

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, SEPTEMBER 26, 2013 AT 9:00 A.M.,**
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**
6 **SEPTEMBER 9, 2013, AND SEPTEMBER 16, 2013.**

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

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

8
9 Mr. Wright - Good morning, ladies and gentlemen. Welcome to
10 the September meeting of the Henrico County Board of Zoning Appeals. I ask
11 you to please stand and join me in pledging allegiance to the flag of our country.
12 Thank you.

13
14 Are there any deferrals this morning?

15
16 Mr. Blankinship - No sir, none that I'm aware of.

17
18 Mr. Wright - Then would you please explain our rules?

19
20 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
21 ladies and gentlemen. The rules for this meeting are as follows. Acting as
22 secretary, I will announce each case. And as I'm speaking, the applicant should
23 come up to the podium. We will then ask everyone who intends to speak to that
24 case to stand and be sworn in. Then the applicant will present their testimony.
25 Then anyone else who desires to speak will be given the opportunity. After
26 everyone has had a chance to speak, the applicant, and only the applicant, will
27 have an opportunity for rebuttal. After the Board has heard all the evidence and
28 asked all their questions, they will take that matter under advisement and
29 proceed to the next case on the agenda. They will render all of their decisions at
30 the end of the meeting. So if you wish to hear the decision on a specific case,
31 you can either stay until the end of the meeting or you can check the Planning
32 Department website—we get it updated within about an hour of the end of the
33 meeting—or you can call the Planning Department this afternoon.
34

35 This meeting is being recorded, so we will ask everyone who speaks to speak
36 directly into the microphone on the podium, state your name, and please spell
37 your last name so we get it correctly in the record.

38

39 And finally, in the foyer there is a binder containing the staff report for each case,
40 including the conditions that have been recommended by the staff. It's
41 particularly important that the applicants be familiar with these conditions.

42

43 Mr. Chairman, let me introduce Jean Moore, Assistant Director of Planning, who
44 is joining us this morning in Dave O'Kelly's absence.

45

46 Ms. Moore - Good morning.

47

48 Mr. Wright - Welcome. Glad to have you with us.

49

50 Ms. Moore - Thank you.

51

52 Mr. Wright - Since there are no deferrals or withdrawals, please
53 call the first case.

54

55 **CUP2013-00025** **MANOHARA NAIDOO** requests a conditional use
56 permit pursuant to Section 24-95(i)(4) of the County Code to allow an accessory
57 structure in the front yard at 5193 Pouncey Tract Road (Parcel 737-772-4001),
58 zoned A-1, Agricultural District (Three Chopt).

59

60 Mr. Wright - Everyone who desires to speak with reference to this
61 case, either for or against, please stand and be sworn.

62

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

66

67 Mr. Naidoo - Yes I do.

68

69 Mr. Blankinship - Thank you.

70

71 Mr. Wright - Please state your case.

72

73 Mr. Naidoo - My name is Manohara Naidoo. I'm trying to get a—

74

75 Mr. Blankinship - Would you pull the microphone up a little please?

76

77 Mr. Naidoo - My name is Manohara Naidoo. I am trying to get use
78 of our property. It's a new home that we're building on Pouncey Tract. The
79 (existing) home in the front, we want to use as a studio for my wife. The property
80 has a pool that is on the side, so we're also trying to get approval for that as well.

81
82 Mr. Wright - This construction has already begun?
83
84 Mr. Naidoo - Yes sir.
85
86 Mr. Wright - Would you describe the property? What is located
87 across the street from your property?
88
89 Mr. Naidoo - There is nothing but a single home right in front of my
90 property.
91
92 Mr. Wright - How about facing the road, I would say on the east
93 side of the property? What is located there?
94
95 Mr. Naidoo - It's nothing but an empty lot with trees.
96
97 Mr. Wright - Woods.
98
99 Mr. Naidoo - Woods, yes. Wooded area.
100
101 Mr. Wright - All right. Are we talking about both of these things at
102 this point?
103
104 Mr. Blankinship - Yes sir. Of course the Board could divide the
105 question, approve one and not the other, if that was your judgment.
106
107 Mr. Wright - I just want to make sure we understand what we're
108 talking about.
109
110 Mr. Naidoo - Yes, yes.
111
112 Mr. Wright - Let's talk a moment about the pool. Do you have a
113 picture of where the pool is going to be?
114
115 Mr. Blankinship - Well, a porch on the proposed dwelling is going to
116 wrap around it. And since the proposed dwelling is not there yet, it's kind of
117 difficult to show. Probably the proposed plot plan Paul. Well, yes, that—
118
119 Mr. Wright - The pool is going to be in that little area that kind of
120 juts out back in there. Isn't that correct?
121
122 Mr. Blankinship - Generally, yes sir.
123
124 Mr. Wright - What type of fencing do you propose to have around
125 the pool?
126

127 Mr. Naidoo - It's going to be a covered walkway around the pool.
128 And we're going to have a four-foot—we're going to have a fence made out of
129 iron. And it's also going to be screened in.
130
131 Mr. Wright - Have you read the conditions that have been
132 proposed for this case?
133
134 Mr. Naidoo - Yes sir. Yes sir.
135
136 Mr. Wright - And you're in accord with all the conditions.
137
138 Mr. Naidoo - Yes sir.
139
140 Mr. Wright - You do realize that before you can get a certificate of
141 occupancy for your residence, you have to satisfy these other conditions
142 pertaining to what is now your residence but will become your wife's—I guess it's
143 an art studio?
144
145 Mr. Naidoo - Yes sir, yes.
146
147 Mr. Wright - What would you describe as to what will go on in the
148 art studio? What type of activity?
149
150 Mr. Naidoo - My wife does abstract art, so it will be used for
151 painting and scrapbooking. That's what she uses it for.
152
153 Mr. Wright - And of course there will be no kitchen in there.
154
155 Mr. Naidoo - No. The kitchen will be removed.
156
157 Mr. Wright - It will be removed. That's what it says in the
158 conditions.
159
160 Mr. Naidoo - Yes sir.
161
162 Mr. Blankinship - Will there be any noisy machinery or equipment?
163
164 Mr. Naidoo - No, nothing. Just painting boards and stuff.
165
166 Mr. Wright - All right. Any questions from members of the Board?
167
168 Mr. Bell - Any other use other than an art studio?
169
170 Mr. Naidoo - No sir.
171

172 Ms. Harris - Mr. Naidoo, had you considered placing the artist
173 studio in your proposed new dwelling?
174

175 Mr. Naidoo - Because it will be so messy, my wife just thinks it
176 would be better to use the whole room to do that. We didn't figure out a place to
177 have that in the new home.
178

179 Mr. Wright - All right. Any other questions from members of the
180 Board?
181

182 Mr. Bell - When you do the art studio, are you going to have it
183 similar to the new home in terms of design and color?
184

185 Mr. Naidoo - Yes. They both will be the same exactly, the color
186 and—
187

188 Mr. Wright - All right. Any other questions from members of the
189 Board?
190

191 Mr. Baka - One question regarding the access. Would the two
192 buildings share the same access so that you would not be coming in at a later
193 date to request a second access on Pouncey Tract Road, which is a very busy
194 road?
195

196 Mr. Naidoo - It will be the same access.
197

198 Mr. Baka - Would that be something that the Board would want
199 to consider as an eighth condition?
200

201 Mr. Wright - I didn't see another access.
202

203 Mr. Blankinship - There is not. I think his concern is that it remain that
204 way.
205

206 Mr. Baka - Correct. With Pouncey Tract being such a well-
207 traveled road, I think it would be responsible for the Board to ask the applicant to
208 limit himself to no more than one access point.
209

210 Mr. Wright - I don't see how they could have another access the
211 way the house is going to be situated.
212

213 Mr. Baka - True.
214

215 Mr. Wright - I drove into it and looked it over. Any other questions
216 from members of the Board? Is anyone here in opposition to this request?
217 Hearing none, that concludes the case. Thank you very much for appearing.

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Mr. Naidoo - Thank you, sir. Thank you.

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

Mr. Wright - Do I hear a motion on this case?

Mr. Nunnally - I make a motion we approve it, Mr. Chairman. It's a nice place they have out there on Pouncey Tract Road.

Mr. Wright - Mr. Nunnally moves that we approve it. Is there a second?

Mr. Bell - I second it.

Mr. Wright - Second. Any discussion? I would like to say I did visit the site. Based on the houses around it and the area, I don't think it would cause any problems. Any further discussion? All in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Bell, the Board **approved** application, **CUP2013-00025, Manohara Naidoo's** request for a conditional use permit pursuant to Section 24-95(i)(4) of the County Code to allow an accessory structure in the front yard at 5193 Pouncey Tract Road (Parcel 737-772-4001) zoned A-1, Agricultural District (Three Chopt). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit applies only to the conversion of an existing dwelling (located in the front yard) into an accessory building (artist studio) and the placement of an in-ground swimming pool in the side yard (adjacent to a new dwelling). All other applicable regulations of the County Code shall remain in force.

