes. To construct that—to the question provided earlier—  
1872 our only option was to take out the bleachers that are associated with the south  
1873 lanes, add the two lanes, and then reconstruct those bleachers. We can do that  
1874 and still stay off the basketball court. It's minor. It's an expense, but from a land-  
1875 use snapshot, it's minute.

1876  
1877 Mr. Mackey - Mr. Kratzer, how much higher will the bleachers have  
1878 to go?

1879  
1880 Mr. Kratzer - They can remain at the same height, sir. The  
1881 topography of the site is such that we actually had to build up to actually put in a  
1882 ten-foot pool. So instead of retained earth at this point, we can actually put in a  
1883 retaining wall. These are details that are being worked out with our designers at  
1884 the moment. Where the pool ends, we can then put the bleachers back onto either  
1885 a structure, — it currently it sits on piers. You can see the piers in the right-hand  
1886 corner there. So we will have to take that up prior to construction, hold as much of  
1887 the concrete on three of the sides—well all the concrete on three of the sides, and  
1888 then move that out. You can actually see the darkened spot in the background,  
1889 which is the basketball court. We would not encroach on that.

1890  
1891 Mr. Mackey - Thank you.

1892  
1893 Mr. Berman - Have you or the Timmons Group looked into some of  
1894 the new ADA disability requirements for new pool construction?

1895  
1896 Mr. Kratzer - Yes.

1897  
1898 Mr. Sibold - Good morning. My name is Chris Sibold. S-i-b-o-l-d.  
1899 I'm with Timmons Group.

1900  
1901 To answer the question, we also have a pool designer on board. The design team  
1902 specializes in this type of construction. He will incorporate all ADA requirements  
1903 into the project.

1904  
1905 Mr. Berman - Thank you.

1906  
1907 Mr. Baka - Other questions of representatives of the applicant?  
1908 Thank you very much for your presentation. Is there anyone else here who would  
1909 like to speak to this case? Seeing none, we'll move on to the next.

1910

1911 [After the conclusion of the public hearings, the Board discussed the case  
1912 and made its decision. This portion of the transcript is included here for  
1913 convenience of reference.]  
1914

1915 Mr. Baka - I will make a motion to approve this conditional use  
1916 permit with the nine conditions as presented in the staff report on the grounds that  
1917 it's not expected to adversely affect the health, safety or welfare of the surrounding  
1918 properties. Is there a second to that motion?  
1919

1920 Mr. Bell - Second.  
1921

1922 Mr. Baka - Thank you. Motion's been made and seconded. Any  
1923 discussion?  
1924

1925 Ms. Harris - Yes. I think this association is showing progress. It's  
1926 been there a number of years, but it is adapting to the current trend and showing  
1927 that it is a progressive association.  
1928

1929 Mr. Baka - Very good. All in favor say aye. All opposed say no.  
1930 The ayes have it; the motion passes.  
1931

1932 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.  
1933 Bell, the Board **approved** application **CUP2016-00026, KANAWHA**  
1934 **RECREATION ASSOCIATION's** request for a conditional use permit pursuant to  
1935 Section 24-12(b) of the County Code to expand a noncommercial recreation facility  
1936 at 8100 Holmes Avenue (Parcel 755-735-8779) zoned One-Family Residence  
1937 District (R-3) (Tuckahoe). The Board approved the conditional use permit subject  
1938 to the following conditions:  
1939

1940  
1941 1. This conditional use permit applies only to the replacement of the existing lap  
1942 pool and bleachers with a new lap pool and bleachers as shown on the plans  
1943 submitted with the application. Any additional improvements shall comply with the  
1944 applicable regulations of the County Code. Any substantial changes or additions  
1945 to the design or location of the improvements shall require a new conditional use  
1946 permit.  
1947

1948 2. Before beginning any clearing, grading, or other land disturbing activity, the  
1949 applicant shall submit an environmental compliance plan to the Department of  
1950 Public Works.  
1951

1952 3. The hours of operation for the swimming pools shall be limited to between 10:00  
1953 a.m. and 9:00 p.m. However, up to four times per year, the hours may be extended  
1954 to 12:00 Midnight for swimming meets. Public address systems, starter guns and  
1955 similar equipment may be used at swimming meets, but at no other time except  
1956 for emergency purposes.

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4. For safety and security, lights beamed only on the swimming pool, and operated on a time clock, shall be provided whenever water is in the pool. All exterior lighting shall be shielded to direct light away from adjacent residential property and streets.

5. The swimming pool shall be enclosed by a fence as required by the Building Code.

6. The existing parking spaces on the property shall be retained.

7. The recreation center shall be operated on a nonprofit basis and be open only to members and their guests.

8. No activities shall be conducted on the playground between the hours of 10:30 p.m. and 8:00 a.m.

9. All landscaping shall be maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.

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

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

Mr. Blankinship - All right. That completes the conditional use permit portion of the agenda. There are two variances on this morning's agenda. The first is VAR2016-00018, Jackie L. Allen.

