

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRING ROADS, ON THURSDAY APRIL 24, 2014 AT 9:00**
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH APRIL 7, 2014, AND APRIL 14, 2014.**

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

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

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

13
14 Mr. Blankinship, would you please read our rules?

15
16 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
17 ladies and gentlemen, the rules for this meeting are as follows: Acting as
18 secretary, I will call each case. And as I'm speaking, the applicant should come
19 on down to the podium. We will then ask everyone who intends to speak to that
20 case to stand and be sworn in, then the applicant will present their case. Then
21 anyone else who wishes to speak will be given the opportunity. After everyone
22 has had an opportunity to speak, the applicant and only the applicant will have an
23 opportunity for rebuttal. After the Board has heard any evidence and asked any
24 questions, they will take that matter under advisement and proceed to the next
25 case on the agenda. They will render all of their decisions at the end of the
26 meeting. So if you wish to hear their decision on a specific case, you can either
27 stay until the end of the meeting, or you can check the Planning Department
28 website—we get it updated about an hour or so after the meeting ends—or you
29 can call the Planning Department this afternoon.

30
31 This meeting is being recorded, so we will ask everyone who speaks to speak
32 directly into the microphone on the podium, state your name, and please spell
33 your last name so we get it correctly in the record.
34

35 Finally, out in the foyer there is a binder that contains the staff report for each
36 case including conditions that have been recommended by the staff. It is
37 particularly important that the applicants be familiar with those conditions.

38
39 Mr. Wright - Are there any withdrawals?
40

41 Mr. Blankinship - We have one request for deferral and one withdrawal
42 this morning. The request for deferral is CUP2014-00009, Dominion Golf of
43 Virginia, LLC.

44
45 **CUP2014-00009 DOMINION GOLF OF VIRGINIA, LLC** requests a
46 conditional use permit pursuant to Section 24-89(c) of the County Code to
47 develop a wetlands mitigation bank at 300 Lee Ave (Parcel 824-730-0699) zoned
48 One-Family Residence District (R-2A) and Conservation District (C-1) (Varina).

49
50 Mr. Blankinship - There has been conversation ongoing between the
51 applicant and the Department of Public Utilities. They met on site to discuss the
52 exact location of the stockpile. The decision was made that they would have to
53 survey in order to pin down exactly where the stockpile and where the utility line
54 are located.

55
56 Mr. Wright - Is there anyone here who has an interest in this case?
57 Do I hear a motion?

58
59 Mr. Nunnally - I move we defer it for sixty days.

60
61 Mr. Baka - Second.

62
63 Mr. Wright - Motion is made and seconded. Any discussion?
64 Hearing none, all in favor say aye. All opposed say no. The ayes have it; the
65 motion passes. All right, it is deferred.

66
67 After an advertised public hearing and on a motion by Mr. Nunnally seconded by
68 Mr. Baka, the Board **deferred** application CUP2014-00009, Dominion Golf of
69 Virginia, LLC to the June 26, 2014 Board of Zoning Appeals meeting.

70
71
72 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
73 Negative: 0
74 Absent: 0

75
76
77 Mr. Blankinship - And that will be heard on June 26th.

78
79 Mr. Wright - All right. Do you have one more?
80

81 Mr. Blankinship - The withdrawal is APL2014-00002, Leonard L.
82 Clarke.

83
84 **APL2014-00002** **LEONARD L. CLARKE** appeals a decision of the
85 director of planning pursuant to Section 24-116(a) of the County Code regarding
86 the property at 611 York Ave (YORK MANOR) (Parcel 821-720-1927) zoned
87 One-Family Residence District (R-3) (Varina).

88
89 Mr. Blankinship - This case has been withdrawn. If anybody is here for
90 APL2014-00002, this case has been withdrawn.

91
92 Mr. Wright - Anybody here have any interest in this case? That
93 case has been withdrawn so it's not before the Board. Yes sir. That's it. Thank
94 you very much for coming. Thank you, sir.

95
96 All right, please call the first case.

97
98 **CUP2013-00034** **BRUCE AND PAGE BOURGEOIS** request a
99 conditional use permit pursuant to Section 24-95(i)(4) of the County Code to
100 allow a pool in the side yard at 2316 Persimmon Trek (LAKE LOREINE) (Parcel
101 743-754-0927) zoned One-Family Residence District (R-2A) and Conservation
102 District (C-1) (Three Chopt).

103
104 Mr. Wright - All persons having an interest in this case, whether for
105 or against, please stand and be sworn.

106
107 Mr. Blankinship - Please raise your right hand. Do you swear the
108 testimony you're about to give is the truth and nothing but the truth so help you
109 God? Thank you.

110
111 Mr. Wright - Would the applicant please come down to the rostrum
112 and present the case? Having been sworn, please state your name for the record
113 and then present your case.

114
115 Ms. Bourgeois - Okay. My name is Page Bourgeois. And my
116 husband—would you stand, Bruce? Bruce Bourgeois. Good morning
117 Mr. Chairperson and Mr. Vice Chairperson.

118
119 My husband is a Purple Heart veteran. He was also a paratrooper. And during
120 that time, he made 187 jumps into combat, and unfortunately his knees and his
121 hips are shot today. He goes to the VA for all of his needs. And his physicians
122 recommended that he have water treatment to ease his joint pain because he
123 cannot have surgery due to a heart condition that he has in addition to a plethora
124 of other problems. So anyway, they recommended that he have some form of
125 water treatment. And up until that time, we had not even contemplated or even
126 thought of a pool. However, at this junction we felt that maybe we should just put

127 in a pool for his water treatment and for of course the enjoyment of our family,
128 which now brings us to you to request having this pool installed for that purpose.

129
130 Also, too, I wanted to share what we were talking about yesterday, the placement
131 of the pool. It was recommended can we move it. Well, certainly our property
132 would allow for us to move the pool; however, if we moved it over to the Leyland
133 cypresses on the far left, we're right there at the community's pathway where
134 there are picnics and there's boating, etcetera, which is no privacy whatsoever.
135 And then if we moved it to the far left, it would be too close to the front road and
136 to our neighbor. And unfortunately, we could not put it in our backyard because
137 the County has a main sewer line that runs right through the backyard between
138 the lake and our home. That brings us here to request that we have the pool
139 installed in the side yard.

140
141 Mr. Wright - We have before us a site plan layout. You have a
142 copy of this I'm sure.

143
144 Ms. Bourgeois - It's right up here, so I can see.

145
146 Mr. Wright - That is the location that you request the pool would
147 be.

148
149 Ms. Bourgeois - Yes, I did. May I interject here?

150
151 Mr. Wright - Sure. Yes ma'am.

152
153 Ms. Bourgeois - Where the pool is, if we were to move it closer to the
154 road, we would be on our driveway. As you look at things, things appear what
155 they appear to be. However, where the pool is situated right now, if you moved it
156 back any, you're going to end up in the driveway. If you moved it any more to the
157 left, you're going to be right there at the entry of the driveway and have a big
158 exposure to the road. So you would be looking at an issue of a buffer.

159
160 Mr. Wright - I take it's an in-ground pool.

161
162 Ms. Bourgeois - In-ground pool, that's correct. A rectangular pool.

163
164 Mr. Wright - What would you do to protect access to the pool
165 around the pool? Would you have a fence or whatever?

166
167 Ms. Bourgeois - Yes, we will have a fence that will surround the pool
168 and the patio area itself.

169
170 Mr. Wright - Have you read the condition which the staff proposes
171 if this is approved?

172

173 Ms. Bourgeois - I have. And we're willing to work with everyone to
174 make sure that we do everything properly and to code.
175
176 Mr. Wright - Are you in accord with these conditions.
177
178 Ms. Bourgeois - Yes.
179
180 Mr. Wright - You agree to the conditions. That's good.
181
182 Ms. Bourgeois - Yes.
183
184 Mr. Wright - What is behind your house or behind where the pool
185 would be located? On here it says Lake Loreine.
186
187 Ms. Bourgeois - Okay. Are you familiar with Lake Loreine?
188
189 Mr. Wright - Yes ma'am.
190
191 Ms. Bourgeois - Okay. Well, when you say *behind our pool*, where the
192 pool will be situated is right there at our side kitchen door, which is kind of a
193 private area just to be able to come out to the pool. Now, if you look where the
194 lake is, of course that—I mean I can't determine which would be the back side of
195 the pool.
196
197 Mr. Wright - I see.
198
199 Ms. Bourgeois - Because really it's out there exposed on all angles.
200 So you have the lake; you have the fence. However, if I can ask that our
201 representative come forward—
202
203 Mr. Wright - Sure. Yes.
204
205 Ms. Bourgeois - —and help me with this because—
206
207 Mr. Wright - That would be very helpful.
208
209 Ms. Bourgeois - That would be very helpful for me.
210
211 Mr. Wright - And you were sworn. Please state your name for the
212 record.
213
214 Mr. Field - I'm Charles Field. I'm with Obsidian.
215
216 Mr. Wright - All right, sir. Would you tell us a little bit about this
217 pool, where it is.
218