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

3. The applicant shall obtain a building permit for the modifications to the existing dwelling. These modifications include the voluntary removal of the two extensions off the side and rear of the residence (totaling 310 square feet), the required removal of the kitchen, and conversion of the remaining structure (1,040 square feet) into an accessory building (artist studio). The applicant shall

264 complete these modifications prior to the issuance of a certificate of occupancy
265 for the new dwelling.

266
267 4. The applicant shall match the brick siding of the building and apply it on
268 the southeastern (side) façade affected by the removal of the existing extension.

269
270 5. The house address shall be removed from the front porch of the existing
271 residence.

272
273 6. The applicant shall remove all but one of the existing mailboxes located
274 along Pouncey Tract Road. The corresponding posted address shall be 5193
275 Pouncey Tract Road.

276
277 7. The applicant shall obtain a separate building permit for the proposed in-
278 ground swimming pool.

279
280 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
281 Negative: 0
282 Absent: 0
283
284

285
286 **[At this point, the transcript continues with the public hearing on the next**
287 **case.]**

288
289 **CUP2013-00026 ASHLEY SALDIVAR AND THOMAS CHISHOLM**
290 request a conditional use permit pursuant to Section 24-12(e) of the County
291 Code to allow a private noncommercial kennel at 5410 Jefferson Street
292 (FEDERAL PLACE) (Parcel 816-725-0122), zoned R-2A, One-Family Residence
293 District (Varina).

294
295 Mr. Wright - All persons who desire to speak with reference to this
296 case, please stand and be sworn, whether you are for or against it. Thank you.

297
298 Mr. Blankinship - Members of the Board, while we are waiting for the
299 applicant to come to the podium, I'll point out an e-mail that was left at your place
300 just a few minutes ago that was received this morning. And also, there's an e-
301 mail message that was in your packet concerning this case.

302
303 Would all those who intend to speak, please raise your right hands. Do you
304 swear the testimony you're about to give is the truth, the whole truth and nothing
305 but the truth so help you God?

306
307 Mr. Wright - All right, thank you. Please state your name and state
308 your case.

309

310 Ms. Saldivar - My name is Ashley Saldivar. Last name is S (as in
311 Sam), a-l-d (as in David), i, v as in Victor, a-r. We're asking for the conditional
312 use permit because we have more animals than the County allows, unbeknownst
313 to us. We have three dogs. When we moved into the house, we had three dogs.
314 Since then we've obtained a potbelly pig and a pigmy goat. And then most
315 recently we have a cat that wasn't in our possession before we applied for this.
316 We didn't know one of the conditions of applying for this permit was we weren't
317 allowed to obtain any more animals.

318

319 Our lot's big enough to accommodate the animals. The dogs are inside. The
320 goat and the pig have a fenced-in pen in the back of the yard. The cat's
321 inside/outside. Half the time he's in; half he's out. We haven't seen him cause
322 any issues. He usually stays in the abandoned yard next door when he goes out.
323 Or he's laying around in the ditches.

324

325 I don't see where the animals have caused an issue. The dogs bark
326 occasionally. They're dogs. We bring them in if we're home so that they are not
327 causing issues with the neighbors. The pig and the goat, I mean, they don't
328 make much noise. You can't hear them from inside the house. We keep the yard
329 clean. We keep the grass cut. With the amount of land that we have, I don't see
330 why we can't have the animals that we have.

331

332 The neighbors haven't come to us directly. We'd be more than willing to work
333 with any of the neighbors if they're having issues with our dogs or with the other
334 animals. The kids enjoy them. With no one coming to us directly, I'm not sure
335 why we're having an issue.

336

337 Mr. Wright - Any questions from members of the Board?

338

339 Mr. Nunnally - This cat that you didn't have on the application when
340 you filed it, someone sent in a complaint about the cat? What distance is it from
341 where they live and where you keep the cat?

342

343 Ms. Saldivar - Their backyard butts up to our backyard. They're at
344 twenty-five. I'm not sure what porch they were talking about. I'm only assuming
345 they were speaking of the back porch, which is where they come in and out of
346 their house.

347

348 Mr. Nunnally - I drove by there a couple of times last week, and I
349 didn't see a cat and I didn't see a potbelly pig or the goat. There was a big black
350 dog and a little white dog, they ran up to the fence and—

351

352 Ms. Saldivar - They do.

353

354 Mr. Nunnally - —barked just a little bit. There was not very much
355 noise there. Do you have any problem with getting rid of the cat?

356
357 Ms. Saldivar - I would like to keep him since we've taken him to the
358 vet, spent the money on him. If we need to keep him inside because he's being a
359 nuisance, I can keep him inside. He can be an inside cat and only go out
360 occasionally. I don't understand. I've never seen him in that person's yard. I've
361 seen him in the yard across the street. I've seen him in our front yard and in the
362 yard across from us in the front yard. The first time I've seen him out of those
363 two areas was the other day when I walked down to the end of the cul-de-sac
364 and he walked with me.
365
366 Mr. Wright - Why isn't the cat in this application?
367
368 Ms. Saldivar - We didn't have him at the time of the application.
369
370 Mr. Wright - Oh, you didn't.
371
372 Ms. Saldivar - Correct.
373
374 Mr. Wright - You have acquired the cat since then.
375
376 Ms. Saldivar - Yes. He kind of just showed up, and we're not ones to
377 turn animals away. But with this, I mean—
378
379 Mr. Wright - So, you didn't really go out and seek this cat.
380
381 Ms. Saldivar - No.
382
383 Mr. Wright - The cat just showed up.
384
385 Ms. Saldivar - That's how we usually get most of our animals. The
386 pig and the goat were obtained because someone said the kids aren't taking
387 care of them. I've wanted a potbelly pig since I was a little kid; my mom wouldn't
388 let me have one. So I said sure. If they're not taking care of it, she can come live
389 with us. Same thing with the goat. The dogs, one of them was found on the side
390 of the road when he was four weeks old. The other two—well, one we sought
391 out, but one of them, he just kind of—he wasn't being taken care of properly.
392
393 Mr. Wright - How old is the potbelly pig?
394
395 Ms. Saldivar - The potbelly pig is I believe four. We've had her for
396 three years. I think she was about a year when we got her.
397
398 Mr. Wright - Does anybody know the lifespan of a potbelly pig?
399
400 Ms. Saldivar - I believe it's thirty-five years. That's the long end of it.
401

402 Mr. Wright - So the potbelly pig obviously stays outside...
403
404 Ms. Saldivar - Correct. She can come inside. She's litter trained.
405 She was litter trained by the people who had her before us.
406
407 Mr. Wright - In other words, she comes in too?
408
409 Ms. Saldivar - She has been inside, yes. In the wintertime when it
410 got really, really cold when we first got her. It hasn't been cold lately, the past
411 couple winters. But yes, we put a crate inside and she slept in a crate inside.
412
413 Mr. Wright - Did you go out and acquire this pig yourself?
414
415 Ms. Saldivar - Half and half. We knew the person who owned her.
416 And I jokingly said when they got her and she was this big, I said if you guys ever
417 decide to get rid of her, I'll take her. Well, a year later when their kids wouldn't
418 take care of the pig anymore, she said, "I've got to get rid of her; do you want
419 her?" And I said sure, I'll take her.
420
421 Mr. Wright - So you truly consider this a pet.
422
423 Ms. Saldivar - Yes. She is nothing but a pet.
424
425 Mr. Wright - How about the goat?
426
427 Ms. Saldivar - The goat was the same exact situation. We jokingly
428 always said we wanted a goat, we'll get a goat one day. And then the same lady
429 who had the pig had the goat. And she was like they just—they kept her in
430 this—I don't know why they got a goat after they got the pig. Kids wouldn't take
431 care of the goat anymore and she said, "Do you want her?" And we said sure,
432 we'll take the goat. So they just both live together in the back of our yard. We
433 had a small pen for the pig when we first got her. We expanded it when we got
434 the goat. So they have their own fenced-in area. They don't always stay in the
435 fenced-in area; they come into the big fenced-in area so they can graze or do
436 whatever they want.
437
438 Mr. Wright - Do you clean up after the goat and the pig, keep it
439 clean?
440
441 Ms. Saldivar - We do, if it gets out of hand. But for the most part, it
442 just kind of works its way back into the soil.
443
444 Mr. Wright - How old is the goat?
445

446 Ms. Saldivar - The goat I believe is three. I'm not 100 percent sure
447 on that. We've only had her a couple of months, maybe four or five months. And
448 I believe they said she was three or four when we got her.
449
450 Mr. Wright - Do you know the lifespan of a goat?
451
452 Ms. Saldivar - No.
453
454 Mr. Wright - Have you read the conditions?
455
456 Ms. Saldivar - I have.
457
458 Mr. Wright - Okay. You understand when something happens to
459 the pig and/or the goat and/or a couple of—whatever to reduce the number to
460 three, you cannot acquire any more.
461
462 Ms. Saldivar - Yes.
463
464 Mr. Wright - Under this use permit.
465
466 Ms. Saldivar - Correct.
467
468 Mr. Wright - Because three are permitted under our code.
469
470 Ms. Saldivar - Mmm-hmm.
471
472 Mr. Wright - All right. Any further questions from members of the
473 Board?
474
475 Ms. Harris - Yes. How old is the cat?
476
477 Ms. Saldivar - The cat I believe is five or six months old.
478
479 Ms. Harris - So you are aware that the County does have a code
480 about three pets?
481
482 Ms. Saldivar - Yes.
483
484 Ms. Harris - Now?
485
486 Ms. Saldivar - Now, correct.
487
488 Ms. Harris - So you can't take anybody's, lost, whatever.
489
490 Ms. Saldivar - From this point, yes, correct.
491