**VAR2016-00018 JACKIE L. ALLEN** requests a variance from Sections 24-95(c)(1) and 24-95(c)(4) of the County Code to build an addition at 3708 Hargrove Avenue (PLEASANT VIEW) (Parcel 801-735-4375) zoned One-Family Residence District (R-4) (Fairfield). The least side yard setback, total side yard setback and front yard setback are not met. The applicant proposes 4 feet least side yard setback, 16 feet sum of side yard setbacks, and 32 feet front yard setback, where the Code requires 7 feet least side yard setback, 18 feet sum of side yard setbacks, and 35 feet front yard setback. The applicant requests a variance of 3 feet least side yard setback, 2 feet sum of side yard setbacks, and 3 feet front yard setback.

Mr. Blankinship - Would everyone who intends to speak to this case please stand and be sworn in. Do you swear the testimony you're about to give is

2003 the truth, the whole truth, and nothing but the truth so help you God? Thank you.  
2004 Mr. Madrigal.

2005  
2006 Mr. Madrigal - Mr. Secretary, Mr. Chair, members of the Board.  
2007 Before you is a request to waive setback requirements in order to build an addition  
2008 and a porch onto a single-family dwelling.

2009  
2010 The subject property is located in the Pleasant View subdivision, which was  
2011 established in 1947. The applicant's lot is improved with a one-story, 840-square-  
2012 foot, one-family dwelling with an attached covered side porch, also built in 1947.  
2013 You can see the porch here, the attached covered side porch. It's been enclosed  
2014 now.

2015  
2016 Additional improvements include a rear deck and small frame shed located in the  
2017 rear yard. The applicant acquired the property in February 2015. In April 2016, the  
2018 County received an anonymous complaint regarding work being done to the home  
2019 without necessary permits. On April 29th, the applicant obtained permits to enclose  
2020 the side porch, build a new covered front porch, and add four roof dormers to the  
2021 dwelling.

2022  
2023 The building permit plot plan incorrectly stated the front yard setback. During the  
2024 course of work, the footprint of the non-conforming side porch was expanded by  
2025 approximately 24 square feet. In both of these instances, the minimum required  
2026 setbacks were violated. Because the lot was created prior to 1947, it is subject to  
2027 the exception standards, which require a 35-foot front yard setback and side  
2028 setbacks of 7 and 18 feet for the least side yard and sum of side yards.

2029  
2030 Although the house is set back 39.9 feet from the front property line, the new  
2031 covered front porch running along the width of the house extends seven feet into  
2032 the front yard. As a result, a majority of the porch projects approximately two feet  
2033 in to the minimum front yard setback in excess of the six-foot-width limit imposed  
2034 by code.

2035  
2036 With respect to the covered side porch, the applicant initially indicated that he was  
2037 going to enclose the existing footprint. Again, during the course of work, the  
2038 applicant expanded the footprint so that the new room is now in line with the front  
2039 of the house. The new square footage violates both the minimum side yard and  
2040 sum of side yards setbacks, which are at 4.9 and 16.9 feet instead of 7 and 18 feet  
2041 respectively.

2042  
2043 With respect to the threshold question, code requires that a variance be considered  
2044 when one of two conditions is met. The first situation is when strict application of  
2045 the code unreasonably restricts the utilization of the property or when a variance  
2046 alleviates a hardship resulting from a physical condition related to the property or  
2047 improvements at the time of the effective date of the ordinance.

2048

2049 With respect to the first part of the test, the property is improved with an existing  
2050 dwelling with a covered side porch and rear deck. It is difficult to argue that the  
2051 Zoning Ordinance unreasonable restricts the use of the property as it exists.

2052  
2053 Relative the second part of the test, the applicant added a covered front porch and  
2054 enclosed the footprint of a non-conforming side porch. He initially did this work  
2055 without the benefit of a building permit. When he did obtain a building permit, there  
2056 was an error regarding the front yard setback and he expanded the covered side  
2057 porch. The result is that both structures violate minimum setback requirements and  
2058 go above and beyond the established design and development pattern of the  
2059 neighborhood.

2060  
2061 Staff finds no equity hardship issues relative to the physical condition of the  
2062 property or improvements thereon. Since the applicant does not meet either of the  
2063 two conditions of the threshold question, staff is recommending denial of the  
2064 applicant's request.

2065  
2066 This concludes my presentation. I'll be happy to answer any questions.

2067  
2068 Mr. Baka - One question, Mr. Madrigal. The proposed text  
2069 amendment for front porches that the Planning Commission and the Board of  
2070 Supervisors are currently reviewing that would allow the extension of front porches  
2071 into a front yard setback, based upon the case that this Board had on Skipwith  
2072 Road near Forest, would that potentially alleviate the issue for the front porch  
2073 addition, front setback addition?

2074  
2075 Mr. Blankinship - It could, yes.

2076  
2077 Mr. Madrigal - It could, yes.

2078  
2079 Mr. Baka - Thanks. Other questions from the BZA?

2080  
2081 Ms. Harris - Yes. Mr. Madrigal, do any of the neighboring porches  
2082 seem wider than six feet?

2083  
2084 Mr. Madrigal - No. In fact, I took a couple of pictures of the houses  
2085 next door. This is the house immediately adjacent, and then this is one a little bit  
2086 further down. They are pretty similar down that block face.

2087  
2088 Ms. Harris - I notice in your report that we say granting this will set  
2089 an unfair precedent. But I thought that it was our policy to take every case on its  
2090 own merit.