219 Mr. Field - The pool can't be in the backyard because of the
220 utility easement and the lake. And then we needed some room to put in
221 environmental protections for the—you know, try to improve the riparian buffer.
222 So the pool is as close to the backyard as we can put it and also as far away
223 from the public area there on the left to try to provide screening from the public.
224

225 Mr. Wright - What is adjacent to the property there, I guess it
226 would be to the south seeing the arrow there.
227

228 Mr. Field - The south. That's public access to the lake.
229

230 Mr. Wright - Okay. No house there.
231

232 Mr. Field - There's no house. But I guess there are picnics and
233 basically public access to the lake.
234

235 Mr. Wright - Then you have a lot of screening up on the road. I
236 guess that's Persimmon Trek. I see trees and so forth between the road and
237 where the pool would be.
238

239 Mr. Field - That's right, yes.
240

241 Ms. Bourgeois - We have Leyland cypresses, and lots of pine trees,
242 and smaller bushes.
243

244 Mr. Wright - Right.
245

246 Mr. Field - I think in the location it would be nearly invisible to the
247 public to try to avoid the attractive nuisance problems.
248

249 Mr. Wright - Okay, all right. Do you have anything further you want
250 to state? Let's see if any of the Board members have questions.
251

252 Mr. Baka - One question. I know you did a WQIA, a water quality
253 impact assessment to determine the BMP. So can you briefly explain the function
254 of the bioretention basins? And I guess my question is why are they located the
255 way they are. There are three separate ones and they're not contiguous.
256

257 Mr. Field - Right. We're putting the pool in the RPA, which was
258 approved yesterday. As it exists, we have lawn and a roof running off into the
259 lake, which is really sort of the worst case, you know, no riparian buffer
260 whatsoever. So what we're trying to do is kind of go from a worse-case
261 environmental situation to the best case. We are taking the rain gutters from
262 various portions of the roof and piping it over to these basically manmade
263 wetlands. We have native species plants that are designed to provide habitat for
264 wildlife and also to be available over all the seasons. I guess basically what we're

265 trying to do is go from pretty much a worst case environmentally to a best case
266 environmentally. The third small one is on the far side just because there was no
267 room with the utility easement.

268

269 Mr. Baka - Okay.

270

271 Mr. Field - And the other two are just located where it's
272 convenient to run the downspouts.

273

274 Mr. Baka - Thank you.

275

276 Mr. Field - And also for—you want to catch everything, so trying
277 to create a continuous buffer and still allow access to the lake.

278

279 Mr. Wright - All right. Any other questions? Ms. Harris?

280

281 Ms. Harris - Does Lake Loreine have a history of flooding?

282

283 Mr. Field - I don't think so. It has a dam at the end, so any rise in
284 elevation would just cause it to pour over the back.

285

286 Ms. Harris - How close will the pool be to the lake?

287

288 Mr. Field - Well, less than a hundred feet. I guess seventy feet.

289

290 Mr. Blankinship - You can see the fifty-foot line on the plan.

291

292 Mr. Field - The 100-foot line goes right through the corner of the
293 pool there.

294

295 Ms. Harris - We received two landscaping plans. What's the
296 difference? I noticed that one is in color, of course, but other than that, I only see
297 "utility easement" marked off. What's the difference? Are you familiar? We
298 received two landscaping plans.

299

300 Mr. Field - Yes. I think one was a site plan, kind of general site
301 plan for the engineers. The other one was intended to be the smaller scale that
302 the contractors could actually use to build these things with.

303

304 Ms. Harris - We received the site plan, but we also received
305 another landscaping plan. So my question was not about the site plan but the
306 landscaping plan.

307

308 Mr. Field - The only difference would just be the scale.

309

310 Mr. Blankinship - Ms. Harris, I think the biggest change was the fence.

311
312 Mr. Field - Oh, oh, oh. Right, right. Initially we were going to run
313 a fence along the edges of the property line. But there was some confusion with
314 the staff about what was allowed fence-wise. I guess there's a neighbor who has
315 fenced his property by running the fence to the lake and using the lake as one
316 boundary. But code does not specify a lake as a legitimate boundary. So we
317 were thinking we could get the same variance that the neighbors got, but it got
318 kind of muddled and confusing. We didn't want to muddy the waters, so we just
319 went back to putting a fence directly around the pool itself.

320
321 Mr. Blankinship - When you say *staff* there, you mean Building
322 Inspection's staff?

323
324 Mr. Field - Yes. And Christina Goggin has just been amazing
325 and great, you know.

326
327 Mr. Blankinship - They've had a real challenge with this project
328 between Building Inspections, the Planning Commission, and this application.
329 Very convoluted.

330
331 Mr. Field - And then also the environmental guys.

332
333 Mr. Blankinship - Right.

334
335 Mr. Field - The neighbor used the lake as one piece of the fence
336 to protect the pool from the public, and that was our initial thought. But no one
337 could figure out where that variance was or who had granted it or why it had
338 been granted. So we just abandoned that and put up your standard fence around
339 the pool. And you can see on—well not on this one, but the other one that we're
340 calling out specifically that we're going to put in a code-compliant metal fence,
341 you know, IRC—I think it's AG-502 section—to be specifically compliant with the
342 code on that.

343
344 Mr. Wright - Any further questions from members of the Board? Is
345 anyone here in opposition to this request? Hearing none, that concludes the
346 case. Thank you very much for appearing. And we certainly appreciate your
347 patience with this; I know it's been a long time for you to get through this.

348
349 Ms. Bourgeois - Well thank you so much for saying that. Thank you.

350
351 **[After the conclusion of the public hearings, the Board discussed the case**
352 **and made its decision. This portion of the transcript is included here for**
353 **convenience of reference.]**

354
355 Mr. Wright - Do I hear a motion on this case?

356

357 Ms. Harris - I move that this conditional use permit be approved. I
358 don't see it adversely affecting the health, safety, nor welfare of the neighbors or
359 the neighborhood. Plus I feel these applicants have gone through enough in
360 trying to get this approved.

361
362 Mr. Wright - Is there a second?

363
364 Mr. Baka - Second.

365
366 Mr. Wright - Is there any further discussion by members of the
367 Board? All in favor say aye. All opposed say no. The ayes have it; the motion
368 passes.

369
370 After an advertised public hearing and on a motion by Ms. Harris, seconded by
371 Mr. Baka, the Board **approved** application **CUP2013-00034, BRUCE AND**
372 **PAGE BOURGEOIS'** request for a conditional use permit pursuant to Section
373 24-95(i)(4) of the County Code to allow a pool in the side yard at 2316
374 Persimmon Trek (LAKE LOREINE) (Parcel 743-754-0927) zoned One-Family
375 Residence District (R-2A) and Conservation District (C-1) (Three Chopt). The
376 Board approved the conditional use permit subject to the following conditions:

377
378 1. This conditional use permit applies only to the placement of an in-ground
379 swimming pool in the front or side yard as approved by the Planning
380 Commission. All other applicable regulations of the County Code shall remain in
381 force.

382
383 2. This approval is subject to all conditions that may be placed on any RPA
384 exception granted by the Planning Commission. This includes adhering to the
385 site plan prepared by Charles R. Field and dated April 9, 2014, as revised by the
386 Planning Commission on April 23, 2014.

387
388 3. At the time of building permit application, the applicant shall submit the
389 necessary information to the Department of Public Works to ensure compliance
390 with the requirements of the Chesapeake Bay Preservation Act and the code
391 requirements for water quality standards.

392
393 4. All exterior lighting shall be shielded to direct light away from adjacent
394 property and streets.

395
396 5. The swimming pool shall be enclosed by a fence, wall or other means as
397 required by the Building Code.

398
399 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

400 Negative: 0

401 Absent: 0

402

449
450 Mr. Wright - Motion's made. Is there a second?
451
452 Mr. Baka - Second.
453
454 Mr. Wright - Motion's made and seconded. Any discussion?
455
456 Ms. Harris - Yes. This is the case where I mentioned the language
457 was omitted from our condition, the earthworks shall not be disturbed during
458 construction of the dwelling. Remember that the—
459
460 Mr. Wright - That should be in there.
461
462 Ms. Harris - Yes, that should be one of the conditions.
463
464 Mr. Wright - Do you have any problem putting that condition back
465 in that they should not disturb the earthworks?
466
467 Mr. Nunnally - Right.
468
469 Mr. Wright - No problem with that.
470
471 Mr. Nunnally - No problem with it.
472
473 Ms. Harris - Okay.
474
475 Mr. Wright - We should put that one back in.
476
477 Mr. Baka - Okay. Number nine?
478
479 Mr. Nunnally - The people, the owners, they don't seem to have any
480 problem with it.
481
482 Mr. Wright - Well they have to satisfy all of their problems and so
483 forth. If they can comply with these conditions I think it will be all right. Any further
484 discussion by members of the Board? All right. Hearing none, all in favor say
485 aye. All opposed say no. The ayes have it; the motion passes.
486
487 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
488 Mr. Baka, the Board **approved** application **VAR2014-00006, JORDAN**
489 **JEFFERSON's** request for a variance from Section 24-9 of the County Code to
490 build a one-family dwelling at 8844 Varina Rd (Parcel 810-678-4680) zoned
491 Agricultural District (A-1) (Varina). The Board approved the variance subject to
492 the following conditions:
493

494 1. This variance applies only to the 50 foot public street frontage requirement for
495 one dwelling only. All other applicable regulations of the County Code shall
496 remain in force.