492 Mr. Wright - Any other questions?
493
494 Mr. Baka - Just one. The beehive, you agree that that needs to
495 be removed?
496
497 Ms. Saldivar - Yes. I didn't understand what the law was on the
498 beehive. We actually have it on craigslist now. And if that doesn't work, we'll
499 move it to another location. We already have a location in mind.
500
501 Mr. Wright - All right.
502
503 Mr. Bell - Have you had any problems with the odor since
504 you're using the excretions of the pig and the goat as sort of fertilizer?
505
506 Ms. Saldivar - I haven't noticed a nuisance odor. Of course it smells
507 like a barnyard but it's not—if I'm standing on the street, I don't smell it. Like I
508 said, we have several neighbors who we actually are friends with and talk to, and
509 none of them have complained. And I welcome—if I'm causing an issue, please
510 just come to me and tell me, and I'll see what I can do to fix it.
511
512 Ms. Harris - Ms. Saldivar, what would you do if someone
513 complained to you?
514
515 Ms. Saldivar - It depends on what the complaint is. The complaints
516 that I have read beside the cat sitting on the porch, to me it just says we don't
517 like the fact that they have the animals. It doesn't say that we're ill treating them.
518 It doesn't complain of noise. They don't complain of a smell. They don't complain
519 of anything other than to say "we don't want them to have the animals."
520
521 Mr. Wright - Any other questions from members of the Board? Is
522 anyone here in opposition to this request? If you would, please, come down to
523 the podium. Please state your name and then present your statement.
524
525 Ms. King - My name is Jacqueline King. I live directly behind
526 these people.
527
528 Mr. Wright - What's the number of your house?
529
530 Ms. King - Twenty-three.
531
532 Mr. Wright - All right. Let us know what your point is or your
533 opposition.
534
535 Ms. King - Since they've added all these animals—their animals
536 are directly in the back. You know, it's a fence in between our houses. But since
537 they've added these animals, I have a lot of gnats and mosquitoes because they

538 keep pools of water that are filthy sitting back there, and it causes mosquitoes,
539 gnats. When I go in my backyard to cut my grass, I have like just flying
540 mosquitoes. So I'm always trying to put down something to get rid of the gnats
541 and mosquitoes, but it's not doing any good because of those animals right in
542 the back of my fence.

543

544 Mr. Wright - Are you having any problem with any noise?

545

546 Ms. King - No. I heard a pig rumbling all night, turning over
547 buckets or whatever he's doing back there. The goat gets out in the yard, and
548 he's in like a bucket that he's tied to. So he's dragging that across the yard trying
549 to get out, most of the time. But my issue wasn't with noise. I'm getting all the
550 mosquitoes and the gnats in my yard from their animals. And the beehive, I can't
551 go behind the fence. Our fences are a little ways apart, and it's just grown grass
552 up behind it because the bees are there. Like he said, if you bump them, they're
553 going to come and attack.

554

555 Mr. Nunnally - Well, I understand if this is approved, the beehive will
556 have to be removed. Is that right?

557

558 Mr. Blankinship - Yes, that's correct. Well, whether this is approved or
559 not, the beehive has to be removed.

560

561 Mr. Wright - Anything further you wish to state?

562

563 Ms. King - I have a couple of pictures with the dirty pools that are
564 sitting back there. They might have cleaned them up for court, but I have
565 pictures.

566

567 Mr. Baka - At the time these were taken, how close were these
568 pools to your property line?

569

570 Ms. King - Right behind this fence is where the pools were. I just
571 stood right there at my fence and took the pictures. And that was just recently,
572 like a week ago. I'm aware he can't put down material to kill gnats and bugs
573 because he has animals, but they're coming in my property.

574

575 Mr. Wright - Do you have anything else you wish to present?

576

577 Ms. King - And also, my area in the backyard; when it rains
578 heavy, it fills up with water back there because his land is a little higher than
579 mine. So all of his stuff—all of his water runs down and sits right there at my
580 fenced-in area. So all of the animal manure and whatever they're doing is
581 running into my yard. That's all I have.

582

583 Mr. Wright - Any questions from members of the Board? Thank
584 you very much for appearing.
585
586 Ms. King - Thank you.
587
588 Mr. Wright - Anyone else desire to speak in opposition? Hearing
589 none, you have an opportunity—
590
591 Mr. Blankinship - This gentleman I think wants to speak.
592
593 Mr. Wright - Do you want to speak in opposition?
594
595 Mr. Blankinship - I think he wants to speak—
596
597 Mr. Bell - Support.
598
599 Mr. Wright - Okay. And you have a chance to rebut.
600
601 Mr. Baka - We're not going to let him speak first?
602
603 Mr. Wright - Do you want to come forward and speak for?
604
605 Mr. Baka - Yes, he's in support.
606
607 Mr. Martin - First of all, thank you for the opportunity to let me
608 speak.
609
610 Mr. Wright - Please state your name, sir.
611
612 Mr. Martin - My name is Jerry Martin. J-e-r-r-y, M-a-r-t-i-n.
613
614 Mr. Wright - All right, Mr. Martin, thank you.
615
616 Mr. Martin - Okay. I live next to them, 5400 Jefferson. As far as
617 the pig and the goat, they don't bother us. They don't make any noise. In fact, I
618 have three granddaughters; they like pigs and goats. Sometimes I go over and
619 feed the pig myself, just give it a little bit of bread or something like that. The pig
620 is named Penny. The cat is a nice little cat. Sometimes I go out for a smoke and
621 it comes to keep me company. It's a nice little cat. It doesn't bother anybody. In
622 fact, got another big fluffy gray cat that lives across the street. It roams the
623 neighborhood more than this little cat. This cat stays inside most of the time. So
624 that cat is no problem. The pig and the goat are no problem. As far as the dogs?
625 The only time that they bark is when somebody that they don't know, somebody
626 new, comes walking down the street. That's more or less helpful because you
627 have people roaming the neighborhood that are not supposed to be there. So
628 they bark at them. That's a good thing for me.

629
630 It's no bother. I can't smell anything, even when I go up there to feed the pig.
631 There's no smell. As far as the runoff, if you notice, that house is a very old
632 house. They've been in it for a while. But the new houses where the lady, you
633 know, backs up to it, they're new houses. So she knew that that house was there
634 before she moved in.

635
636 As far as the bees, if you notice on the fence there are two separate fences. It
637 would be kind of hard for them to bump the bees. Like right there, it would be
638 hard for them to bump the bees. They'd have to climb over their fence to get to
639 the other fence to bump the bees.

640
641 The animals are well taken care of. We don't have any problem whatsoever. Like
642 I said, the dogs are helpful. The cat is a nice little friendly kitty. We like them as
643 neighbors. They don't cause any problems. Stuff like this. I've been there for
644 over thirty years, and I'm glad to have them; they're good people. To me, around
645 the area there is no problem at all.

646
647 Mr. Wright - All right, sir. Any questions of Mr. Martin from
648 members of the Board?

649
650 Ms. Harris - Mr. Martin, are you aware that the County has a code
651 that says you cannot have more than three pets? Are you aware of that code?

652
653 Mr. Martin - Three cats?

654
655 Ms. Harris - Pets, animals.

656
657 Mr. Martin - Oh, pets. No ma'am.

658
659 Mr. Wright - Most people aren't.

660
661 Mr. Martin - But I would hope that you would give them a permit.
662 They're nice animals. They don't cause any problems, any trouble, any noise.

663
664 Ms. Harris - So if she had more animals it wouldn't bother you at
665 all, right?

666
667 Mr. Martin - As long as they didn't make a whole bunch of noise
668 and stuff.

669
670 Ms. Harris - Okay.

671
672 Mr. Wright - Any other questions from members of the Board for
673 Mr. Martin? Mr. Martin, thank you very much for appearing.

674

675 Mr. Martin - Thank you.

676

677 Mr. Wright - Anyone else desire to speak? I think the opposition
678 has closed. So now you have an opportunity to rebut.

679

680 Ms. Saldivar - As far as the pools go, the pig, as you can see in that
681 picture, is in the pool. She gets muddy and she gets in the pool. I'm not sure
682 what the pictures are of. And as of I think it was a week or two ago, the County
683 was actually at the end of our cul-de-sac. They're doing mosquito testing. And
684 the mosquitoes are coming from the waste—what is it called? It's like a wildlife
685 management watershed area at the end of our block. When he walked the dog
686 down there, they said are you really planning on going in the woods, because I
687 wouldn't if I were you because the mosquitoes are so bad. He advised against it.
688 He said there was mosquito collection in that area. So it's not just—I mean we
689 may have flies, but who's to say it's from our animals versus the wildlife
690 management area that actually kind of sort of surrounds our neighborhood. It's at
691 the back. That treeline that you see back there, that's wildlife protection. If you
692 go straight down Jefferson and to the left a block over at the 5600 area, that's all
693 wildlife protection management. So there's water, there's a river, there's a
694 stream or whatever you want to call it, that holds water. Our yard, yes it holds
695 water as well.