2091  
2092 Mr. Madrigal - We do. Essentially, we try to consider each case on its  
2093 own merits. But in this case, when you have a hard, established setback line along  
2094 the entire block face. You have all these homes that have attached side porches

2095 that have been screened or enclosed but don't appear to be expanded. And then  
2096 front porches that are similar to these examples. It's difficult not to set a precedent  
2097 by the granting of this variance.  
2098

2099 Ms. Harris - Look at condition #3. We're talking about things that  
2100 should be done to the existing porch. I just felt that was a little inconsistent where  
2101 we are not desiring to approve.  
2102

2103 Mr. Madrigal - The conditions are in case you decide to approve the  
2104 request. Then essentially we would require that the applicant put some lattice at  
2105 the base of the porch and the enclosed side porch to screen the framing material  
2106 underneath it so it's consistent with the rest of the neighborhood. But again, that's  
2107 in case you decided to approve it.  
2108

2109 Mr. Baka - Other questions of staff? Thank you, Mr. Madrigal.  
2110 We'll now hear from the applicant.  
2111

2112 Mr. Parham - Good morning, ladies and gentlemen of the Board. My  
2113 name is Kenneth Parham. Last name is P-a-r-h-a-m, just like Parham Road.  
2114

2115 Basically, I guess I wanted to give you a little bit of information on what Mr. Allen  
2116 and I do. I'm the property manager. He and I have been doing renovations in the  
2117 area of 23222, the ZIP code in Henrico. There are several houses with covered  
2118 front porches in that area. We actually sold one off of Byron Street. I don't have  
2119 any pictures that I can put up on the screen, but if you want to see on my cell phone  
2120 where we actually had one that we literally just sold less than a year ago that  
2121 actually came with a covered porch. There are several covered porches in the  
2122 area, going down that street and less than three blocks away from that street that  
2123 we're on.  
2124

2125 Now what we do actually is housing and we do get grants and loans from  
2126 neighborhood housing services. What we really try to do is find adequate housing  
2127 and affordable housing for single mothers and single parents. We actually have  
2128 that house under contract by a lady named Ms. Anelle Campbell. She's a single  
2129 mother of three, recently divorced. So we actually try to make sure they can get  
2130 affordable housing grants.  
2131

2132 We work with Housing Opportunities Made Equal, so it's not like we're just going  
2133 around trying to renovate stuff and change stuff just to change it. What we try to  
2134 do is bring the most use out of a property. Like you can see where we added the  
2135 dormers, which actually made more space upstairs for a play area for the kids or  
2136 any type of extra storage and stuff like that.  
2137

2138 We didn't have anything to do with the actual deck that was on the back that was  
2139 already existing. The side porch is consistent with like if you see up there, the  
2140 neighbor next door enclosed their side porch as well. The only thing they didn't do

2141 that I guess we felt like was aesthetically more pleasing is we added enough to  
2142 come up to the front part of the house so it'll be equal with the rest of the side, just  
2143 like a modern day house would be.

2144  
2145 Basically, in accordance to what he said, we did have a complaint. But we think it  
2146 was from a disgruntled employee that was basically trying to hold off on doing our  
2147 job to get to another job. It was kind of one of those things where we figured he  
2148 went and got all the property permits and he didn't. So that's why I came in. I want  
2149 to give a great thanks to Dave Harris and Josh in the Permit Center. They've  
2150 actually been helping us comb through this stuff and try to get all the things that  
2151 we needed in place. And like I said, we didn't try to go over the side variance or  
2152 anything like that. It was basically due to inadequate information from the former  
2153 contractor, which we think he was the one that made the complaint after he was  
2154 fired.

2155  
2156 We just try to make a house look as best as it can be. This house actually was a  
2157 blight on the neighborhood. The previous owner had built chicken coops or pigeon  
2158 coops in the back of the house. They were huge and real big, almost the size of a  
2159 small mobile home. That house has sat for years. In trying to improve it, we've just  
2160 tried to make it the best as possible so you wouldn't actually think about what was  
2161 there before.

2162  
2163 So there came the making of the side porch, which we were in the actual stage of  
2164 where the actual stoop was before. We just enlarged it, which we didn't figure was  
2165 a problem. But yes, in retrospect, we may have done something that may not have  
2166 been consistent with the plan. But our attempt was good to basically try to bring  
2167 something better to the neighborhood.

2168  
2169 Our guys actually helped the church across the street put their new roof on. We've  
2170 been working with other people in the community to help them move debris and  
2171 stuff out of their yard. So when we come around, it's not something that we're trying  
2172 to build it for the biggest investment, use it to make money.

2173  
2174 We try to get people more loans and grants to get the house paid for with a better  
2175 looking home than you would ever get. We actually include every appliance that  
2176 you can put in a house—microwave, stove, dishwasher, washer and dryer, a  
2177 garbage disposal, anything that we can possible put in there. We actually do  
2178 improve every use in the house that we can. We actually took all the old wiring out  
2179 of this house and replaced it with new wiring. Not that we had to, but we felt like  
2180 hey, the house was built in 1947; what's the chance of this stuff being real good  
2181 and not coming back on a single mother to have to replace on her own. So we  
2182 actually do try to do more good than to make money off of the house. And the  
2183 house is actually under contract.

2184  
2185 Mr. Baka - Very good. Questions of Mr. Parham?