497
498 2. Only the improvements shown on the plot plan and building design filed with
499 the application may be constructed pursuant to this approval. Any additional
500 improvements shall comply with the applicable regulations of the County Code.
501 Any substantial changes or additions to the design or location of the
502 improvements will require a new variance.

503
504 3. Approval of this request does not imply that a building permit will be issued.
505 Building permit approval is contingent on Health Department requirements,
506 including, but not limited to, soil evaluation for a septic drain field and reserve
507 area, and approval of a well location.

508
509 4. The applicant shall obtain any required permits from the Corps of Engineers
510 and the Virginia Department of Environmental Quality in the event wetlands are
511 present on the property or along the private access road.

512
513 5. Prior to any clearing or grading for the proposed private access road or at the
514 time of building permit application, whichever comes first, the applicant shall
515 submit a complete grading, drainage, and erosion control plan prepared by a
516 Professional Engineer certified in the state of Virginia to the Department of Public
517 Works for approval. This plan must include the necessary floodplain information
518 if applicable.

519
520 6. The applicant shall present proof with the building permit application that legal
521 access to the property has been obtained.

522
523 7. The applicant shall install a post with the house address at the intersection of
524 their private driveway and the private road as per §R319.1 of the Virginia
525 Residential Code.

526
527 8. Before a certificate of occupancy is approved, the applicant shall construct a
528 continuous, durable gravel or asphalt roadway at least 12 feet wide with 14 feet
529 of overhead clearance to provide access for police, fire, and emergency medical
530 services, and other traffic.

531
532 9. [ADDED] The owner shall preserve the Civil War earthworks on the property.

533
534
535 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
536 Negative: 0
537 Absent: 0
538

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

541
542 **VAR2013-00011** **MELANIE LAPKIN** requests a variance from Section
543 24-95(b)(5) of the County Code to build a one-family dwelling at Lakeside Blvd
544 (LAKESIDE TERRACE) (Parcel 785-751-6588) zoned One-Family Residence
545 District (R-3) (Fairfield). The lot width requirement and total lot area requirement
546 are not met. The applicant proposes 6,000 square feet of lot area and 60 feet of
547 lot width, where the Code requires 8,000 square feet of lot area and 65 feet of lot
548 width. The applicant requests a variance of 2,000 square feet of lot area and 5
549 feet of lot width.

550
551 Mr. Wright - All persons having an interest in this case, whether for
552 or again, please stand and be sworn.

553
554 Mr. Blankinship - Raise your right hand please. Do you swear the
555 testimony you're about to give is the truth and nothing but the truth so help you
556 God?

557
558 Mr. Wright - All right, ma'am, would you come forward and present
559 your case? Please state your name for the record and then present your case.

560
561 Ms. Lapkin - My name is Melanie Lapkin. I'm a realtor with Long
562 and Foster Realtors. I represent the seller in this case. There is a purchaser,
563 Fernando [unintelligible], that wants to purchase this lot on Lakeside Boulevard
564 and build a personal residence for himself. I think he actually filed for the
565 variance, but I represent the seller in this case so it was all done under my name.
566 He hasn't submitted a plan yet, as far as I know, although a man that works with
567 him was going to talk to Miguel, I guess in the Planning Department.

568
569 Basically, it's short a couple thousand square feet of the typical lot out there. But
570 there are many different building plans that would fit on the lot with the new
571 criteria.

572
573 Mr. Wright - Your testimony is that you can build a dwelling on this
574 property which would satisfy all of the County requirements except for the lot
575 area and lot width?

576
577 Ms. Lapkin - Yes sir.

578
579 Mr. Wright - Have you read the conditions proposed for this case?

580
581 Ms. Lapkin - Yes sir.

582
583 Mr. Wright - Are you in accord with the conditions?
584

585 Ms. Lapkin - Yes.
586
587 Mr. Wright - Okay. Now, one thing. Can we bring back the—what
588 we had on the screen? That one. Are there other lots in this area on this street of
589 the same or less square footage?
590
591 Ms. Lapkin - Yes there are. Some have been built on; some not. In
592 fact, there are a couple of vacant lots next to this lot, but the owners of those lots
593 would not sell their lots. We were trying to get it, you know, to fit in with the
594 guidelines but—
595
596 Mr. Wright - So you tried to acquire adjacent property with no
597 success?
598
599 Ms. Lapkin - Yes sir.
600
601 Mr. Baka - Which address numbers are those, ma'am?
602
603 Ms. Lapkin - 803 is the owner of those other lots, the 805, 807,
604 809. They're very small lots.
605
606 Mr. Baka - Okay.
607
608 Ms. Lapkin - They were twenty-foot lots that people bought.
609
610 Mr. Wright - It seems like if you were able to acquire 809, it looks
611 like to me that would cause 807 and 805 not to comply with the area
612 requirements.
613
614 Mr. Baka - Correct.
615
616 Mr. Wright - So you'd be in a double dilemma there. I can see why
617 they wouldn't want to—
618
619 Mr. Blankinship - Those three lots are also very steep—805, 807, and
620 809. They're all kind of on a steep slope. So they probably need the extra space
621 more than this lot.
622
623 Ms. Lapkin - Yes, because this lot's fairly level.
624
625 Mr. Wright - All right. Anything further that you'd like to present to
626 the Board?
627
628 Ms. Lapkin - No sir. I just think it would be a great location. It's so
629 hard to find lots for folks to build on. The young man that wants to buy it works for
630 a building company and would like to construct a home for himself and his family.

631
632 Mr. Wright - All right. Are there any questions from members of the
633 Board?

634
635 Mr. Blankinship - Mr. Chairman, I have one question, and the applicant
636 may not know this—or the representative may not know the answer to this. When
637 I was doing the research on this case, I found that the lots that are now 813
638 Lakeside Boulevard—there are five or six lots consolidated with that tax record.
639 And the last one of those, the one adjacent to the subject property, was just
640 added in 1996. And it was acquired through a tax delinquency. Do you know any
641 more about what happened at that time and why that lot was added to 813
642 rather—because if that lot had stayed with this property, this property would
643 comply; it would be eighty feet wide. Do you know any more about that?

644
645 Ms. Lapkin - I'm sorry, I don't. I guess—it was owned by the seller?

646
647 Mr. Blankinship - It was, yes.

648
649 Ms. Lapkin - I really don't know; I'm sorry. She's living down in
650 Atlanta now; she's eighty-five years old. And unfortunately I don't have any
651 information. I wasn't aware of that.

652
653 Mr. Blankinship - And this is another one; you see it's a 2013 case
654 number. They've have a lot of back-and-forth trying to get the ownership of the
655 lots to convince the County attorney's office of who owned which lots.

656
657 Ms. Lapkin - Correct. I know. It was a long and arduous process.

658
659 Mr. Blankinship - Had a little bit more than the usual effort.

660
661 Mr. Wright - Any questions from members of the Board?

662
663 Mr. Bell - Just a comment in answer to the one question you
664 had. There do not appear to be any lots that have houses built on them with the
665 same dimensions as her lot on Lakeside Boulevard, but on the street behind it
666 we do have what appears to be houses on lots 802 and 806 that are very similar
667 in size. And that's one street behind them.

668
669 Ms. Lapkin - Yes sir. And I think lot 722 also is a smaller lot. I'm not
670 sure if it's sixty or sixty-five feet, but 722 on Lakeside Boulevard. And also the
671 buyer of the lot is going to have to run a sewer line because there's no sewer.
672 There is water in front of the lot, the subject lot, but no sewer. So he's going to
673 run sewer to it.