696

697 Before those houses—I think 17 to 25—were put in there was actually a little
698 ditch that bordered the property line because that was all one property. That kind
699 of shed the water from 17 through 25 and from 54, and it kind of went downhill
700 towards that wildlife management area. But when they put those houses in, they
701 kind of got rid of that ditch. We complained about it, but we didn't go to the
702 County about it. We talked to the contractor and the builder because as soon as
703 they started building those houses, our yards started flooding more. Now our
704 yard floods. Next to 22, that whole side of the yard kind of floods now because
705 that little drainage ditch was removed when the builder built those five house.

706

707 Also, most of those neighbors put in privacy fences, 17 through 23 put in privacy
708 fences. There used to be bushes in between 17 through 23 and 18 through 22. It
709 was all overgrown and really bushy. And I think that helped to shed the water as
710 well. And now all of that's gone.

711

712 I mean, the pools are emptied. When they get dirty, they get emptied because
713 that's the pig's and the goat's water supply. But we can't keep the pig out of the
714 pools; that's why the pools are there. We had a water bucket, and she would try
715 to fit herself in the water bucket.

716

717 Mr. Wright - All right. Any other questions from member of the
718 Board of Ms. Saldivar?

719

720 Mr. Bell - In terms of your own property, what I'm hearing is
721 you're saying the area has a mosquito problem.
722
723 Ms. Saldivar - Yes. The County told us that that waste management
724 area, they're doing mosquito testing and collecting.
725
726 Mr. Bell - Is your property affected by more mosquitoes
727 because you have the animals?
728
729 Ms. Saldivar - I don't think so.
730
731 Mr. Bell - Okay.
732
733 Mr. Wright - Ms. Saldivar, if your neighbors had complained
734 directly to you—you said before that you had not received any direct complaints.
735 But if they had complained directly to you, what could you have done to alleviate
736 that complaint?
737
738 Ms. Saldivar - As far as mosquitoes and flies go?
739
740 Mr. Wright - Period.
741
742 Ms. Saldivar - It depends on what the complaint was. I would try to
743 right the complaint that the neighbor had. If it's as far as mosquitoes go, I could
744 say I'll clean the pools, I'll empty them every other day to prevent mosquito
745 collection. But if that doesn't fix a mosquito problem because the problem's not
746 from me, how can I resolve the issue when it's not coming from me? You know
747 what I mean? It's not going to stop a complaint that might not be coming from
748 me.
749
750 Ms. Harris - How often do you change the water?
751
752 Ms. Saldivar - It gets changed every—whenever it gets dirty. So I
753 can't say I change it religiously every other day. It gets changed at least once a
754 week.
755
756 Ms. Harris - And you can't see how that might cause mosquitoes.
757
758 Ms. Saldivar - I could see how it could cause mosquitoes, but why
759 would I let my animals drink out of mosquito-infested water?
760
761 Ms. Harris - I don't know; I don't have that answer.
762
763 Ms. Saldivar - So.
764
765 Mr. Wright - Any further questions from members of the Board?

766
767 Mr. Baka - Yes, one. On the shared property line between your
768 property and #23 and #25, in your opinion, if you were to add—you mentioned a
769 privacy fence down the street earlier. But in your opinion, if you were to add any
770 additional landscaping along that shared property line or a privacy fence, would
771 that help minimize any visual impact from neighboring properties in your mind?
772
773 Ms. Saldivar - Well, 23 has a privacy fence.
774
775 Mr. Bell - I guess then I'm referring to just 25 then.
776
777 Ms. Saldivar - I don't think there's anything more visually I can do
778 except for put a tarp over my yard. She put in a privacy fence after we put in our
779 fence. I don't know what I could do to shield her yard from mine.
780
781 Mr. Nunnally - Ms. Saldivar, it's your request that we amend this to
782 include this cat.
783
784 Ms. Saldivar - Yes sir.
785
786 Mr. Nunnally - So instead of having the five, you want six.
787
788 Ms. Saldivar - Yes sir. And then I'm done. No more. I understand
789 that.
790
791 Ms. Harris - Ms. Saldivar, if you had to get rid of the animals that
792 were over the limit as identified in the code, would you have a place for them to
793 go?
794
795 Ms. Saldivar - No.
796
797 Ms. Harris - Okay.
798
799 Ms. Saldivar - Knowing that I might have to get rid of the cat, I've
800 been trying to see if anyone would take him. And it would have to go to the
801 SPCA, if they would even take it. I'm not sure, because usually they're overrun
802 with cats. Or we would have to take it to a shelter where it could be euthanized.
803 As far as the goat and the pig, I'm sure someone would take them for free, but I
804 don't know. The money I spent on the pig and the goat, vaccines and vet visits
805 and things like that, I really don't want to get rid of them. They're part of the
806 family.
807
808 Ms. Harris - The e-mail we had said "the cat was sitting at my
809 backdoor on my porch." That was the complaint. What can you do about that?
810
811 Ms. Saldivar - I can keep him inside if need be.

812
813 Ms. Harris - Well certainly keep it off the neighbor's porch. How
814 would you handle that?

815
816 Ms. Saldivar - There's no way to keep a cat from sitting on the
817 neighbor's porch. The cat wasn't trying to attack them. The cat wasn't showing
818 aggression, as far as the neighbor hasn't complained about that. A cat sitting on
819 a porch. The neighbor who has a cat who's outside, if they were sitting on the—I
820 mean, I don't know how you keep a cat from sitting on someone else's porch. He
821 wasn't being aggressive. They didn't say that he tried to claw them or he was
822 hissing at them. They just said he was sitting on the porch.

823
824 Mr. Wright - The only way you can stop that is to keep the cat
825 inside.

826
827 Ms. Saldivar - Correct.

828
829 Mr. Wright - Any other questions of Ms. Saldivar? Thank you very
830 much for appearing. This case will be decided at the end of the docket.

831
832 Ms. Saldivar - Thank you.

833
834 **[After the conclusion of the public hearings, the Board discussed the case**
835 **and made its decision. This portion of the transcript is included here for**
836 **convenience of reference.]**

837
838 Mr. Wright - Do I hear a motion on this case? That's a non-
839 commercial kennel.

840
841 Mr. Nunnally - Mr. Chairman, I make a motion we approve this use
842 permit. I went by and looked at the neighborhood several times. There was no
843 noise except when that little dog came up to the fence with the big dog. The little
844 dog did more barking than the big dog, though. Anyway, it was nice and neat
845 looking. I smelled no odor from it. They keep the property up real nice. So I move
846 we approve it.

847
848 Mr. Wright - Motion by Mr. Nunnally.

849
850 Mr. Blankinship - Did you want to add anything about the cat?

851
852 Mr. Nunnally - Oh, I'm sorry. We'll add the cat on there. But the
853 beehive has to come out within, what is it, thirty days?

854
855 Mr. Blankinship - Yes.

856
857 Mr. Nunnally - Okay.

858
859 Mr. Blankinship - Do you want to require the cat to be inside or ... ?
860
861 Mr. Wright - Any condition on the cat, Mr. Nunnally?
862
863 Mr. Nunnally - Well, I guess we could put something in there to keep
864 the cat inside.
865
866 Mr. Wright - You could say "as much as possible," if you want to
867 leave them a little latitude.
868
869 Mr. Nunnally - I guess that would be as much as possible.
870
871 Mr. Wright - All right. Mr. Nunnally has moved that this case be
872 approved adding the cat as an additional pet to be kept inside as much as
873 possible. Is there a second to this motion?
874
875 Mr. Baka - Second.
876
877 Mr. Wright - Second.
878
879 Ms. Harris - I have discussion on this particular issue. It's not just
880 this particular issue, but we're getting more and more cases that deal with the
881 commercial or noncommercial kennel. I just think we need to be aware that we
882 are setting a precedent. People come before us and say they don't know the
883 code.
884
885 Mr. Wright - That is a problem. I think if you check throughout the
886 County, we have numbers of people that have more than three pets.
887
888 Ms. Harris - I think the only time we know about it is when we get
889 complaints. So when we do get complaints, we certainly need to listen to the
890 complaints. I think in this case we did. I just know that at the last meeting there
891 was a case, and this meeting we have two. Before we had variance cases that
892 were piling up. Now we have noncommercial kennel cases that are piling up. As
893 long as we approve them, I think we'll have more and more of them. So maybe
894 something needs to be done to let the citizens of Henrico know that we do have
895 a code, that we're not trying to rewrite the code on this Board. But we do have a
896 code that they must conform to. Despite the fact that we love animals, we have a
897 code. Thank you.
898
899 Mr. Wright - Ms. Harris, we have a code, too, that you cannot build
900 something in your front yard or side yard. I've been around a lot of little buildings
901 in the front or side yard. People, a lot of them just don't know about these things.
902 I don't think it's deliberate.
903

904 Mr. Baka - Especially when it's in the back of the house. People
905 think their backyard is behind their house.

906
907 Ms. Harris - Yes. Well you can see the reverse corner lot
908 situation. I had questions about even the address of the case that we're going to
909 vote on a little later on.