2186

2187 Ms. Harris - Mr. Parham, first of all, let me congratulate you on what  
2188 you're trying to do because the house is attractive. I guess the community  
2189 appreciates that. But since you are the property manager—is that would you  
2190 said?—  
2191  
2192 Mr. Parham - Yes ma'am.  
2193  
2194 Mr. Berman - —for a lot of other projects, do you secure building  
2195 permits for them?  
2196  
2197 Mr. Parham - Yes. But usually we build in the imprint of the house.  
2198 We don't usually go out as we did on this house. Usually we don't have to do as  
2199 much. But like I said, this house was kind of like—I don't know if you ever saw the  
2200 pictures of what it used to look like, but it was not attractive.  
2201  
2202 Ms. Harris - Yes. But your experience tells us that you know you  
2203 need a building permit.  
2204  
2205 Mr. Parham - Yes ma'am. And the actual contractor was supposed  
2206 to be securing his own permits. In retrospect, that's why he was fired because we  
2207 found out he didn't actually do that.  
2208  
2209 Ms. Harris - Okay. Did you look at other houses in the  
2210 neighborhood to see if they had any porches that looked like that?  
2211  
2212 Mr. Parham - Yes. We actually sold one off of Byron Street, which is  
2213 less than three blocks away that actually came with a porch like that. There are  
2214 several in the neighborhood exactly like that.  
2215  
2216 Ms. Harris - That have the full width, like a 35-foot width?  
2217  
2218 Mr. Parham - Yes. We didn't cover the side porch area; we just  
2219 covered the front part of the house. It's actually more useful to do it that way  
2220 because we get the gutters to actually flush the water away from the house. If we  
2221 did it in the middle, it would have needed another gutter and another gutter, and  
2222 we would have had like four gushes of water coming out. Just like in the previous  
2223 storm, we didn't get any flooding at all because the house is actually draining right.  
2224  
2225 Ms. Harris - Are you aware that there are guidelines as to the width  
2226 of a porch?  
2227  
2228 Mr. Parham - Now actually I am, ma'am. I'll be honest with you. I  
2229 didn't go into detail in the actual beginning because the contractor was supposed  
2230 to be securing his own permits.  
2231

2232 Ms. Harris - I see homes with the porch all around. I think senior  
2233 citizens and those who are in wheelchairs like that because they go around the  
2234 house. But hopefully they got a building permit to do that.

2235  
2236 Mr. Parham - Most definitely. Like I say, it's just one of those things  
2237 where we're just trying to find the most useful way. The lady that wants to purchase  
2238 the house, she said that's one of the main reasons why she wants the house. She  
2239 just wants it to when she gets older, she has somewhere to sit and enjoy herself  
2240 watching the community. It's a real nice community. Everybody's been happy that  
2241 we came and renovated the house. They just wanted to make sure that the house  
2242 was a great house for that neighborhood.

2243  
2244 Ms. Harris - Did you get a copy of the report that we've been using  
2245 with the conditions on it?

2246  
2247 Mr. Parham - I think I did, but I don't have it with me today.

2248  
2249 Ms. Harris - There were some in the lobby out there. There are  
2250 some conditions. For example, you heard Mr. Madrigal say that where you have  
2251 an open space under the porch, you would need to put lattice there or concrete or  
2252 something.

2253  
2254 Mr. Parham - Yes.

2255  
2256 Ms. Harris - So I wanted to know if you got that.

2257  
2258 Mr. Parham - Yes. We already have part of that lattice already, the  
2259 part that was actually—that we thought was already approved. So we already have  
2260 the lattice waiting for the variance to finish. Charlie [unintelligible] is our building  
2261 engineer. We actually obtained him, and he actually told us exactly what we  
2262 needed to do.

2263  
2264 Ms. Harris - Are you aware of how many features of this house are  
2265 in violation?

2266  
2267 Mr. Parham - Not exactly, other than the front porch and the side  
2268 porch area.

2269  
2270 Ms. Harris - Okay. If you don't get the variance from us or in order  
2271 to get the variance from us, do you know what you could do to bring it up to code?

2272  
2273 Mr. Parham - We most definitely would try to be in compliance with  
2274 anything that we need to do. So whatever we need to do, we most definitely will  
2275 take care of it.

2276

2277 Ms. Harris - So you would actually tear down part of your front  
2278 porch?

2279  
2280 Mr. Parham - We hope we don't have to. Like I said, it kind of would  
2281 be a problem with the person that's trying to buy the house. Like I said, we didn't  
2282 know we were in violation of that exactly. We just didn't intend on the problem. We  
2283 were just trying to solve the problem.

2284  
2285 Ms. Harris - Okay. Thank you. I think those are my questions.

2286  
2287 Mr. Baka - Yes ma'am. Other questions of Mr. Parham? Thank  
2288 you very much for your presentation. Is there anyone else here who would like to  
2289 speak to this case? We'll move on to our next case then.

2290  
2291 **[After the conclusion of the public hearings, the Board discussed the case**  
2292 **and made its decision. This portion of the transcript is included here for**  
2293 **convenience of reference.]**

2294  
2295 Mr. Baka - What is the pleasure of the Board?

2296  
2297 Ms. Harris - I am going to make a motion on this. But before I do  
2298 that, I want to make a statement. After studying this case, I really don't see how it  
2299 can be fixed. I think there's an expression that says after the chicken has flown the  
2300 coup it's too late to enclose the coup. I see that in this particular case.

2301  
2302 I can't say that damage has already been done because this improvement shows  
2303 you that it's not a damaging situation. It's actually improving the neighborhood. I  
2304 know we have our guidelines concerning variances, and I've been examining them  
2305 very closely to see just how we can apply those here.