674
675 Mr. Wright - To connect to public sewage

676

677 Ms. Lapkin - Yes, sir.
678
679 Mr. Wright - Yes. Any other questions?
680
681 Ms. Harris - Yes. There's a newly constructed house on Lakeside
682 Boulevard. I drove by there yesterday. Do you know if that's 805 or 803?
683
684 Mr. Blankinship - 803.
685
686 Ms. Lapkin - I'm guessing it's 803.
687
688 Ms. Harris - Okay. Do you know what size lot that is, the width of
689 that?
690
691 Ms. Lapkin - It looks wider. It's looking like maybe it's eighty feet,
692 but I'm not sure.
693
694 Mr. Blankinship - I believe it is eighty.
695
696 Mr. Baka - Could be eighty.
697
698 Ms. Harris - Okay. Now your lot that you're representing this
699 morning, do you know how deep that lot is? I know we said—we say in the report
700 that there is some steep—there are some drop-offs in that back of that lot.
701
702 Ms. Lapkin - It's 100 feet.
703
704 Ms. Harris - Do you know how much is level?
705
706 Ms. Lapkin - I don't.
707
708 Ms. Harris - It was difficult to determine. I drove around to the
709 section behind that on Sibley, and it was difficult to tell because of their fence.
710 They seem to have a short—a small rear yard too. But they have a fence there
711 and it's difficult to see how deep that lot is that we're addressing this morning.
712 But I believe those are the questions that I have.
713
714 Mr. Wright - Okay. Any further questions from members of the
715 Board? Anyone here in opposition to this request? Hearing none, that concludes
716 that case. Thank you very much for appearing.
717
718 Ms. Lapkin - Thank you.
719
720 **[After the conclusion of the public hearings, the Board discussed the case**
721 **and made its decision. This portion of the transcript is included here for**
722 **convenience of reference.]**

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

Ms. Harris - I move that this variance be approved. This lot would be absolutely unusable or unbuildable without this variance. So my motion is that we do approve this. Plus we do have new construction in and around the communities, up-and-coming new construction that shows us that this can be done, it's a viable option here.

Mr. Wright - All right. Is there a second to this?

Mr. Bell - Second the motion.

Mr. Wright - Motion is 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 **VAR2013-00011, MELANIE LAPKIN's** request for a variance from Section 24-95(b)(5) of the County Code to build a one-family dwelling at Lakeside Blvd (LAKESIDE TERRACE) (Parcel 785-751-6588) zoned One-Family Residence District (R-3) (Fairfield). The lot width requirement and total lot area requirement are not met. The Board approved the variance subject to the following conditions:

1. This variance applies only to the total lot area and lot width requirements for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. Any dwelling to be constructed on the property shall be served by public water and sewer.
3. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.

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

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

769 **CUP2014-00014** **MICHAEL P. GRIM** requests a conditional use permit
770 pursuant to Section 24-12(e) of the County Code to allow a noncommercial
771 kennel at 9211 Venetian Way (WESTMOOR) (Parcel 749-742-0044) zoned One-
772 Family Residence District (R-2A) (Tuckahoe).

773

774 Mr. Wright - All persons having an interest in this case, whether
775 you're for or against, please stand and be sworn.

776

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

780

781 Mr. Grim - I do.

782

783 Mr. Wright - All right, thank you. Would the applicant please come
784 forward and present your case.

785

786 Mr. Grim - Good morning.

787

788 Mr. Wright - Please state your name for the record.

789

790 Mr. Grim - Michael Grim.

791

792 Mr. Wright - All right, sir.

793

794 Mr. Grim - Yes. Lynn West and I recently merged families. Lynn
795 had two rescue dogs before we merged families, and I had two golden retrievers
796 and a cat. The two rescue dogs weigh under fifteen pounds each. My male
797 golden retriever weighs about eighty-five pounds, the female about sixty-five
798 pounds. The male dog is about seven years old; the female is now about a year
799 old. All the females have been spade. We spent a considerable amount of money
800 enclosing the rear yard with what looks like a wrought iron fence, but it's actually
801 aluminum put in by Minor's Fencing. And we agree to all the conditions that the
802 staff has recommended.

803

804 Mr. Wright - Do you agree to all the conditions?

805

806 Mr. Grim - Yes sir.

807

808 Mr. Wright - How are these animals maintained—inside, outside?

809

810 Mr. Grim - Inside. The only time they go outside is with
811 supervision. And the cat never goes out.

812

813 Mr. Wright - The cat stays in all the time.

814

815 Mr. Grim - Yes sir.
816
817 Mr. Wright - And the dogs are maintained inside the dwelling?
818
819 Mr. Grim - Yes sir. Yes sir.
820
821 Mr. Wright - Well, are they there all day by themselves or are you
822 there or how does that work?
823
824 Mr. Grim - Our jobs allow us to come and go at irregular times.
825
826 Mr. Wright - Have you had any complaints or are any of the
827 neighbors concerned?
828
829 Mr. Grim - Just questions from neighbors about why we were
830 applying for this. Neither neighbor knew the ruling about the plus-three animals.
831
832 Mr. Wright - One thing that really concerns people is when they
833 see the word *kennel*.
834
835 Mr. Grim - That's the County's problem.
836
837 Mr. Wright - Unfortunately, there's no way to address this by the
838 County except to call it a non-commercial kennel. And people are thinking you're
839 going to build these things and have dogs coming and going and all kinds of
840 things like that. This is the only way we can address it.
841
842 Mr. Grim - Sure.
843
844 Mr. Wright - Because you know you can only have three animals
845 without getting this.
846
847 Mr. Grim - Yes sir. We got ahead of being fined or being brought
848 before—shortly after I moved into that dwelling, I came and met with Planning
849 and paid the \$450 to appear before the Board today.
850
851 Mr. Wright - Well we certainly appreciate that. I know a lot of
852 people around the County that haven't done that. Do the dogs bark very much?
853
854 Mr. Grim - No. They do bark, but somebody's out there quieting
855 them.
856
857 Mr. Wright - All right. Do you have anything further to state?
858
859 Mr. Grim - No sir.
860

861 Mr. Wright - All right. And you've already said you agree with the
862 conditions.
863
864 Mr. Grim - Yes sir.
865
866 Mr. Wright - Any questions from members of the Board?
867
868 Mr. Bell - Real quickly. Clean up after them when they're
869 outside, is that done on a—
870
871 Mr. Grim - Twice a week. I don't want to smell it either.
872
873 Mr. Wright - Any other questions?
874
875 Ms. Harris - Yes. What are the ages of the animals?
876
877 Mr. Grim - The male golden retriever is about seven. The female
878 just turned a year. One of Lynn's dogs is about seven also, and the other one's
879 about two.
880
881 Ms. Harris - Okay.
882
883 Mr. Bell - What about the cat? How old is the cat?
884
885 Mr. Grim - The cat is seven.
886
887 Mr. Wright - Now you understand—and you've said you agree to
888 the conditions—that you can't add any more cats or dogs or bring them in as long
889 as you have more than three?
890
891 Mr. Grim - I understand that, yes sir.
892
893 Mr. Wright - And so if something happens to these attrition will
894 bring them down to three?
895
896 Mr. Grim - Yes sir.
897
898 Mr. Wright - No other questions?
899
900 Ms. Harris - Yes. Condition #4, he did say he accepted all of the
901 conditions.
902
903 Mr. Wright - Yes he did.
904
905 Ms. Harris - Okay. But I was wondering if we had a problem. Have
906 we had any complaints about odors?

907
908 Mr. Blankinship - No, not any complaints. We did have a phone call
909 from—well, phone calls from each of the neighbors on the two adjacent sides.
910 One of them specifically requested that wording be in the condition. Staff didn't
911 have any difficulty with it. It didn't seem to be excessive. In fact, we assumed that
912 the cleanup would take place more often than that.
913
914 Mr. Grim - Yes, two weeks would be way too long.
915
916 Mr. Wright - He's already testified he does it twice a week.
917
918 Ms. Harris - So you want this condition changed then?
919
920 Mr. Blankinship - No, no. We were just going to leave it as it is.
921
922 Ms. Harris - Oh, okay.
923
924 Mr. Blankinship - If the case got extreme then we would be able to
925 enforce it.
926
927 Ms. Harris - Okay. Your yard is completely fenced in?
928
929 Mr. Grim - Yes ma'am. You can see up there in the picture.
930
931 Ms. Harris - Yes. I saw the sides, but I wondered if it was
932 completely fenced in.
933
934 Mr. Grim - Yes ma'am.
935
936 Ms. Harris - Okay, thank you.
937
938 Mr. Blankinship - It doesn't follow as shown on the plan. As you see in
939 the photograph here it goes from the near corner of the house to the near corner
940 of—or just inside the near corner of this accessory building on this side. And you
941 can see on the far side the fence is inside, you know between where you're
942 standing and the accessory structure on the other side. The drawing shows it
943 going all the way around the property lines, and that's inaccurate.
944
945 Mr. Grim - Long before I got there. You can sort of see that
946 there's a chain link fence up next to the lake that was put in some time ago
947 apparently to keep the geese out.
948
949 Mr. Blankinship - Oh, okay. It does completely enclose that area that's
950 shown.
951
952 Ms. Harris - Okay.