910
911 Mr. Blankinship - I have that argument frequently.

912
913 Mr. Wright - I don't know if there is anything the County could do
914 to try to make our citizens aware of the code on this. That may be something the
915 Planning office may think about. I think if you do and people take it seriously,
916 we'll have a lot of applications.

917
918 Ms. Harris - Exactly.

919
920 Mr. Wright - All right. Any further discussion on this case? Hearing
921 none, all in favor say aye. All opposed say no. The ayes have it; the motion
922 passes.

923
924 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
925 Mr. Baka, the Board **approved** application **CUP2013-00026, Ashley Saldivar**
926 **and Thomas Chisholm's** request for a conditional use permit pursuant to
927 Section 24-12(e) of the County Code to allow a private noncommercial kennel at
928 5410 Jefferson Street (FEDERAL PLACE) (Parcel 816-725-0122), zoned R-2A,
929 One-Family Residence District (Fairfield). The Board approved the conditional
930 use permit subject to the following conditions:

931
932 1. [Amended] This approval is only for three dogs, one cat, one pot bellied
933 pig, and one pygmy goat owned by the property owners. The approval is not for
934 the boarding or breeding of pets at any time.

935
936 2. No new or replacement animals may be added, so that the number of
937 animals will be reduced by natural means to three, as allowed in a residential
938 district.

939
940 3. The applicant shall maintain the property so that noise and odors are
941 controlled.

942
943 4. The applicants shall remove the bee hive from the premises no later than
944 30 days from the approval of this permit.

945
946 5. [Added] The cat shall be kept indoors as much as possible.

947
948
949

950 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
951 Negative: 0
952 Absent: 0
953
954

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

957
958 **CUP2013-00027** **DOMINION VIRGINIA POWER** requests a conditional
959 use permit pursuant to Sections 24-12(c) and 24-52(a) of the County Code to
960 expand an existing utility facility at 241 Cedar Fork Road (Parcel 812-726-7735),
961 zoned A-1, Agricultural District (Fairfield).

962
963 Mr. Baka - Mr. Chairman, if I may at this time, I'm going to
964 recuse myself from CUP2013-00027.

965
966 Mr. Wright - All right, Mr. Baka. Any persons desiring to speak with
967 reference to this case, please stand and be sworn whether you're speaking for or
968 against.

969
970 Mr. Blankinship - Raise your right hand, please. Do you swear the
971 testimony you're about to give is the truth and nothing but the truth so help you
972 God?

973
974 Mr. LaClair - Yes I do.

975
976 Mr. Wright - All right, sir. Please state your name for the record
977 and state your case.

978
979 Mr. LaClair - Yes sir. The name is Kyle LaClair. The last name is
980 spelled L-a, capital C, l-a-i-r.

981
982 Mr. Chairman, Board, thank you for the opportunity to present this case to you.
983 What I wanted to do here is I'm actually the civil engineer on the site. Our normal
984 permit person is on vacation this week, and so I've been asked to stand in to
985 present this to you. I do also want to introduce Mr. Corberg [sp], who's in the
986 audience. He's not planning on speaking, but he's the project manager and
987 oversees the total project from the permitting perspective through—up to
988 construction, if it's approved.

989
990 This particular site is the existing substation. Well first let me talk about why we
991 need to propose the expansion of this substation. There is a transmission line,
992 line number seventeen, which is referred to as the Shockoe to Chesterfield line.
993 In the summer of 2015, in accordance with Dominion's planners, that particular
994 line will show in certain conditions an overload. According to the North American
995 Electric Reliability Commission and their standards that they set forth and put on

996 Dominion, they have to mitigate that overload. Essentially what it comes down to
997 is this is protecting the grid.

998

999 To mitigate that overload, they have to expand this substation by adding
1000 transformers, switches, and breakers. Today, the existing substation is on a
1001 16.2-acre parcel. If you can imagine—I think some of you may have been out
1002 there already. There are some exhibits in the packet. The majority of the site is
1003 encumbered by existing overhead transmission lines, 115 and 230 KV lines. On
1004 all four sides.

1005

1006 The existing substation is approximately 4.6 acres. We plan to expand the
1007 substation towards the southeasterly direction an additional 2.7 acres for a total
1008 substation acreage I believe of about 7.2, if my memory serves me correctly—
1009 7.3 acres will be the total substation expansion and existing that will reside inside
1010 the fence. Outside the fence is where the overhead transmission lines reside.
1011 We are primarily expanding the substation underneath those existing
1012 transmission lines.

1013

1014 A little bit of a description of the equipment. If you look, we did provide—to
1015 answer the question in the application as far as can the expansion or can this
1016 improvement be seen from the residential properties. In the packet, you'll see
1017 two view sheds. It's also highlighted on the plan view. Is there a way I can control
1018 this?

1019

1020 Mr. Blankinship - Probably not, but if you ask, we'll try to follow along.

1021

1022 Mr. LaClair - If you could go to the plan view. Sorry about that. It
1023 would just make it easier if I could talk from the aerial, if that's at all possible.
1024 Thank you.

1025

1026 In this aerial that you see, in the upper left-hand corner, those are the two view
1027 sheds that we believe would be most impacted by this expansion. What we also
1028 included in the packet were two exhibits that show renderings of what the
1029 equipment would look like with this expansion, to give that perspective.

1030

1031 In that expansion, we'll be including some transformers, breakers, and switches.
1032 We also have things in those taller structures that you see in the expansion.
1033 Where we refer to backbones, that is what receives the transmission lines and
1034 then brings them into the substation into the transformers. So in this particular
1035 view shed—the previous one he showed was the existing condition. The second
1036 one, this is the proposed condition here. This is standing across from the
1037 apartment complex on the side looking across the road.

1038

1039 In looking over the staff report, the conditions that are tied to the staff report, we
1040 take no objection to those. I think the main one there was providing a landscape
1041 plan through the administrative review process, which we're happy to do. We do

1042 see some opportunities for low shrubs and some low landscaping. We're happy
1043 to do that. Obviously, as the staff report and our application show, higher
1044 vegetation is problematic with the overhead lines. When vegetation touches the
1045 lines, that's when we have outages. And that's what we're trying to prevent. So,
1046 we'll work with staff in trying to get those landscapes approved in some strategic
1047 areas, try to buffer some of these particular view sheds to the best of our ability
1048 and still meet the standards that are set forth and put on Dominion in terms of
1049 offsets and clearance.

1050

1051 The other thing the application points out is most of the site is cleared of
1052 vegetation because of the overhead transmission lines. If you don't mind going
1053 back to the aerial view shed. In the aerial picture that we have included, we've
1054 tried to keep the substation expansion without clearing additional trees. There
1055 are some trees we do have to clear to maintain standard offsets from
1056 transformers and switches, which is on the southeast boundary there. You can
1057 see the additional treeline there as well, Again, those are all because of offsets
1058 and clearances that are dictated to Dominion to meet standards for positioning of
1059 equipment.

1060

1061 At this time, I'll be happy to entertain any questions you might have. But I do
1062 request and ask that you approve the conditional use permit for the expansion of
1063 the substation.

1064

1065 Mr. Wright - All right. Any questions from members of the Board?

1066

1067 Ms. Harris - Yes. Mr. LaClair?

1068

1069 Mr. LaClair - Yes ma'am.

1070

1071 Ms. Harris - Will this expansion be closer to the residential
1072 neighborhood?

1073

1074 Mr. LaClair - If you look on that aerial view shed, the yellow line
1075 delineates where that fence line will ultimately be. It is very close. If you look at
1076 that corner right there, that line that has been highlighted right there, it looks like
1077 the lower—the corner to the top of the page would be closer to the apartment
1078 complex in terms of the fence location than what they would have today.