2306  
2307 I am going to move that we approve this variance.

2308  
2309 Mr. Berman - I second Ms. Harris's motion to approve which is in  
2310 conflict with the staff recommendation. But for the reasons Ms. Harris gave, I  
2311 agree.

2312  
2313 Mr. Baka - Motion's been made and seconded. Is there other  
2314 discussion among the Board?

2315  
2316 Mr. Bell - You mentioned this falling in line with what the Board  
2317 of Supervisors is looking at in terms of the porches over on Rockwood, the case  
2318 that we had over there. If we vote to approve this, what effect will it have on that?

2319  
2320 Mr. Blankinship - I don't think it affects it at all, Mr. Bell. I think that  
2321 process is far enough along now. The Planning Commission has recommended

2322 approval of the draft ordinance. The Board has held a work session and didn't  
2323 express any concerns. I anticipate that's going to be adopted as presented.

2324  
2325 Mr. Bell - Thank you.

2326  
2327 Mr. Berman - I want to understand what Mr. Bell is posing. Are you  
2328 saying if the Baka Bill, as it were, is approved would it retroactively approve if we  
2329 decide not to approve this?

2330  
2331 Mr. Blankinship - It would allow them the opportunity to apply for a  
2332 provisional use permit to the Board of Supervisors in order to have the front porch  
2333 made lawful.

2334  
2335 Mr. Baka - But it would not remove the need for a variance for the  
2336 other request before us today.

2337  
2338 Mr. Blankinship - The enclosure of the side porch.

2339  
2340 Mr. Baka - The side porch.

2341  
2342 Ms. Harris - This is why I say with the side porch already being  
2343 enclosed, I really don't see how that can be fixed unless you're going to tear it  
2344 down. On this Board, sometimes we have to exercise our God-given  
2345 commonsense to see if something is working or not working. We have to keep in  
2346 mind the code, because that's why we are here. But in situations where the code  
2347 is, I should say impractical and not feasible to follow, I think we have that discretion.

2348  
2349 Mr. Baka - Very good.

2350  
2351 Mr. Berman - So this motion is for two items. It's the side setback and  
2352 the front porch projection in width. Correct?

2353  
2354 Mr. Blankinship - Yes sir. You could separate them if you wanted to.

2355  
2356 Ms. Harris - I do not wish to separate them.

2357  
2358 Mr. Baka - Okay. The motion has been made by Ms. Harris and  
2359 seconded by Mr. Berman. If there's no other discussion at this point, all in favor  
2360 say aye. All opposed say no. The ayes have it; the motion passes.

2361  
2362 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.  
2363 Berman, the Board **approved** application **VAR2016-00018, JACKIE L. ALLEN's**  
2364 request for a variance from Sections 24-95(c)(1) and 24-95(c)(4) of the County  
2365 Code to build an addition at 3708 Hargrove Avenue (PLEASANT VIEW) (Parcel  
2366 801-735-4375) zoned One-Family Residence District (R-4) (Fairfield). The least

2367 side yard setback, total side yard setback and front yard setback are not met. The  
2368 Board approved the variance subject to the following conditions:

- 2369
- 2370 1. This variance applies only to the front and side yard setback requirements to  
2371 allow a front porch and enclose and expand a nonconforming side porch. All  
2372 other applicable regulations of the County Code shall remain in force.  
2373
  - 2374 2. Only the improvements shown on the plot plan filed with the application may  
2375 be constructed pursuant to this approval. Any additional improvements shall  
2376 comply with the applicable regulations of the County Code. Any substantial  
2377 changes or additions to the design or location of the improvements will require  
2378 a new variance.  
2379
  - 2380 3. No later than November 30, the applicant shall enclose the foundation of the  
2381 front porch and side porch enclosure with a continuous masonry wall, lattice,  
2382 or other screening approved by the director of planning.  
2383

2384

2385 Affirmative:	Baka, Bell, Berman, Harris, Mackey	5
2386 Negative:		0
2387 Absent:		0

2388

2389

2390 **[At this point, the transcript continues with the public hearing on the next**  
2391 **case.]**

2392

2393 Mr. Blankinship - This is VAR2016-00019, Brent and Justine Winn.

2394

2395 **VAR2016-00019 BRENT AND JUSTINE WINN** request a variance from  
2396 Section 24-94 of the County Code to build an addition at 9601 Cragmont Drive  
2397 (TUCKAHOE NORTH SECT) (Parcel 743-736-2416) zoned One-Family  
2398 Residence District (R-1) (Tuckahoe). The rear yard setback is not met. The  
2399 applicants propose 49 feet rear yard setback, where the Code requires 50 feet rear  
2400 yard setback. The applicants request a variance of 1-foot rear yard setback.

2401

2402 Mr. Blankinship - Would everyone who intends to speak to this case  
2403 please stand and be sworn in. Do you swear the testimony you're about to give is  
2404 the truth, the whole truth, and nothing but the truth so help you God? Thank you.  
2405 Mr. Madrigal.