953
954 Mr. Wright - Any other questions from members of the Board?
955
956 Mr. Grim - There are two gates and they're key locked.
957
958 Mr. Wright - Any other questions? Is there anyone here in
959 opposition to this request?
960
961 Ms. Curry - [Off microphone.] just wanted to state—
962
963 Mr. Wright - Please, this is all being recorded and we have to have
964 you come down to the rostrum and identify yourself, please ma'am.
965
966 Ms. Curry - Good morning. I'm a neighbor, Marcella Curry.
967
968 Mr. Wright - What's your name for the record please?
969
970 Ms. Curry - Marcella Curry—C-u-r-r-y. I just want you to know that
971 he's been really good about the animals. I really appreciate that. This is the first
972 time I've talked in front of people. As long as he complies to the requirements,
973 I'm fine with it.
974
975 Mr. Wright - Yes ma'am. And the County will see to that.
976
977 Ms. Curry - Okay. But he's been really good about it, so I have no
978 complaints.
979
980 Mr. Wright - Thank you, ma'am.
981
982 Mr. Bell - Thank you.
983
984 Mr. Wright - Appreciate your appearance. Anyone else desire to
985 speak? Hearing none, that concludes the case, unless you want any rebuttal,
986 which I don't there would be.
987
988 Mr. Grim - I don't gild the lily.
989
990 Mr. Wright - Thank you very much for appearing.
991
992 **[After the conclusion of the public hearings, the Board discussed the case**
993 **and made its decision. This portion of the transcript is included here for**
994 **convenience of reference.]**
995
996 Mr. Wright - Do I hear a motion on this case?
997

998 Mr. Baka - Mr. Chairman, I make a motion we approve
999 CUP2014-00014, with the four conditions as presented, and that this will not
1000 adversely impact any of the neighborhood or surrounding properties. And also
1001 we heard comments and testimony from the applicant that he intends to keep the
1002 property even more clean than as stated by the conditions. So I think we're
1003 satisfied with that. So I make a motion we approve it.

1004
1005 Mr. Wright - Is there a second to that motion?
1006

1007 Mr. Nunnally - Second.
1008

1009 Mr. Wright - Motion is made and seconded. Is there any
1010 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes
1011 have it; the motion passes.
1012

1013 After an advertised public hearing and on a motion by Mr. Baka, seconded by
1014 Mr. Nunnally, the Board **approved** application **CUP2014-00014, MICHAEL P.**
1015 **GRIM's** request for a conditional use permit pursuant to Section 24-12(e) of the
1016 County Code to allow a noncommercial kennel at 9211 Venetian Way
1017 (WESTMOOR) (Parcel 749-742-0044) zoned One-Family Residence District (R-
1018 2A) (Tuckahoe). The Board approved the conditional use permit subject to the
1019 following conditions:
1020

1021 1. This conditional use permit only applies to the keeping of pets owned by the
1022 occupants of the property. All other applicable regulations of the County Code
1023 shall remain in force.
1024

1025 2. The fence on the property at the time of application shall be maintained in
1026 good repair. Any additional improvements shall comply with the applicable
1027 regulations of the County Code. Any substantial changes or additions to the
1028 design or location of the improvements shall require a new conditional use
1029 permit.
1030

1031 3. This approval is only for the four dogs and one cat owned by the occupants of
1032 the property. The approval is not for the boarding or breeding of dogs at any
1033 time. No new or replacement animals may be added, so that the number of
1034 animals will be reduced by natural means to three, as allowed in a residential
1035 district. This permit is not transferable.
1036

1037 4. The applicant shall maintain the property so that noise and odors are
1038 controlled. All waste shall be removed from the property at least once every two
1039 weeks.
1040

1041 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1042 Negative: 0
1043 Absent: 0

1044

1045

1046

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

1047

1048

1049

Mr. Blankinship - Mr. Chairman, the last four cases are all companion, so I would suggest that we have one public hearing. But when it comes time to vote, of course, we will need motions and votes on each of the four cases separately.

1050

1051

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1054

CUP2014-00015 KROGER COMPANY requests a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to hold a special event at 11895 W Broad St (Parcel 735-762-9743) zoned Business District (B-2C) and West Broad Street Overlay (WBSO) (Three Chopt).

1055

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1059

CUP2014-00016 KROGER COMPANY requests a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to hold a special event at 1510 Eastridge Rd (Parcel 754-744-6868) zoned Business District (B-2C) and Office District (O-2) (Three Chopt).

1060

1061

1062

1063

1064

CUP2014-00017 KROGER COMPANY requests a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to hold a special event at 9480 W Broad St (Parcel 756-758-4127) zoned Business District (B-2) (Brookland).

1065

1066

1067

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1069

CUP2014-00018 KROGER COMPANY requests a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to hold a special event at 4816 S Laburnum Ave (LABURNUM SQUARE) (Parcel 815-714-7661) zoned Business District (B-2) and Business District (B-3) (Varina).

1070

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1074

Mr. Wright - All persons having an interest in these cases, whether for or against, please stand and be sworn.

1075

1076

1077

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

1078

1079

1080

Mr. Wright - All right. Will the applicant please come forward to the rostrum and present the cases.

1081

1082

1083

Mr. Rich - It's good to see you all again. My name is Dave Rich—R-i-c-h. I am representing the Kroger Company. I work for a marketing company in Charlotte, North Carolina, that handles a large part of Kroger's promotional events. And every spring and fall we come to Richmond, the Mid-Atlantic Division of Kroger, and we put on NASCAR events. And we bring out show cars, tire-changing units. We do a lot of sampling. We have multiple brands in the program. And we take up approximately—it varies between forty-five and

1084

1085

1086

1087

1088

1089

1090 sixty parking spots this year at each location I believe. It varies between ten and
1091 fifteen thousand depending on the given location. But last year we did four
1092 events per week. This year we've expanded and we do eight per week. So you'll
1093 notice we have more in Henrico County this year, so that's why I'm here today.
1094

1095 Mr. Wright - I take it two of these were conducted and approved by
1096 this Board last year. Is that correct?
1097

1098 Mr. Rich - That's correct.
1099

1100 Mr. Wright - Which two were they?
1101

1102 Mr. Rich - I believe it was West Broad Street and the
1103 Laburnum—4816 South Laburnum and then 9480 West Broad Street.
1104

1105 Mr. Blankinship - That's correct.
1106

1107 Mr. Rich - Yes.
1108

1109 Mr. Wright - And did you have any complaints as a result of those
1110 operations, those two operations?
1111

1112 Mr. Rich - No sir.
1113

1114 Mr. Wright - And is this—what you propose to do this year is the
1115 same as what you did last year.
1116

1117 Mr. Rich - Correct. Last year we did one large event at a store
1118 each day, and we've scaled it down. We're doing two separate locations each
1119 day. So the size of the area is a lot smaller, but all the efforts are the same.
1120

1121 Mr. Wright - So you have reduced the size by what, half?
1122

1123 Mr. Rich - Correct.
1124

1125 Mr. Wright - This year it will be smaller—that much smaller than
1126 last year.
1127

1128 Mr. Rich - Yes sir.
1129

1130 Mr. Wright - For the record, tell us a little bit about what you do at
1131 this event.
1132

1133 Mr. Rich - Sure. Whenever there is a NASCAR/Sprint Cup
1134 series race in a given Kroger market, we partner with all of these different brands
1135 you'll see on this layout—Tabasco, ConAgra, Seattle's Best, Hefty. All of those

1136 brands receive merchandising support, which is almost a separate part of this
1137 program that we do. They get in-store incremental support there for their product.
1138 And then in terms of marketing and promotions, when there is a race we tie it in
1139 with these events out in their parking lots. So there is a race this weekend here in
1140 Richmond. We promote this event in the store. We send a bunch of marketing
1141 elements to the division. And it's just a good community event. Bring people out
1142 and get them excited for the race. And then we do a lot of sampling and
1143 couponing. So there's a lot of incentive there for the brands, a lot of coupon
1144 redemption. So it's beneficial for them as well.

1145

1146 Mr. Wright - What do these represent?

1147

1148 Mr. Rich - These represent the different exhibits—we call them
1149 exhibits now. They vary depending on what they are. The Hefty show car has an
1150 actual NASCAR car and a racing simulator that is almost like a video game. And
1151 then behind it that hauler is what transports those elements. The Seattle's Best
1152 coffee bar is pretty self-explanatory. We sample coffee.

1153

1154 Mr. Wright - So they have tables or something?

1155

1156 Mr. Rich - Correct. All of the blue boxes fall under a 10-by-10
1157 canopy tent, which is not staked to the ground; it's sandbagged. And it's open on
1158 all sides. All of these tents and exhibits are temporary. They're either all on
1159 wheels that we wheel on and off of the hauler each time, or we lift it up and take
1160 it down. But nothing is staked or permanent at all.

1161

1162 Mr. Wright - Is the fire truck a County truck?

1163

1164 Mr. Rich - Correct. For every event—we're doing 220 of these
1165 this year. For every event, we reach out to each city and we secure a fire truck
1166 just for—we call it a show-and-tell. It's for kids so they can take interest—

1167

1168 Mr. Wright - The kids climb all over it.

1169

1170 Mr. Rich - Correct. And we put them on the perimeter so if
1171 there's an emergency they can leave. And we secure one officer to help with
1172 traffic control and just safety, just for a presence there.