1079

1080 Ms. Harris - Okay. Is there currently a stormwater management
1081 basin?

1082

1083 Mr. LaClair - There is not.

1084

1085 Ms. Harris - So how deep will that basin be?

1086

1087 Mr. LaClair - We're proposing that to be—once we've worked
1088 through the final calculation being approved. But in the permanent design we're
1089 anticipating that to be a dry basin and around three to four feet deep.
1090
1091 Ms. Harris - Are there other areas in Henrico County facing this
1092 same or similar problems?
1093
1094 Mr. LaClair - In terms of the—
1095
1096 Ms. Harris - Need for expansion.
1097
1098 Mr. LaClair - Oh yes. Actually, all across the state the planning
1099 department within Dominion has identified several substations as ongoing
1100 expansion. Myself currently, I'm working on about ten different substations right
1101 now related to this particular issue.
1102
1103 Ms. Harris - In Henrico County?
1104
1105 Mr. LaClair - Not Henrico; across the state. I'm aware of one other
1106 project I think that was recently permitted, Three Chopt Road—or excuse me,
1107 Nuckols Road I think was the one that was done most recently. I think the one
1108 prior to that maybe was Three Chopt. And then there are some pending ones
1109 that are upcoming. They haven't actually come to the Board yet.
1110
1111 Ms. Harris - Did we have a conditional use permit, Mr.
1112 Blankinship, for the one on Nuckols?
1113
1114 Mr. Blankinship - Yes ma'am.
1115
1116 Ms. Harris - Okay.
1117
1118 Mr. Blankinship - It was about a year ago, I believe.
1119
1120 Mr. LaClair - I think so. I wasn't involved with that particular case,
1121 but I am aware of it.
1122
1123 Ms. Harris - Was it possible for you to expand the services without
1124 expanding the footprint?
1125
1126 Mr. LaClair - In this particular case, I don't know the exact details.
1127 I'm looking at our project manager, and I think the answer is no on that one.
1128
1129 Ms. Harris - What do you think is causing the anticipated overload
1130 by 2015? What caused that? We know we have cell phone towers, but what
1131 causes this particular overload?
1132

1133 Mr. LaClair - Oh, this particular line? I don't know the details
1134 particularly with causing this overload, but I do know in general that the standard
1135 that is being applied to Dominion in this is causing the planning department to go
1136 back and evaluate all their transmission lines. What they do is they anticipate
1137 one line going out and then what's the reaction if this line goes out. If that line—
1138 Line B, let's say. Line A goes out. Line B is now containing more load. What's
1139 the scenario and will that line overload. What they're trying to prevent are the
1140 rolling blackouts and trying to build that reliability in the system. Again, that's the
1141 NERC standards that are being pushed down upon Dominion.

1142
1143 Ms. Harris - So would a congested neighborhood or additional
1144 residential construction—

1145
1146 Mr. LaClair - Certainly that caused more loads on the substation
1147 itself. But in this particular case, this is more of protecting the grid such that if
1148 there is an outage on one line, it's protecting the other line and trying to distribute
1149 that load onto other lines so you do not have, again, the rolling blackouts that
1150 could happen. Again, that's where it goes back to the reliability standard that the
1151 NERC is pushing down to evaluate these lines based on certain outage situation.

1152
1153 Ms. Harris - Okay. Mr. Blankinship, did we notify adjacent
1154 neighbors about this?

1155
1156 Mr. Blankinship - Yes ma'am.

1157
1158 Ms. Harris - We did. Okay. I think that was my last question.

1159
1160 Mr. LaClair - Thank you.

1161
1162 Mr. Wright - Have you had any complaints. Do you know of any
1163 complaints from any of the neighbors about this operation?

1164
1165 Mr. LaClair - I personally do not. Our team I don't believe is aware
1166 of any.

1167
1168 Mr. Wright - Mr. Blankinship, has the Planning office noted any
1169 complaints?

1170
1171 Mr. Blankinship - No sir, we have not received any.

1172
1173 Mr. Wright - All right. Any other questions from members of the
1174 Board? Is there anyone here in opposition to this request? Hearing none, that
1175 concludes the case. Thank you very much for appearing.

1176
1177 Mr. LaClair - Thank you.

1178

1179 [After the conclusion of the public hearings, the Board discussed the case
1180 and made its decision. This portion of the transcript is included here for
1181 convenience of reference.]
1182

1183 Ms. Harris - I move that we approve this case. I don't foresee it
1184 adversely affecting the community, the safety, health, nor welfare of the
1185 community. In fact, the community is going to need it if they have to expand
1186 electrical services in the future.
1187

1188 Mr. Wright - All right, the motion is made to approve it. Is there a
1189 second?

1190
1191 Mr. Nunnally - Second.
1192

1193 Mr. Wright - All right. Motion is seconded. Is there any discussion?
1194 We have pictures of this site. There is a lot of equipment there. But certainly it
1195 doesn't appear that adding a little bit more would make much difference. Motion
1196 is made and seconded. All in favor say aye. All opposed say no. The ayes have
1197 it; the motion passes.
1198

1199 Mr. Baka - Recused.
1200

1201 Mr. Wright - Oh, Mr. Baka has withdrawn from the case.
1202

1203 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1204 Mr. Nunnally, the Board **approved** application **CUP2013-00027, Dominion**
1205 **Virginia Power's** request for a conditional use permit pursuant to Sections 24-
1206 12(c) and 24-52(a) of the County Code to expand an existing utility facility at 241
1207 Cedar Fork Road (Parcel 812-726-7735), zoned A-1, Agricultural District
1208 (Fairfield). The Board approved the conditional use permit subject to the
1209 following conditions:
1210

1211 1. Only the improvements shown on the plan filed with the application may be
1212 constructed pursuant to this approval. Any additional improvements shall comply
1213 with the applicable regulations of the County Code. Any substantial changes or
1214 additions to the design or location of the improvements shall require a new
1215 conditional use permit.
1216

1217 2. Before beginning construction, the applicant shall submit construction plans
1218 and landscaping plans to the Planning Department for review and approval.
1219

1220 3. Before beginning any land disturbance, the applicant shall present a complete
1221 grading, drainage, and erosion control plan prepared by a Professional Engineer
1222 certified in the state of Virginia to the Department of Public Works for approval.
1223 This plan must include the necessary floodplain information if applicable.
1224

1225 4. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1226 state and local regulations administered under such act applicable to the
1227 property, and shall furnish to the Planning Department copies of all reports
1228 required by such act or regulations.

1229

1230 5. All exterior lighting shall be shielded to direct light away from adjacent
1231 property and streets.

1232

1233 6. All required landscaping shall be maintained in a healthy condition at all
1234 times. Dead plant materials shall be removed within a reasonable time and
1235 replaced during the normal planting season.

1236

1237

1238 Affirmative: Bell, Harris, Nunnally, Wright 4

1239 Negative: 0

1240 Absent: 0

1241 Recused: Baka 1

1242

1243

1244 **[At this point, the transcript continues with the public hearing on the next**
1245 **case.]**

1246

1247 **CUP2013-00028 KATHERINE R. SEAY** requests a conditional use
1248 permit pursuant to Section 24-12(e) of the County Code to allow a private
1249 noncommercial kennel at 1110 Pennsylvania Avenue (BILTMORE) (Parcel 784-
1250 762-2428), zoned R-4, One-Family Residence District (Fairfield).

1251

1252 Mr. Wright - Will all those persons desiring to speak with reference
1253 to this case, either for or against, please stand and be sworn.

1254

1255 Mr. Blankinship - Would you raise your right hand, please? Do you
1256 swear the testimony you're about to give is the truth and nothing but the truth so
1257 help you God?

1258

1259 Ms. Seay - Yes sir.

1260

1261 Mr. Wright - Please state your name and then state your case.

1262

1263 Ms. Seay - My name is Katherine Seay. The last name is spelled
1264 S (as in Sam), e-a-y. I'm a single mom raising two daughters and raising a
1265 granddaughter that has been left with me by another child. We have five dogs.
1266 The children love dogs, especially my oldest one. We were not aware that there
1267 was a problem until recently. We've never had any complaints about the noise,
1268 the odor. In fact, we only have neighbors on one side because, as you can see,
1269 that house right next door at 1108, that is currently vacant. Someone has
1270 secured it as a rental property, but they haven't moved in. I met the lady, and I
1271 talked to her, and I said hey, we have dogs. And I said if they bother you, please

1272 let me know. She said, "Oh well, I work at night." I said well then I'll make sure
1273 that during the daytime they're kept on the other side of the property so that they
1274 don't keep you awake during the daytime. She works at night.

1275
1276 For the most part, they only bark if somebody comes either on our property or
1277 her property. The previous neighbors, our dogs did bark a lot, but they were in
1278 and out all the time. So now they're gone, so that's eliminated that.

1279
1280 The backyard was overgrown. It's still partially overgrown; I took a picture this
1281 morning. I had the picture here a second ago. You can see right here in this one
1282 there's green and there's brown. The brown is what I cut Saturday, and the
1283 green is what I had already previously cut. This shed is aimed to come down
1284 because it is not in a condition to be repaired. In the driveway on the side of the
1285 house we have put—it's fenced in, and we put the post—if you can see there, we
1286 added two posts, and cut that, and fixed it as a proper-looking fence there on the
1287 chain link. Up near where the house is, right there we're going to put another
1288 little piece of fence with a gate. We've already started digging the holes. So that
1289 will put two areas there, but it will always be able to open. And then at the back
1290 there are two pens, each of which is 10 by 10. One is six-feet tall and one is
1291 three or four feet, whatever a chain link is.

1292
1293 Mr. Wright - Have you read the conditions suggested?

1294
1295 Ms. Seay - Yes sir. That the waste and all be cleaned up, the
1296 noise level be kept down, and all those weeds be cut.

1297
1298 Mr. Wright - Right.

1299
1300 Ms. Seay - Within thirty days of the permit being approved.

1301
1302 Mr. Wright - Are you in accord with these conditions if it's
1303 approved?

1304
1305 Ms. Seay - Yes sir.

1306
1307 Mr. Wright - And you understand that if this approved, you are
1308 permitted to have the five dogs which you now have.