2406

2407 Mr. Madrigal - Mr. Secretary, Mr. Chair, members of the Board.  
2408 Before you is a request to waive the rear setback requirement for a single-family  
2409 dwelling. The subject property is located in the Tuckahoe North subdivision, which  
2410 was developed in 1950. The applicants acquired the property in 2010 and applied  
2411 for a building permit for a new dwelling in 2015. The original building permit  
2412 indicated a 59-foot rear yard setback where code only requires 50 feet. The

2413 building permit was approved between June 5 and June 9, 2015, by Building,  
2414 Planning, and Public Utilities. When it was routed to Public Works, a wetlands  
2415 issue was discovered, and plans weren't approved until June 29, 2015.

2416  
2417 The location of the house had to be shifted further back on the lot due to a wetlands  
2418 issue. Although the plans referred to a 50-foot rear setback, the dimension was not  
2419 shown on the revised plans. After the dwelling was completed, an as-built survey  
2420 revealed that the southwest corner of the home is approximately 49 feet, 3 inches  
2421 from the rear property line instead of 50 feet. Thus, the owners have applied for a  
2422 variance to waive the setback requirement.

2423  
2424 With respect to the threshold question, the applicants indicate that the Zoning  
2425 Ordinance unreasonably restricts the use of the property since they can't obtain a  
2426 certificate of occupancy on their new home. This interpretation differs from staff's  
2427 understanding of the statute. The Zoning Ordinance allows a one-family dwelling  
2428 as a principal use, and the application demonstrates that a substantial dwelling  
2429 could have been built within the required setbacks. It is staff's position that there  
2430 is no unreasonable restriction on the use of the property.

2431  
2432 With respect to the second part of the threshold question, the applicant indicates  
2433 that a variance would relieve a hardship due to the physical condition of the  
2434 improvements on the property. Although staff agrees with this assessment, we  
2435 note that the hardship must apply to the property or improvements at the time of  
2436 the effective date of the ordinance as outlined in the statute. The required 50-foot  
2437 rear setback has been in effect since 1960, and the dwelling was not built until  
2438 2016. While we agree that there is a hardship, staff concludes that it does not meet  
2439 the statutory test for granting a variance.

2440  
2441 Since staff finds no unreasonable restrictions on the use of the property or a  
2442 hardship at the time of the effective date of the ordinance, we recommend denial  
2443 of the applicants request for failure to meet either of the two conditions of the  
2444 threshold question.

2445  
2446 This concludes my presentation.

2447  
2448 Mr. Baka - Any questions of staff?

2449  
2450 Ms. Harris - I just have one question. Is the property currently  
2451 occupied?

2452  
2453 Mr. Madrigal - I believe it's under a temporary certificate of  
2454 occupancy, so yes.

2455  
2456 Mr. Baka - Thank you, Mr. Madrigal. We'll now hear from the  
2457 applicant.

2458

2459 Mr. Theobald - Good morning. Mr. Chairman, ladies and gentleman,  
2460 my name is Jim Theobald. I'm here this morning on behalf of Mr. and Mrs. Winn.  
2461 Mr. Winn is the senior vice president and CFO of the Virginia Home for Boys and  
2462 Girls, located not far from here in Henrico County.

2463  
2464 The rear corner of the Winn's new home was constructed about nine inches within  
2465 the 50-foot rear yard setback without their knowledge. There are really two  
2466 possible remedies. You can saw off the back corner from the roof to the foundation,  
2467 through the siding, the studs, the sheet rock, the wiring, the duct work. It would  
2468 also require removing the rear wall of the home. But it also impacts the placement  
2469 of the windows and the electrical receptacles. So the blowup that we had just a  
2470 moment ago—Miguel, if you don't mind; thank you—shows that little triangle down  
2471 in the corner as the violation.

2472  
2473 Here's what's involved just visually. This is very high-tech. The top is the rear yard  
2474 setback. What's below it is what extends into the rear yard setback. Less than one  
2475 square foot.

2476  
2477 Mr. Berman - That's to scale?

2478  
2479 Mr. Baka - It's intended to be to scale.

2480  
2481 Mr. Theobald - You can ask my paralegal if I was on the floor  
2482 measuring it.

2483  
2484 The facts are that the lot was purchased in 2010. The Winns first applied for a  
2485 building permit in 2015. During that process, Public Works discovered the  
2486 possibility of wetlands in the front yard. And it's really the existence of those  
2487 wetlands that is the real causal factor in this mistake.

2488  
2489 Can I see that site plan and erosion control plan, please? You'll note this is the  
2490 front yard. This is the wetlands line all the way over to here. And so all of this in  
2491 the front was determined to be wetlands. And as a result of that, the house was  
2492 pushed back on the site and then angled a bit, ultimately causing the violation.

2493  
2494 While the 50-foot setback was noted on the plans as a note, no dimensions were  
2495 drawn to that corner. Can we have the as-built, please, Miguel? Thank you. So the  
2496 Winns only became aware of the encroachment after the as-built survey revealed  
2497 that there was about a nine-inch encroachment and only at the rear corner. It  
2498 doesn't even show the encroachment at this scale on the as-built survey.

2499  
2500 I fully understand the concept of imputed knowledge, but that's not referenced as  
2501 a disqualifying criteria in your standards for granting a variance. None of us knows  
2502 when a contractor unwittingly violates code—in this case, an architect, civil  
2503 engineer, surveyor, and a general contractor, all licensed by the state. But when  
2504 the result of that is the potential removal of a corner of your home, that's a hardship.

