

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF  
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE  
3 GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON  
4 THURSDAY APRIL 25, 2019 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN  
5 THE *RICHMOND TIMES-DISPATCH* APRIL 8, 2019 AND APRIL 15, 2019.  
6

7 Members Present: Helen E. Harris, Chair  
8 Gentry Bell, Vice Chair  
9 Walter L. Johnson, Jr.  
10 Terone B. Green  
11 James W. Reid  
12

13 Also Present: Jean M. Moore, Assistant Director of Planning  
14 Benjamin Blankinship, Secretary  
15 Paul M. Gidley, County Planner  
16 R. Miguel Madrigal, County Planner  
17 Kuronda Powell, Account Clerk  
18  
19

20 Ms. Harris - Good Morning and welcome to the April 25, 2019 meeting of  
21 the Board of Zoning Appeals. All who are able, please stand and recite with us the *Pledge*  
22 *of Allegiance*.

23  
24 ...THE PLEDGE OF ALLEGIANCE IS RECITED...  
25

26 Ms. Harris - At this time our acting secretary, Mr. Blankinship, will read the  
27 rules that govern this meeting.  
28

29 Mr. Blankinship - Good morning Madam Chair, members of the board, ladies  
30 and gentlemen. The rules for this meeting are as follows: Acting as secretary I'll  
31 announce each case, and at that time we'll ask everyone who intends to speak to that  
32 case to stand and be sworn in. Then a member of the staff will give a brief introduction  
33 to the case, and then the applicant will present their case. After the applicant speaks,  
34 anyone else who wishes to speak in support will be invited, and then anyone who wishes  
35 to speak in opposition. After everyone's had a chance to speak, the applicant, and only  
36 the applicant, will have an opportunity for rebuttal. When that public hearing is completed,  
37 the board will continue to the next public hearing, and after they have completed all four  
38 public hearings they will go back through the agenda and make the decision on each  
39 case. So, if you wish to hear their decision on a specific case you can either stay until  
40 the end of the meeting or you can check the Planning Department website -- we usually  
41 get it updated within an hour of the end of the meeting -- or you can call the Planning  
42 Department this afternoon. This meeting is being recorded, so we'll ask everyone who  
43 speaks to speak directly into the microphone on the podium. State your name, and please  
44 spell your last name for us, so we get it correctly in the record.

45  
46 Madam Chair, I am not aware of any requests for deferral or withdrawal this morning, and  
47 all 5 members are present.

48  
49 Ms. Harris - Okay, so please call the first request.

50  
51 Mr. Blankinship - All right, we will start with the three conditional use permits.  
52 Conditional use permit 2019, number 14.

53  
54 **CUP2019-00014 MIRIAM OWENS** requests a conditional use permit pursuant  
55 to Section 24-12(g) of the County Code to operate a family day home with employees at  
56 3308 Plowfield Court (CLARENDON WOODS) (Parcel 808-734-8001) zoned One-Family  
57 Residence District (R-3AC) (Fairfield).

58  
59 Would everyone who intends to speak to this case please stand and be sworn in. Would  
60 you raise your right hand please. Do you swear the testimony you're about to give is the  
61 truth, the whole truth, and nothing but the truth, so help you God?

62  
63 Mr. Blankinship - Thank you. Mr. Madrigal.

64  
65 Mr. Madrigal - Thank you, Mr. Secretary, Madam Chair, members of the  
66 board, good morning.

67  
68 Ms. Harris - Good morning.

69  
70 Mr. Madrigal - Before you is a request to allow the operation of a family day  
71 home with outside employees. The subject property is part of the Clarendon Woods  
72 subdivision established in July of 2002. The lot is located on a cul-de-sac and is  
73 approximately 8700 square feet in area. The lot is improved with a two-story, 2,600-  
74 square-foot residence, with an attached two-car garage constructed in 2003. The applicant  
75 acquired the property in July of 2008 and in 2015 she started operating a family day home  
76 with the assistance of her daughter.