1173

1174 Mr. Wright - Has that worked?

1175

1176 Mr. Rich - It's worked.

1177

1178 Mr. Wright - Is one officer sufficient to control the traffic?

1179

1180 Mr. Rich - Yes. For the size of this event one officer is perfect.

1181

1182 Mr. Wright - And what is the police car? Is that a County car or?
1183
1184 Mr. Rich - Yes. That is the officer that we've secured, and we
1185 request they bring their squad car and just part it in our even layout.
1186
1187 Mr. Wright - Let the kids go through that too?
1188
1189 Mr. Rich - Yes. They'll turn the lights on. They'll show them the
1190 trunk, all their gadgets and everything.
1191
1192 Mr. Wright - Have you read all of the conditions proposed for these
1193 cases?
1194
1195 Mr. Rich - Yes sir.
1196
1197 Mr. Wright - And are you in accord with all of the conditions?
1198
1199 Mr. Rich - Yes.
1200
1201 Mr. Wright - You'll notice there are numerous conditions.
1202
1203 Mr. Rich - Yes. None of them are unfamiliar. I know we—
1204
1205 Mr. Wright - You went through this drill last year.
1206
1207 Mr. Rich - We have. I wanted to confirm at least on one of the
1208 conditions, the restrooms—we've done this the last three years—is that we have
1209 one male, one female, and one handicap. Is that what you recommend?
1210
1211 Mr. Blankinship - That's a building code requirement.
1212
1213 Mr. Rich - Okay.
1214
1215 Mr. Blankinship - Whatever complies with that.
1216
1217 Mr. Rich - Okay.
1218
1219 Mr. Wright - And of course you have attached to the staff's
1220 conditions the Division of Fire questions.
1221
1222 Mr. Rich - Yes, correct.
1223
1224 Mr. Wright - Also the Community Services Unit from the Division of
1225 Police. So all of these you're familiar with.
1226
1227 Mr. Rich - Correct.

1228
1229 Mr. Nunnally - Do you have any racecar drivers out there?
1230
1231 Mr. Rich - We do our best with the many events we do. It
1232 depends. It has to be a really large market. Kroger is based out of Cincinnati, so
1233 we try to—whenever we do get a driver, they're hard to come by, so we try and
1234 get them more so in that market versus this Virginia area just because we have a
1235 lot of high-level Kroger personnel who touch this program and we want them to
1236 see us.
1237
1238 Mr. Nunnally - How many years has this been going on around
1239 here?
1240
1241 Mr. Rich - This will be the third year.
1242
1243 Mr. Nunnally - Have we had any complaints?
1244
1245 Mr. Blankinship - No sir, we haven't had any problems.
1246
1247 Mr. Wright - I'll just make a comment on the one on Eastridge
1248 Road. I went by there yesterday. You were wise to put that in behind the store.
1249 There's no way you could have had that in front of the store; that place was
1250 packed.
1251
1252 Mr. Rich - Right. This is a new location, so I was not able to
1253 physically be there and look at that.
1254
1255 Mr. Wright - I think the location you have would do well because I
1256 don't think many people want to park way back behind the store and walk around
1257 to the front.
1258
1259 Mr. Blankinship - And we're hoping they'll still have the visibility they
1260 need from the side street and then the other shopping center.
1261
1262 Mr. Rich - I know that was recommended. We were feeling that
1263 it might be a little disconnected to not be right out front, but we understand your
1264 request so we'll adhere to that.
1265
1266 Mr. Wright - Is there anything further you wish to present to the
1267 Board?
1268
1269 Mr. Rich - No sir.
1270
1271 Mr. Wright - Are there any questions from the Board?
1272

1273 Ms. Harris - So these are for different dates. You have two for
1274 September and two for April? Is that correct?
1275
1276 Mr. Rich - Yes. I believe that is correct. There is three and two.
1277
1278 Ms. Harris - One is April the 26th.
1279
1280 Mr. Baka - Laburnum and Ridge are in April.
1281
1282 Mr. Rich - The last two years that we've done these events, all
1283 of our Henrico County locations were always in the fall. And with the extra
1284 events—I mean last year we did sixty total throughout the year. We're doing 220.
1285 Working our way through up to this week, I don't want to say we almost ran out of
1286 time. But didn't realize it and it kind of snuck up on us, and we had Henrico
1287 County events in April, which we weren't prepared for necessarily. But yes, they
1288 are this week.
1289
1290 Mr. Blankinship - In April they will be at Ridge—I'm sorry—Eastridge,
1291 9480 West Broad Street, and South Laburnum. And then in September they will
1292 be at the 11895 West Broad Street, Eastridge, and Laburnum.
1293
1294 Mr. Wright - All right. Any further questions?
1295
1296 Ms. Harris - Yes. One starts tomorrow, right, the twenty-fifth?
1297
1298 Mr. Rich - I'm sorry?
1299
1300 Ms. Harris - One is for April the 25th.
1301
1302 Mr. Rich - Yes ma'am. And if the Board does not approve, our
1303 plan is to have a condensed event inside the actual store so that it's not outside.
1304
1305 Mr. Blankinship - Do you already have your permits working through
1306 the system?
1307
1308 Mr. Rich - Yes sir.
1309
1310 Mr. Blankinship - We contacted them a couple of weeks ago and
1311 suggested they begin that process.
1312
1313 Ms. Harris - Okay.
1314
1315 Mr. Wright - I've found in dealing with Kroger, in my observation
1316 Kroger is very efficient with what they do. Everything is well planned. Any other
1317 questions from members of the Board?
1318

1319 Ms. Harris - I hate to belabor the fact, but one is in September,
1320 right?

1321
1322 Mr. Blankinship - Three. It's a little confusing the way it was presented
1323 because they submitted separate applications for each store and each date. We
1324 consolidated them by location. So if you look in your packet, say case #17, you
1325 have an application with the dates April 26. And then you turn the page and you
1326 have an application September the 3rd. And the same thing is true for case #18
1327 where there's an application for April 25th, and then the next page is an
1328 application for September the 4th. So there will be three in April and three in
1329 September, but not all at the same location.

1330
1331 Mr. Wright - Any further questions from members of the Board? Is
1332 anyone here in opposition to this request? Hearing none, that concludes the
1333 case. Thank you very much for appearing.

1334
1335 Mr. Rich - Thank you very much.

1336
1337 **[After the conclusion of the public hearings, the Board discussed the cases**
1338 **and made its decisions. This portion of the transcript is included here for**
1339 **convenience of reference.]**

1340
1341 Mr. Wright - CUP2014-00015. Do I hear a motion on that case?

1342
1343 Mr. Baka - Mr. Chairman, I make a motion we approve
1344 CUP2014-00015 as presented with its twenty conditions. That's a temporary one-
1345 day community event, and it will not adversely impact the neighborhood.

1346
1347 Mr. Wright - All right. Is there a second to that motion?

1348
1349 Ms. Harris - Second.

1350
1351 Mr. Wright - Motion made and seconded. Is there any discussion?
1352 Hearing one, all in favor say aye. All opposed say no. The ayes have it; the
1353 motion passes.

1354
1355 After an advertised public hearing and on a motion by Mr. Baka, seconded by
1356 Ms. Harris, the Board **approved** application **CUP2014-00015, KROGER**
1357 **COMPANY's** request for a conditional use permit pursuant to Section 24-
1358 116(c)(1) of the County Code to hold a special event at 11895 W Broad St
1359 (Parcel 735-762-9743) zoned Business District (B-2C) and West Broad Street
1360 Overlay (WBSO) (Three Chopt). The Board approved the temporary conditional
1361 use permit subject to the following conditions:

1362
1363 1. This conditional use permit is for the approval of a one-day temporary outdoor
1364 event to be held on Friday, September 5, 2014.

1365

1366

2. The outdoor event shall be limited to the following time: 8:00 am to 8:00 pm and incorporates set-up, event, and breakdown periods within this time frame.

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3. The event footprint shall occupy the southeastern portion of Kroger's parking lot, as shown on the accompanying aerial map.

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4. Only the temporary improvements shown on the layout plan filed with the application may be erected pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code or as specified in the conditions of approval.

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5. The applicant shall clearly delineate the perimeter (footprint) of the event area with traffic cones and shall install traffic barriers at affected parking drive aisle entrances to block vehicular traffic from entering the event area. Main traffic drive aisles (providing general internal traffic circulation) leading in or out of the shopping center shall be kept free and clear of equipment, vehicles, and obstacles associated with the event. Fire lanes shall be maintained in accordance with the Fire Prevention Code. Access to on-site fire hydrants and fire department connections shall not be impaired.

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6. Temporary tents shall maintain a 10 foot setback from property lines and buildings. Temporary tents shall not be enclosed (with tarps or fabric) and generators shall not be placed underneath tents.

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7. The applicant shall obtain all necessary building permits for items including but not limited to tents (in excess of 900 square feet), elevated stages, mechanical amusement devices, electrical generators and electrical connections to be used during the event.

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8. The applicant shall request building permits no later than two weeks prior to the event and shall schedule required inspections no later than 10:00 am on the day of the event.