2505  
2506  
2507  
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2548

I believe the ordinance as applied to these circumstances unreasonably restricts the use of the property as the Winns will not be able to obtain a permanent certificate of occupancy. We very much appreciate the County staff working with us to issue a temporary certificate of occupancy allowing the Winns to move in pending the outcome of this hearing.

The hardship alleviated would be the necessity of demolishing the rear of the home. The Winns had no knowledge of this encroachment. The discovery and delineation of wetlands basically caused the house to be relocated, and someone else's negligence has caused the violation, which also contributes to the uniqueness of the situation.

Approval of the variance will not have a negative effect on other owners in the area who have in fact filed letters of support with staff—six in all—representing all of the adjacent owners, save but one who verbally expressed his support (the neighbor across the street).

Your enabling ordinance authorizes you to grant a variance, and I quote, as will not be contrary to the public interest when owing to special conditions of literal enforcement of the provisions will result in unnecessary hardship provided that the spirit of this chapter shall be observed and substantial justice done.

Only you can help the Winns at this point, as noted in the staff report, and they would greatly appreciate it. I respectfully request that you grant the request for a variance. And we would happily accept the one condition that is proposed in your staff report.

I'd be happy to answer any questions.

Mr. Baka - Mr. Theobald, I believe you may have answered one of my first questions. We have a situation where the house extends nine or ten inches into the setback, and it was located about nine or ten feet further back than was originally planned. There was a 59-foot setback proposed in the rear yard.

Mr. Theobald - Yes, that is correct.

Mr. Baka - Fifty feet by code. So let's say you're about nine or ten feet away from where it was. All of that delta, all of that change over the nine or ten feet, is that attributed to the finding of a wetland in the front yard which shifted it back?

Mr. Theobald - Yes sir.

2549 Mr. Baka - And then therefore, about how far is the front of the  
2550 home from the edge of that wetland? We drove by. I know it's a low-lying area. It  
2551 didn't necessarily seem actively wet.  
2552

2553 Mr. Theobald - Right. Can we go back to the—there you go.  
2554

2555 Mr. Blankinship - It's farther down. It's the EMS plan. Right below that.  
2556

2557 Mr. Baka - There.  
2558

2559 Mr. Theobald - Go to the next one. That's a little better. Here we go.  
2560

2561 Mr. Baka - About how far are we from that wetlands edge that  
2562 caused this push back?  
2563

2564 Mr. Theobald - Looks like it goes over to—it's all this over to here. And  
2565 I think it goes to the edge of the drive? Is that correct?  
2566

2567 Mr. Baka - In other words, the location of that wetland, the  
2568 determination of that, caused the house to be pushed back. How far do we have  
2569 to be from that wetland to make it a compliant distance from the wetland? Is that a  
2570 50-foot requirement?  
2571

2572 Mr. Blankinship - I don't know the answer to that question. The Zoning  
2573 Ordinance does not require a setback from wetlands. So unless there was a RPA  
2574 or an RMA, I think they can build up to the wetland, but they cannot disturb the  
2575 wetland.  
2576

2577 Mr. Baka - Okay.  
2578

2579 Mr. Winn - My name is Brent Winn. W-i-n-n. I'm the owner. That's  
2580 exactly correct. We obtained an Army Corps of Engineers DEQ permit to impact a  
2581 minimal area of wetlands, less than a tenth of an acre. That is what drove the  
2582 placement of the house on the lot.  
2583

2584 Mr. Baka - Very good. I had one question for the applicant. Is all  
2585 the home construction recent construction in the past year or two starting in 2015?  
2586 Or was some of it an addition onto an older—  
2587

2588 Mr. Winn - All new.  
2589

2590 Mr. Baka - Okay.  
2591

2592 Mr. Bell - The lender was one of the reasons the mistake was  
2593 discovered. What stage of construction was the house in when the lender notified  
2594 the contractor?

2595  
2596 Mr. Winn - Actually, one of your planners caught the error or  
2597 caught the problem on August 15th. I remember it well. We were loading up the  
2598 moving van, and he called me and said you can't move in, we can't issue a  
2599 certificate of occupancy.  
2600  
2601 Mr. Blankinship - Yes. The as-built survey after the house is complete.  
2602 After the final building inspection.  
2603  
2604 Mr. Baka - Other questions of the applicant?  
2605  
2606 Ms. Harris - Maybe I missed this, but a survey was done before the  
2607 construction and after? Is that true?  
2608  
2609 Mr. Winn - There was an erosion and site disturbance drawing  
2610 done, and then the house was pushed back. The actual as-built survey was not  
2611 done until the home was complete. It certainly could have been discovered along  
2612 the way, it just was not by any of the professionals.  
2613  
2614 Mr. Baka - If the Board were to find in favor of this case, you are  
2615 able to meet the one condition that's proposed in the staff report, correct?  
2616  
2617 Mr. Winn - Yes sir.  
2618  
2619 Mr. Theobald - Keep in mind we still have a 49-foot, 3-inch setback to  
2620 the rear property line.  
2621  
2622 Mr. Baka - Thank you very much.  
2623  
2624 Mr. Winn - Thank you.  
2625  
2626 Mr. Theobald - Thank you.  
2627  
2628 Mr. Baka - Is there anyone here who would also like to speak in  
2629 favor or in opposition to this case? Seeing none, that concludes the presentation  
2630 of our cases. So at this point, we'll move forward with the deliberation and voting  
2631 portion of our meeting.  
2632  
2633 **[After the conclusion of the public hearings, the Board discussed the case**  
2634 **and made its decision. This portion of the transcript is included here for**  
2635 **convenience of reference.]**  
2636  
2637 Mr. Baka - I'll go ahead and make a motion for approval of this  
2638 variance on the following criteria that I do not believe the case before us is in strict  
2639 violation of 15.2-2309, the standard that references that a variance would alleviate  
2640 a hardship due to the physical condition of the property. I also concur with Ms.