1309
1310 Ms. Seay - Yes sir. And no change-outs, no—

1311
1312 Mr. Wright - You're not entitled to increase that number or to
1313 replace—

1314
1315 Ms. Seay - Right. Through natural means they will decrease.

1316

1317 Mr. Wright - Until you get down to the three that are permitted by
1318 code.
1319

1320 Ms. Seay - Right. The hound mix is eight years old. Two of the
1321 lab mixes are seven years old. One of them is six years old. So you figure that
1322 most dogs, their lifespan is between ten and fourteen years.
1323

1324 Mr. Wright - Yes.
1325

1326 Ms. Seay - So that's the span that it will—
1327

1328 Mr. Wright - I just wanted to ensure that you understood this.
1329

1330 Ms. Seay - Yes sir.
1331

1332 Mr. Wright - I take it most people in Henrico don't really realize
1333 that you can only have three animals.
1334

1335 Ms. Seay - This is true. And also, the way that the County code
1336 reads the three—because I went and read it—says three in a subdivision. And I
1337 didn't know I lived in a subdivision because my street goes right on through.
1338

1339 Mr. Wright - I think the intent is restrict it to three pets throughout
1340 the County.
1341

1342 Ms. Seay - Yes sir.
1343

1344 Mr. Wright - Any questions of Ms. Seay?
1345

1346 Mr. Baka - One brief question. You mentioned three lab mixes. Is
1347 the four-foot fence height you're proposing adequate to keep them in?
1348

1349 Ms. Seay - Yes.
1350

1351 Mr. Baka - Okay.
1352

1353 Mr. Wright - Do you keep any of these dogs inside?
1354

1355 Ms. Seay - The basset hound stays inside because, as you
1356 know, basset hounds are very noisy animals if they're left outside. They bark at a
1357 squirrel, you know. They're very ADD. So she stays in the house. The hound mix
1358 sometimes is in the yard, sometimes is on the porch. She's eight years old.
1359 She's getting older. So she sometimes stays on the porch in a crate, and other
1360 times she's out in the yard. My goal is to move her back into the six-foot fence
1361 because she will jump the fence. The six-foot-tall fence also has a lock on the
1362 door because she can lift the latch. So it has a lock, key lock, so that she can't

1363 open it and get out. She won't do anything; she's a big baby. But you don't like
1364 your animals to be roaming the neighborhood.

1365

1366 Mr. Baka - Correct. Especially adjacent to Brook Road.

1367

1368 Ms. Seay - Right. One morning she did get out, this summer. And
1369 she was on Brook Road. And I was carrying my granddaughter to her day
1370 school. A lady had stopped and I saw this black and white streak run across. And
1371 I'm, like, okay, that's mine. So I put on my flashers, stopped, and I'm like come
1372 on, get in the truck. And she ran and got in the truck. But that's why I want to
1373 move her back to the one that has the lock because she can open the others.

1374

1375 Mr. Wright - Any other questions from members of the Board?

1376

1377 Ms. Harris - Yes. Ms. Seay, you have a dog pen. Do you have a
1378 dog pen on your front porch?

1379

1380 Ms. Seay - I have a small one.

1381

1382 Ms. Harris - So does the dog stay there?

1383

1384 Ms. Seay - Only during the times when we're right there and the
1385 kids are playing, talking to her and all. My granddaughter is five years old and
1386 likes to be around the dogs.

1387

1388 Ms. Harris - If you were asked to get rid of the dogs that are in
1389 violation, in other words you're only allowed three animals, would you have a
1390 problem finding homes for the others?

1391

1392 Ms. Seay - Yes, because of the fact that they are, number one,
1393 mixed breeds, and number two, all of the mixed breeds are over five years old.

1394

1395 Ms. Harris - Do you use the hounds for hunting?

1396

1397 Ms. Seay - No.

1398

1399 Ms. Harris - Okay. That has nothing to do with the case. I was just
1400 curious as to—you said you had several hounds there.

1401

1402 Ms. Seay - The oldest one, the eight-year-old, her name is
1403 Katrina. And she is actually from the Katrina rescue. She came from Mississippi
1404 during the Katrina hurricane.

1405

1406 Mr. Wright - Any further questions from members of the Board? Is
1407 anyone here in opposition to this case? Hearing no opposition, that concludes
1408 the case. Thank you very much for appearing.

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Ms. Seay - Thank you.

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

Ms. Harris - I move that we approve this case in the light of what has gone on before. In all fairness to the property owner, I feel that until we have information that this adversely affects the community safety or welfare, I think this case should be approved.

Mr. Wright - All right. Ms. Harris moves that we approve it. Is there a second?

Mr. Bell - I'll second it.

Mr. Wright - Motion's made and seconded. Is there any discussion? Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved** application **CUP2013-00028, Katherine R. Seay's** request for a conditional use permit pursuant to Section 24-12(e) of the County Code to allow a private noncommercial kennel at 1110 Pennsylvania Avenue (BILTMORE) (Parcel 784-762-2428), zoned R-4, One-Family Residence District (Fairfield). The Board approved the conditional use permit subject to the following conditions:

1. This approval is only for the five dogs owned by the property owner and is not for the boarding or breeding of dogs at any time.
2. No new or replacement animals may be added, so that the number of animals will be reduced by natural means to three, as allowed in a residential district.
3. The applicant shall maintain the property so that noise and odors are controlled. In addition the applicant shall cut the high weeds in the rear yard within one month of the approval of this use permit. Thereafter, the applicant shall keep the weeds and grass on her property within the height limit found in Henrico County Code.

Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
Negative:		0
Absent:		0

1455 [At this point, the transcript continues with the public hearing on the next
1456 case.]
1457

1458 **CUP2013-00029** **GREG SPICER** requests a conditional use permit
1459 pursuant to Section 24-95(i)(4) of the County Code to build a garage and storage
1460 building in the front yard at 11600 Chickahominy Branch Drive (CHICKAHOMINY
1461 BRANCH) (Parcel 766-777-8579), zoned A-1, Agricultural District) (Brookland).
1462

1463 Mr. Wright - All persons desiring to speak with reference to this
1464 case, please stand and be sworn, whether for or against.
1465

1466 Mr. Blankinship - Please raise your right hand. Do you swear or affirm
1467 that the evidence you're about to give is the truth and nothing but the truth so
1468 help you God?
1469

1470 Mr. Spicer - I do.
1471

1472 Mr. Wright - Thank you very much, sir. Would you please state
1473 your name and then present your case.
1474

1475 Mr. Spicer - Yes. The name is Greg Spicer, and I'd like the Board
1476 to consider approval which would allow me to build a detached structure, garage.
1477

1478 Mr. Wright - Tell us a little bit about your lot.
1479

1480 Mr. Spicer - It's an acre lot in Chickahominy Branch. The County
1481 considers it a reverse corner lot, which I was educated the other day of what that
1482 meant based on the width of property line or the distance on Wood Brook Court.
1483 Where I want to build the garage is considered the front yard versus the
1484 backyard. The way the house is fronting, it fronts on Chickahominy Branch Drive,
1485 so it's going to look like it's in the backyard where it's supposed to be, but
1486 obviously it's a front yard so I need to get a special conditional approval or—what
1487 do you all call it?
1488

1489 Mr. Wright - What's the size of your lot?
1490

1491 Mr. Spicer - My lot is—all lots in there are at least an acre.
1492

1493 Mr. Wright - So you have an acre?
1494

1495 Mr. Spicer - Acre lot. Mmm-hmm. I have a little bit over an acre,
1496 but all of them are an acre.
1497

1498 Mr. Wright - Yes. And how does your house face? What street or
1499 road?
1500

1501 Mr. Spicer - East—the front of my house faces Chickahominy
1502 Branch Drive.
1503
1504 Mr. Wright - The way your house faces, this indeed would be in
1505 your backyard, wouldn't it?
1506
1507 Mr. Spicer - Yes.
1508
1509 Mr. Wright - Except for the interpretation—
1510
1511 Mr. Spicer - Of a reverse corner lot.
1512
1513 Mr. Wright - And what is behind your lot?
1514
1515 Mr. Spicer - At the back property line, I have a six-foot privacy
1516 fence, and then I have my neighbor.
1517
1518 Mr. Wright - Is that your neighbor's house that we can see
1519 through—
1520
1521 Mr. Spicer - That's the neighbor's house that you can see on the
1522 bottom left, right there.
1523
1524 Mr. Wright - So it seems to be pretty heavily wooded.
1525
1526 Mr. Spicer - It is. His front right corner and my back left corner,
1527 yes, there are heavy trees.
1528
1529 Mr. Wright - The application says to build a garage and storage
1530 building. Are we having two separate buildings?
1531
1532 Mr. Spicer - Well, the storage building is already constructed. I
1533 made that part of this case. When I came to the County and talked to Mr.
1534 Moffett, and we pulled up the information on my house—and you can see it from
1535 that picture there—the contractor, which is no longer around, built that. I wasn't
1536 aware until, I don't know, a couple few weeks ago when I talked to Mr. Moffett
1537 that he did not obtain a permit for me to build that. So I brought it to Mr. Moffett's
1538 attention, and I said—he said the best idea would be to make it part of this case
1539 since it's already there.
1540
1541 Mr. Wright - Is that the storage building?
1542
1543 Mr. Spicer - That's the storage building. It's a 16-by-16 storage
1544 building.
1545
1546 Mr. Wright - What is it used for?