77  
78 She is currently licensed as a large family day home for the care of up to 12 children. She  
79 currently cares for nine children ranging in age from nine months to four years old. Her  
80 daughter recently moved out of the residence, but still helps with the business. As a  
81 result, the daughter is technically an employee from outside the home, which triggers a  
82 requirement for a conditional use permit.

83  
84 The property is zoned R-3AC and is designated Suburban Residential 2 on the 2026  
85 Future Land Use Map. A one-family dwelling is a principal permitted use in the one-family  
86 district and is consistent with the land use designation of the property. Family day homes  
87 with employees from outside the home or exceeding the hours of operation outlined in  
88 Code are allowed by way of a conditional use permit. The subject property is of sufficient  
89 size for the proposed use and can accommodate onsite parking for up to two employees.  
90 As long as the applicant adheres to the recommended conditions of approval staff does  
91 not anticipate any detrimental impacts on nearby property.

92

93 In conclusion, the proposed use is consistent with both the zoning and comprehensive  
94 plan designations on the property. The applicant is a long-time resident of the  
95 neighborhood and has been operating a family day home for over three years without  
96 incident. Because her daughter moved out of the home, but will still be helping with the  
97 business, the applicant must obtain a CUP. Specific conditions of approval have been  
98 prepared by staff to mitigate any detrimental impacts, and staff recommends approval of  
99 the applicant's request subject to conditions.

100  
101 This concludes my presentation. I'll be happy to answer your questions.

102  
103 Ms. Harris - Okay, are there any questions from board members?

104  
105 Mr. Green - Why didn't you all recommend a fence?

106  
107 Mr. Madrigal - I'm sorry?

108  
109 Mr. Green - Why wouldn't you recommend a fence, because --?

110  
111 Mr. Madrigal - Essentially the back yard is wide open, so there's no  
112 containment for the kids. Especially --

113  
114 Mr. Blankinship - We did recommend a fence, right?

115  
116 Mr. Bell - In the four conditions.

117  
118 Mr. Green - Oh, okay. Yeah.

119  
120 Ms. Harris - Okay, are there other questions from board members? Thank  
121 you, Mr. Madrigal.

122  
123 Mr. Madrigal - Thank you.

124  
125 Ms. Harris - Would the applicant please come forth and give us your name,  
126 spelling your last name, and state your case.

127  
128 Ms. Owens - Good morning, everyone. My name is Miriam Owens, last  
129 name O-W-E-N-S, and as you heard I am applying for a conditional use permit to continue  
130 the operation of my family day home, because my existing employee, my daughter, eldest  
131 daughter, has moved out of the residence. And per the terms of the Code of Henrico, I  
132 need to have this conditional use permit. It's also a condition of my license through the  
133 Department of Social Services. And that's why I'm here, and that's why I've applied.

134  
135 With regard to the conditions of approval which I got in the mail over the weekend I've  
136 done some research and been able to nail down two potential sources of financing to put  
137 the fence up in the backyard. One of them is a very specific small business loan for family  
138 day homes which will cover the cost of said fence.