2641 Harris's comments made just a minute ago that the sentiment of this Board is to  
2642 look at the practicality of some of these situations and exercise discretion and good  
2643 judgment where needed.

2644  
2645 With that in mind, as I read through the five-part variance test in the staff report,  
2646 my assertion or my finding would be that it is in compliance with the five-part test,  
2647 so I make a motion to approve this variance.

2648  
2649 Mr. Mackey - Second.

2650  
2651 Mr. Baka - Seconded by Mr. Mackey. Is there any discussion  
2652 about this variance?

2653  
2654 Ms. Harris - Yes. We are just considering a variance of one foot  
2655 near the rear yard. I think one foot is stretching it a bit to decline a case like this.

2656  
2657 Mr. Baka - I would concur. At this point, we'll have a vote. All in  
2658 favor say aye. All opposed say no. The ayes have it; the motion passes.

2659  
2660 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.  
2661 Mackey, the Board **approved** application **VAR2016-00019, BRENT AND**  
2662 **JUSTINE WINN's** request for a variance from Section 24-94 of the County Code  
2663 to build an addition at 9601 Cragmont Drive (TUCKAHOE NORTH SECT) (Parcel  
2664 743-736-2416) zoned One-Family Residence District (R-1) (Tuckahoe). The rear  
2665 yard setback is not met. The Board approved the variance subject to the following  
2666 condition:

2667  
2668 1. This variance applies only to the rear yard setback requirement for the dwelling  
2669 as currently constructed. All other applicable regulations of the County Code shall  
2670 remain in force. Any additional improvements shall comply with the applicable  
2671 regulations of the County Code.

2672  
2673  
2674 Affirmative: Baka, Bell, Berman, Harris, Mackey 5  
2675 Negative: 0  
2676 Absent: 0

2677  
2678  
2679 Mr. Baka - That concludes the cases for today's agenda. Now  
2680 we'll move on to the approval of the minutes of the September 22nd meeting. Any  
2681 discussion or comments about the minutes? Seeing none, is there a motion to  
2682 approve the minutes?

2683  
2684 Mr. Berman - I move that we waive the reading of the minutes and  
2685 approve them as written.

2686

2687 Mr. Baka - Motion made. Is there a second?  
 2688  
 2689 Mr. Bell - Second.  
 2690  
 2691 Mr. Baka - Made and seconded. All in favor of approving the  
 2692 minutes as-is, vote by saying aye. All opposed say no. The ayes have it; the motion  
 2693 passes.  
 2694  
 2695 On a motion by Mr. Berman, seconded by Mr. Bell, the Board **approved as**  
 2696 **submitted the Minutes of the September 22, 2016**, Henrico County Board of  
 2697 Zoning Appeals meeting.  
 2698  
 2699  
 2700 Affirmative: Baka, Bell, Berman, Harris, Mackey 5  
 2701 Negative: 0  
 2702 Absent: 0  
 2703  
 2704  
 2705 Mr. Baka - Unless there are any other administrative matters of  
 2706 the Board, I just have a brief announcement. I have personally enjoyed working  
 2707 with this Board of Zoning appeals very much for the past five years. I have been  
 2708 asked by a Board of Supervisors' member to consider serving on the Planning  
 2709 Commission. I anticipate moving forward with that by submitting a letter of  
 2710 resignation to the Clerk of the Court for the Board of Zoning Appeals' seat. We'll  
 2711 see what November holds with the Planning Commission from there.  
 2712  
 2713 It's been a pleasure and an honor to do this. I will say that I did not expect to come  
 2714 to the Board or come to the chairmanship just two months ago and leave quickly.  
 2715 The timing caught me a little bit by surprise. Perhaps many years from now I might  
 2716 have envisioned the transition or something or an interest in serving on a planning  
 2717 commission. But I wish you and the entire Board the best. I gave fair warning to  
 2718 our vice chairman a month or two ago, hey, I may not be able to attend the  
 2719 November meeting. I do believe there will be an opportunity for a member to be  
 2720 appointed soon from the Tuckahoe District. I don't know exactly when. Thank you  
 2721 very much for your time. It's been awesome.  
 2722  
 2723 Ms. Harris - Mr. Baka, let me say that it's been a pleasure to have  
 2724 you as a cohort on this Board. I didn't realize it had been five years, but they say  
 2725 time passes quickly when you're having fun. We wish you Godspeed, the very  
 2726 best.  
 2727  
 2728 Mr. Baka - Thank you very much.  
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 2730 Mr. Berman - Our loss will certainly be the Planning Commission's  
 2731 gain. Thank you again for all your service. I've learned a lot from you.  
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Mr. Baka - Thanks. All right. At this point, unless there are any other announcements...we stand adjourned.



~~Greg Baka~~ - Dennis Berman  
Chairman



Benjamin Blankinship, AICP  
Secretary