1547
1548 Mr. Spicer - Storage. I have three kids, and I wanted to take over
1549 my garage again, so just storage. The lawn mower, weed eater, blower—that
1550 kind of stuff.
1551
1552 Mr. Wright - Very attractive storage.
1553
1554 Mr. Spicer - Well, yes, I wanted it to look nice.
1555
1556 Mr. Wright - Do you have a kitchen in that building?
1557
1558 Mr. Spicer - No.
1559
1560 Mr. Wright - So it's strictly storage.
1561
1562 Mr. Spicer - Strictly storage.
1563
1564 Mr. Wright - No other use. And that is situated—
1565
1566 Mr. Spicer - Behind.
1567
1568 Mr. Wright - —behind your house.
1569
1570 Mr. Spicer - Behind the house.
1571
1572 Mr. Wright - Which is now considered to be in the front yard.
1573
1574 Mr. Spicer - That's right.
1575
1576 Mr. Bell - The garage would be to the left of it.
1577
1578 Mr. Wright - What size is your proposed garage?
1579
1580 Mr. Spicer - 26 by 36.
1581
1582 Mr. Wright - Okay. So that would be a three-car garage?
1583
1584 Mr. Spicer - Yes sir.
1585
1586 Mr. Wright - That's strictly for you to put your cars in.
1587
1588 Mr. Spicer - Yes sir.
1589
1590 Mr. Wright - Have you read the conditions?
1591
1592 Mr. Spicer - Yes sir.

1593
1594 Mr. Wright - Are you in accord with these conditions?
1595
1596 Mr. Spicer - Yes.
1597
1598 Mr. Wright - Any questions from members of the Board?
1599
1600 Ms. Harris - Yes, I do. How close to the driveway will your garage
1601 be?
1602
1603 Mr. Spicer - To my existing driveway?
1604
1605 Ms. Harris - Yes.
1606
1607 Mr. Spicer - Well, I have to install a new driveway if I do the
1608 garage. I'm going to guess—that's thirty-six. You know, probably fifty feet or
1609 more from my existing driveway.
1610
1611 Ms. Harris - And which direction?
1612
1613 Mr. Spicer - Right there. Right where you're going. Right there.
1614 From the garage to the end of my driveway there is probably fifty feet. But I can't
1615 access my garage from that driveway. That driveway has at one point probably
1616 five-foot brick retaining wall. I may have a picture of it. Right there. So, logically,
1617 right in front of my wife's car you'd think you could just put a driveway, build a
1618 garage, and have access. But that's like a five-and-a-half-foot wall there. And it
1619 goes all the way around, all the way out to the front of my house.
1620
1621 Mr. Wright - Your driveway would then come from Wood Brook
1622 Court?
1623
1624 Mr. Spicer - Yes sir.
1625
1626 Mr. Wright - I noticed, Mr. Blankinship, that the proposed garage is
1627 five feet from what I consider his rear line—or whatever you want to call that line.
1628 That meets the code?
1629
1630 Mr. Blankinship - Yes sir. The Zoning Ordinance requires three feet.
1631 The Building Code requires that the building be fire rated if it's within five feet. So
1632 people generally set back at least five feet so they don't have to go through the
1633 fire rating.
1634
1635 Mr. Wright - Any further questions from members of the Board?
1636
1637 Mr. Bell - One quick question. Are you going to build it in the
1638 same style as your house?

1639
1640 Mr. Spicer - Yes sir. It's going to look kind of like the shed, just
1641 larger.
1642
1643 Mr. Bell - Which is very nice. I'm quite familiar with that area.
1644
1645 Mr. Baka - Nice neighborhood.
1646
1647 Ms. Harris - So you will actually have two driveways.
1648
1649 Mr. Spicer - Yes ma'am.
1650
1651 Mr. Wright - Any other questions from members of the Board?
1652 Anyone here in opposition to this request, please stand. Hearing no opposition,
1653 that concludes the case. Thank you very much for appearing.
1654

1655 Mr. Spicer - Thank you.
1656

1657 **[After the conclusion of the public hearings, the Board discussed the case**
1658 **and made its decision. This portion of the transcript is included here for**
1659 **convenience of reference.]**
1660

1661 Mr. Wright - Do I hear a motion on this case?
1662

1663 Mr. Bell - I make a motion that we approve it because it does
1664 not create any safety hazards to the neighborhood. It does not create any
1665 additional congestion. It does not impair in any way the character of the district.
1666

1667 Mr. Wright - All right. Is there a second?
1668

1669 Ms. Harris - I second.
1670

1671 Mr. Wright - Motion made and seconded. Any discussion? Hearing
1672 none, all in favor say aye. All opposed say no. The ayes have it; the motion
1673 passes.
1674

1675 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1676 Ms. Harris, the Board **approved** application **CUP2013-00029, Greg Spicer's**
1677 **request for a conditional use permit pursuant to Section 24-95(i)(4) of the County**
1678 **Code to build a garage and storage building in the front yard at 11600**
1679 **Chickahominy Branch Drive (CHICKAHOMINY BRANCH) (Parcel 766-777-**
1680 **8579), zoned A-1, Agricultural District (Brookland). The Board approved the**
1681 **request subject to the following conditions:**
1682

1683 1. This conditional use permit applies only to the two accessory structures as
1684 shown on the plot plan submitted with this application, with the exception of the

1685 setback from 11516 Wood Brook Court, which would be a minimum of 8 feet. All
1686 other applicable regulations of the County Code shall remain in force.

1687
1688 2. The applicant shall preserve the vegetation in an 8 foot wide buffer along
1689 his property's western boundary line. This buffer shall run from the Wood Brook
1690 Court right-of-way northward to the northern edge of the proposed garage.

1691
1692 3. The new construction shall match the existing dwelling as nearly as
1693 practical in materials and color.

1694
1695 4. At the time of building permit application, the applicant shall submit the
1696 necessary information to the Department of Public Works to ensure compliance
1697 with the requirements of the Chesapeake Bay Preservation Act and the code
1698 requirements for water quality standards.

1699
1700 5. The applicant shall comply with the Chesapeake Bay Preservation Act
1701 and all state and local regulations administered under such act applicable to the
1702 property, and shall furnish to the Planning Department copies of all reports
1703 required by such act or regulations.

1704
1705 6. The applicant shall present a complete grading, drainage, and erosion
1706 control plan prepared by a Professional Engineer certified in the state of Virginia
1707 to the Department of Public Works for approval. This plan must include the
1708 appropriate sizing of the culvert pipe to be placed under the driveway.

1709
1710 7. Any exterior lighting shall be shielded to direct light away from adjacent
1711 property and streets.

1712
1713 8. Neither of the two accessory structures shall be used for dwelling
1714 purposes.

1715
1716
1717 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1718 Negative: 0
1719 Absent: 0

1720
1721
1722 Mr. Wright - That concludes the agenda.

1723
1724 Mr. Bell - Except for the minutes.

1725
1726 Mr. Wright - How about the minutes? Any corrections to be made?

1727
1728 Ms. Harris - On page 15, line 491. I think that word should be
1729 "though" instead of "through." Page 15, line 491. And then I have one more. On
1730 page 62, line 2114. I think you said "what we're saying." That's 2114.

1731

1732 Mr. Wright - Okay. Any others?

1733

1734 Ms. Harris - Those are the only two I noticed.

1735

1736 Mr. Wright - Do I hear a motion we approve the minutes as

1737 correct?

1738

1739 Ms. Harris - So moved.

1740

1741 Mr. Wright - Is there a second?

1742

1743 Mr. Baka - Second.

1744

1745 Mr. Wright - All right. Any discussion? Hearing none, all in favor

1746 say aye. All opposed say no. The ayes have it; the motion passes.

1747

1748 On a motion by Ms. Harris, seconded by Mr. Baka, the Board **approved as**

1749 **corrected** the **Minutes of the August 22, 2013**, Henrico County Board of

1750 Zoning Appeals meeting:

1751

1752 Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
1753 Negative:		0
1754 Absent:		0

1755

1756

1757 Mr. Wright - All right. Is there anything else to come before the

1758 Board, Mr. Blankinship?

1759

1760 Mr. Blankinship - No sir.

1761

1762 Mr. Wright - Do I hear a motion that we adjourn?

1763

1764 Mr. Nunnally - So moved.

1765

1766 Mr. Wright - Is there a second?

1767

1768 Mr. Baka - Second.

1769

1770 Mr. Wright - Motion is made Mr. Baka and seconded by Mr.

1771 Nunnally that we **adjourn**. All in favor say aye. All opposed say no. The ayes

1772 have it; the motion passes. We are adjourned.

1773

1774 Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
1775 Negative:		0
1776 Absent:		0

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R. A. Wright
Chairman



Benjamin Blankinship, AICP
Secretary