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9. The applicant shall provide adequate restroom facilities and hand wash stations as required by the Building Inspections Department or Department of Health.

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10. Emergency preparedness and safety procedures shall be developed in accordance with the written requirements of the Division of Fire - see attached memo dated April 11, 2014.

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11. On-site landscaping planters shall be kept free and clear of equipment and displays. All approved 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.

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- 1411
 1412 12. The applicant shall maintain the property so that debris is controlled during
 1413 the event. Adequate trash receptacles shall be provided throughout the site
 1414 during the event.
 1415
 1416 13. The sale of alcoholic beverages shall be prohibited at the event.
 1417
 1418 14. The applicant shall prohibit loitering on the property.
 1419
 1420 15. On-site security measures shall satisfy the Division of Police written
 1421 requirements - see attached memo dated April 11, 2014.
 1422
 1423 16. Tractor trailers associated with the promotional event shall be parked at the
 1424 rear of the grocery store.
 1425
 1426 17. Speakers for amplified sound and music shall be directed toward the main
 1427 event in order to limit its impact on adjoining businesses and/or residential
 1428 neighborhoods and shall not exceed 65 db at the property line.
 1429
 1430 18. The use of pennants, flags, and banners, generally defined in the zoning
 1431 ordinance as "attention getting devices" as per §24-3 are prohibited as per item
 1432 14 (h) in the adopted proffers delineated in rezoning case C-65C-07.
 1433
 1434 19. Open storage of wooden or plastic pallets, milk crates, soda crates, metal
 1435 carts, and cardboard is prohibited as per §24-61(f). The property owner shall
 1436 remove or store these items within the store. Metal storage (shipping) containers
 1437 used for long term storage are prohibited. All of these items shall be addressed
 1438 no later than 30 days from the approval of this permit.
 1439
 1440 20. Refuse containers and cooking grease/oil containers shall comply with the
 1441 location and screening requirements of §24-61(i). These items shall be
 1442 addressed by the property owner no later than 30 days from the approval of this
 1443 permit.

1444
 1445
 1446 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
 1447 Negative: 0
 1448 Absent: 0

1449
 1450
 1451 Mr. Wright - CUP2014-00016. Do I hear a motion on this case?
 1452

1453 Ms. Harris - Mr. Chairman, I move that this conditional use permit
 1454 be granted. In accordance with the other Kroger stores, we have not had any
 1455 complaints. I feel that this will not adversely affect the health, safety, or welfare of
 1456 the community.

1457

1458

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

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1460

Mr. Baka - Second.

1461

1462

Mr. Wright - Motion is made and seconded. Any discussion?

1463

Hearing none, all in favor say aye. All opposed say no. The ayes have it; the motion passes.

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After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Baka, the Board **approved** application **CUP2014-00016, KROGER COMPANY's** request for a conditional use permit pursuant to Section 24-116(c)(1) of the County Code to hold a special event at 1510 Eastridge Rd (Parcel 754-744-6868) zoned Business District (B-2C) and Office District (O-2) (Three Chopt). The Board approved the temporary conditional use permit subject to the following conditions:

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1. The event shall be located in the two parking lots located behind (to the north) of the Kroger store. It shall not take place in the front parking lot facing Eastridge Road.

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2. This conditional use permit is for the approval of a one-day temporary outdoor event to be held on Saturday, April 26, 2014.

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3. The outdoor events shall be limited to the following time: 8:00 am to 8:00 pm and incorporates set-up, event, and breakdown periods within this time frame.

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4. Only the temporary improvements shown on the layout plan filed with the application may be erected pursuant to this approval with the exception that the event shall be located in the rear overflow parking lots. Any additional improvements shall comply with the applicable regulations of the County Code or as specified in the conditions of approval.

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5. The applicant shall clearly delineate the perimeter (footprint) of the event area with traffic cones and shall install traffic barriers at entrances to block vehicular traffic from entering the event area. Main traffic drive aisles (providing general internal traffic circulation) leading in or out of the shopping center shall be kept free and clear of equipment, vehicles, and obstacles associated with the event. Fire lanes shall be maintained in accordance with the Fire Prevention Code. Access to on-site fire hydrants and fire department connections shall not be impaired.

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1500

6. Temporary tents shall maintain a 10 foot setback from property lines and buildings. Temporary tents shall not be enclosed (with tarps or fabric) and generators shall not be placed underneath tents.

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- 1503
1504 7. The applicant shall obtain all necessary building permits for items
1505 including but not limited to tents (in excess of 900 square feet), elevated stages,
1506 mechanical amusement devices, electrical generators and electrical connections
1507 to be used during the event.
1508
- 1509 8. The applicant shall request building permits no later than two weeks prior
1510 to the event and shall schedule required inspections no later than 10:00 am on
1511 the day of the event.
1512
- 1513 9. The applicant shall provide adequate restroom facilities and hand wash
1514 stations as required by the Building Inspections Department or Department of
1515 Health.
1516
- 1517 10. Emergency preparedness procedures shall be developed in accordance
1518 with the written requirements of the Division of Fire (see attached memo).
1519
- 1520 11. On-site landscaping shall be kept free and clear of equipment and
1521 displays. All approved landscaping shall be maintained in a healthy condition at
1522 all times. Dead plant materials shall be removed within a reasonable time and
1523 replaced during the normal planting season.
1524
- 1525 12. The applicant shall maintain the property so that debris is controlled during
1526 the event. Adequate trash receptacles shall be provided throughout the site
1527 during the event.
1528
- 1529 13. The sale of alcoholic beverages shall be prohibited at the event.
1530
- 1531 14. The applicant shall prohibit loitering on the property.
1532
- 1533 15. On-site security measures shall satisfy the Division of Police written
1534 requirements (see attached memo).
1535
- 1536 16. Tractor trailers associated with the promotional event shall also be kept to
1537 the rear of the Kroger store.
1538
- 1539 17. Speakers for amplified sound and music shall be directed toward the main
1540 event in order to limit its impact on adjoining businesses and/or residential
1541 neighborhoods and shall not exceed 65 db at the property line.
1542
- 1543 18. Open storage of wooden or plastic pallets, milk crates, soda crates, metal
1544 carts, and card board is prohibited as per §24-61(f). The property owner shall
1545 remove or store these items within the store. Metal storage (shipping) containers
1546 used for long term storage are prohibited. All of these items shall be addressed
1547 no later than 30 days from the approval of this permit.
1548

1549 19. Refuse containers and cooking grease/oil containers shall comply with the
1550 location and screening requirements of §24-61(i). These items shall be
1551 addressed by the property owner no later than 30 days from the approval of this
1552 permit.
1553

1554
1555 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1556 Negative: 0
1557 Absent: 0
1558

1559
1560 Mr. Wright - CUP2014-00017. Do I hear a motion on this case?
1561

1562 Mr. Bell - I move that we approve this case. I do not believe that
1563 this one-day event will affect the safety or welfare of the community. I feel that it
1564 should be approved.
1565

1566 Mr. Wright - All right. Is there a second?
1567

1568 Mr. Baka - Second.
1569

1570 Mr. Wright - Motion is made and seconded. Is there any
1571 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes
1572 have it; the motion passes.
1573

1574 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1575 Mr. Baka, the Board **approved** application **CUP2014-00017, KROGER**
1576 **COMPANY's** request for a conditional use permit pursuant to Section 24-
1577 116(c)(1) of the County Code to hold a special event at 9480 W Broad St (Parcel
1578 756-758-4127) zoned Business District (B-2) (Brookland). The Board approved
1579 the temporary conditional use permit subject to the following conditions:
1580

1581 1. This conditional use permit is for the approval of a one-day temporary outdoor
1582 event to be held on Saturday, April 26, 2014, and on Wednesday, September 3,
1583 2014.
1584

1585 2. The outdoor events shall be limited to the following time: 8:00 am to 8:00 pm
1586 and incorporates set-up, event, and breakdown periods within this time frame.
1587

1588 3. The event footprint shall occupy the southwestern portion of Kroger's parking
1589 lot, as shown on the accompanying aerial map.
1590

1591 4. Only the temporary improvements shown on the layout plan filed with the
1592 application may be erected pursuant to this approval. Any additional
1593 improvements shall comply with the applicable regulations of the County Code or
1594 as specified in the conditions of approval.

- 1595
1596 5. The applicant shall clearly delineate the perimeter (footprint) of the event area
1597 with traffic cones and shall install traffic barriers at affected parking drive aisle
1598 entrances to block vehicular traffic from entering the event area. Main traffic drive
1599 aisles (providing general internal traffic circulation) leading in or out of the
1600 shopping center shall be kept free and clear of equipment, vehicles, and
1601 obstacles associated with the event. Fire lanes shall be maintained in
1602 accordance with the Fire Prevention Code. Access to on-site fire hydrants and
1603 fire department connections shall not be impaired.
1604
- 1605 6. Temporary tents shall maintain a 10 foot setback from property lines and
1606 buildings. Temporary tents shall not be enclosed (with tarps or fabric) and
1607 generators shall not be placed underneath tents.
1608
- 1609 7. The applicant shall obtain all necessary building permits for items including
1610 but not limited to tents (in excess of 900 square feet), elevated stages,
1611 mechanical amusement devices, electrical generators and electrical connections
1612 to be used during the event.
1613
- 1614 8. The applicant shall request building permits no later than two weeks prior to
1615 the event and shall schedule required inspections no later than 10:00 am on the
1616 day of the event.
1617
- 1618 9. The applicant shall provide adequate restroom facilities and hand wash
1619 stations as required by the Building Inspections Department or Department of
1620 Health.
1621
- 1622 10. Emergency preparedness procedures shall be developed in accordance with
1623 the written requirements of the Division of Fire - see attached memo dated April
1624 11, 2014.
1625
- 1626 11. On-site landscaping planters shall be kept free and clear of equipment and
1627 displays. All approved landscaping shall be maintained in a healthy condition at
1628 all times. Dead plant materials shall be removed within a reasonable time and
1629 replaced during the normal planting season.
1630
- 1631 12. The applicant shall maintain the property so that debris is controlled during
1632 the event. Adequate trash receptacles shall be provided throughout the site
1633 during the event.
1634
- 1635 13. The sale of alcoholic beverages shall be prohibited at the event.
1636
- 1637 14. The applicant shall prohibit loitering on the property.
1638
- 1639 15. On-site security measures shall satisfy the Division of Police written
1640 requirements - see attached memo dated April 11, 2014.

1641
1642 16. Tractor trailers associated with the promotional event shall be parked at the
1643 rear of the grocery store.
1644

1645 17. Speakers for amplified sound and music shall be directed toward the main
1646 event in order to limit its impact on adjoining businesses and/or residential
1647 neighborhoods and shall not exceed 65 db at the property line.
1648

1649 18. Open storage of wooden or plastic pallets, milk crates, soda crates, metal
1650 carts, and card board is prohibited as per §24-61(f). The property owner shall
1651 remove or store these items within the store. Metal storage (shipping) containers
1652 used for long term storage are prohibited. All of these items shall be addressed
1653 no later than 30 days from the approval of this permit.
1654

1655 19. Refuse containers and cooking grease/oil containers shall comply with the
1656 location and screening requirements of §24-61(i). These items shall be
1657 addressed by the property owner no later than 30 days from the approval of this
1658 permit.
1659

1660
1661 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1662 Negative: 0
1663 Absent: 0
1664

1665
1666 Mr. Wright - And the last case, CUP2014-00018. Do I hear a
1667 motion on this case?
1668

1669 Mr. Nunnally - I move we approve it, Mr. Chairman. I move we
1670 approve it because I see no harm in it for the persons working on the property or
1671 in the neighborhood. I move we approve it.
1672

1673 Mr. Wright - Is there a second?
1674

1675 Ms. Harris - Second.
1676

1677 Mr. Wright - Motion is made and seconded. Is there any
1678 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes
1679 have it; the motion passes.
1680

1681 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1682 Ms. Harris, the Board **approved** application **CUP2014-00018, KROGER**
1683 **COMPANY's** request for a conditional use permit pursuant to Section 24-
1684 116(c)(1) of the County Code to hold a special event at 4816 S Laburnum Ave
1685 (LABURNUM SQUARE) (Parcel 815-714-7661) zoned Business District (B-2)

1686 and Business District (B-3) (Varina). The Board approved the temporary
1687 conditional use permit subject to the following conditions:

- 1688
1689 1. This conditional use permit is for the approval of a one-day temporary outdoor
1690 event to be held on Friday, April 25, 2014, and on Thursday, September 4, 2014.
1691
- 1692 2. The outdoor events shall be limited to the following time: 8:00 am to 8:00 pm
1693 and incorporates set-up, event, and breakdown periods within this time frame.
1694
- 1695 3. The event footprint shall occupy the southeastern portion of Kroger's parking
1696 lot, as shown on the accompanying aerial map.
1697
- 1698 4. Only the temporary improvements shown on the layout plan filed with the
1699 application may be erected pursuant to this approval. Any additional
1700 improvements shall comply with the applicable regulations of the County Code or
1701 as specified in the conditions of approval.
1702
- 1703 5. The applicant shall clearly delineate the perimeter (footprint) of the event area
1704 with traffic cones and shall install traffic barriers at affected parking drive aisle
1705 entrances to block vehicular traffic from entering the event area. Main traffic drive
1706 aisles (providing general internal traffic circulation) leading in or out of the
1707 shopping center shall be kept free and clear of equipment, vehicles, and
1708 obstacles associated with the event. Fire lanes shall be maintained in
1709 accordance with the Fire Prevention Code. Access to on-site fire hydrants and
1710 fire department connections shall not be impaired.
1711
- 1712 6. Temporary tents shall maintain a 10 foot setback from property lines and
1713 buildings. Temporary tents shall not be enclosed (with tarps or fabric) and
1714 generators shall not be placed underneath tents.
1715
- 1716 7. The applicant shall obtain all necessary building permits for items including
1717 but not limited to tents (in excess of 900 square feet), elevated stages,
1718 mechanical amusement devices, electrical generators and electrical connections
1719 to be used during the event.
1720
- 1721 8. The applicant shall request building permits no later than two weeks prior to
1722 the event and shall schedule required inspections no later than 10:00 am on the
1723 day of the event.
1724
- 1725 9. The applicant shall provide adequate restroom facilities and hand wash
1726 stations as required by the Building Inspections Department or Department of
1727 Health.
1728
- 1729 10. Emergency preparedness procedures shall be developed in accordance with
1730 the written requirements of the Division of Fire - see attached memo dated April
1731 11, 2014.

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11. On-site landscaping planters shall be kept free and clear of equipment and displays. All approved 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.

12. The applicant shall maintain the property so that debris is controlled during the event. Adequate trash receptacles shall be provided throughout the site during the event.

13. The sale of alcoholic beverages shall be prohibited at the event.

14. The applicant shall prohibit loitering on the property.

15. On-site security measures shall satisfy the Division of Police written requirements - see attached memo dated April 11, 2014.

16. Tractor trailers associated with the promotional event shall be parked at the rear of the shopping center.

17. Speakers for amplified sound and music shall be directed toward the main event in order to limit its impact on adjoining businesses and/or residential neighborhoods and shall not exceed 65 db at the property line.

18. Open storage of wooden or plastic pallets, milk crates, soda crates, metal carts, and card board is prohibited as per §24-61(f). The property owner shall remove or store these items within the store. Metal storage (shipping) containers used for long term storage are prohibited. All of these items shall be addressed no later than 30 days from the approval of this permit.

19. Refuse containers and cooking grease/oil containers shall comply with the location and screening requirements of §24-61(i). These items shall be addressed by the property owner no later than 30 days from the approval of this permit.

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

Mr. Wright - That completes the agenda. Now we have to consider approval of the minutes. Do I hear a motion that we approve the minutes or does anyone have any corrections to the minutes?

1777 Ms. Harris - I just have one correction. On page 28, line 1238.
1778 That's where I "second." I think it was past tense, that's all. So "e-d" should be on
1779 that.

1780

1781 Mr. Wright - Any other corrections? Do I hear a motion that we
1782 approve the minutes as presented?

1783

1784 Mr. Bell - I move that we approve the minutes as presented.

1785

1786 Mr. Wright - Motion is made—

1787

1788 Mr. Baka - As amended.

1789

1790 Mr. Wright - As amended, as amended. Is there a second to that?

1791

1792 Ms. Harris - Second.

1793

1794 Mr. Wright - Motion is made and seconded. Any discussion?
1795 Hearing none, all in favor say aye. All opposed say no. The ayes have it; the
1796 motion passes.

1797

1798 On a motion by Mr. Bell, seconded by Ms. Harris, the Board **approved as**
1799 **amended** the **Minutes of the March 27, 2014**, Henrico County Board of Zoning
1800 Appeals meeting.

1801

1802 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

1803 Negative: 0

1804 Absent: 0

1805

1806 Mr. Wright - Is there anything else to come before this body,
1807 Mr. Blankinship?

1808

1809 Mr. Blankinship - No sir.

1810

1811 Mr. Wright - How many cases do we have so far next month?

1812

1813 Mr. Blankinship - Four.

1814

1815 Mr. Wright - Do I hear a motion that we adjourn?

1816

1817 Ms. Harris - I so move.

1818

1819 Mr. Wright - Second?

1820

1821 Mr. Baka - Second.

1822

1823 Mr. Wright - Any discussion? Hearing none, all in favor say aye.
1824 All opposed say no. The ayes have it; the motion passes.

1825

1826

1827 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

1828 Negative: 0

1829 Absent: 0

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1832 This Board is adjourned. Thank you very much.

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R. A. Wright
Chairman



Benjamin Blankinship, AICP
Secretary