139  
140 Mr. Blankinship - Can I ask who provides that?  
141  
142 Ms. Owens - It is provided through the Virginia Small Business Financing  
143 Authority.  
144  
145 Mr. Blankinship - And it's specific to family day homes?  
146  
147 Ms. Owens - Uh-huh, they --  
148  
149 Mr. Blankinship - That could be a very useful resource for us in future cases,  
150 thank you.  
151  
152 Ms. Owens - They will approve up to \$10,000 for a family day home.  
153  
154 Ms. Harris - Is that a federal proposition?  
155  
156 Mr. Blankinship - State, sounded like.  
157  
158 Ms. Harris - The state, okay.  
159  
160 Ms. Owens - Yes.  
161  
162 Ms. Harris - Okay. I notice in your report that you have some neighbors  
163 who also -- or a neighbor running a child daycare center?  
164  
165 Ms. Owens - Previously. They have -- they're no longer in the property.  
166  
167 Ms. Harris - Okay.  
168  
169 Ms. Owens - They were renters, and they have moved on.  
170  
171 Ms. Harris - Okay. What do you do about parking?  
172  
173 Ms. Owens - I have a two-car driveway. I also have a two-car garage which  
174 is available for parking. The majority of my clients have multiple children in care, which  
175 cuts down on the number of vehicles coming and going. In other words, two and three  
176 children are picked up at once, dropped off at once, so it really hasn't been an issue.  
177  
178 Ms. Harris - Okay. I notice the report said you've had no complaints from  
179 neighbors, and we have addressed the fencing situation.  
180  
181 Ms. Owens - Yes, ma'am.  
182  
183 Ms. Harris - Okay. Are there other questions from members of the board?  
184

85 Mr. Reid - How long have you been in business, Ms. Owens?  
186  
187 Ms. Owens - I've been in business since December of 2015.  
188  
189 Ms. Harris - It's a beautiful area. I drove by.  
190  
191 Ms. Owens - Thank you. Thank you very much.  
192  
193 Mr. Green - Yes it is. Madam Chair. It is a nice area out there. I was over  
194 there as well.  
195  
196 Ms. Owens - Thank you. Thank you.  
197  
198 Mr. Johnson - Also, with the fence, it mentioned about having it at least four  
199 feet tall.  
200  
201 Ms. Owens - Yes, sir.  
202  
203 Mr. Johnson - Is that what you're going to put in?  
204  
205 Ms. Owens - It will be taller than that.  
206  
207 Mr. Johnson - You're going to make it -- okay.  
208  
209 Ms. Owens - Yeah. I mean, it needs to be at least four feet, but to meet the  
210 needs of our family as well, if we're going to put a fence up, it would be substantially taller  
211 than that.  
212  
213 Mr. Johnson - Okay.  
214  
215 Ms. Owens - The maximum height is 72 inches for a fence.  
216  
217 Mr. Johnson - Right.  
218  
219 Ms. Owens - So we'll probably be around six feet, maybe.  
220  
221 Mr. Johnson - Okay.  
222  
223 Ms. Harris - You are aware that that's for the rear yard, and not front yard?  
224  
225 Ms. Owens - Yes.  
226  
227 Ms. Harris - Okay.  
228  
229 Ms. Owens - Yeah.  
230

231 Ms. Harris - Other questions from board members? Thank you for coming  
232 in.

233  
234 Ms. Owens - Thank you all for seeing me.  
235

236 **[After the conclusion of the public hearings, the Board discussed the case and**  
237 **made its decision. This portion of the transcript is included here for convenience**  
238 **of reference.]**  
239

240 Ms. Harris - Okay. I think we're ready for the voting now. We'll go back to  
241 the first case. CUP 2019, this is number 14. What is the pleasure of the board? Okay.  
242 I guess I move that we approve this conditional use permit -- we were given some  
243 suggestions about how we can -- we can make our motions.  
244

245 Mr. Blankinship - Yes.  
246

247 Ms. Harris - Because I think it's to our advantage to state just why we are  
248 approving or denying or deferring a particular case. We don't see any reason why her  
249 employees will have a detrimental impact on the nearby property. We know with the  
250 conditional use permit we have to be sure that it does not adversely affect the health,  
251 safety, or welfare of the community. I think we are rest assured that that also will occur.  
252 And that is my motion. Is there a second?  
253

254 Mr. Bell - Second.  
255

256 Ms. Harris - It's been moved and properly seconded that we approve this  
257 case. Is there a discussion on the motion? All in favor of approving this conditional use  
258 please say aye. Opposed say no. The ayes have it and it is so ordered.  
259

260 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell,  
261 the Board **approved** application **CUP2019-00014 MIRIAM OWENS** requests a  
262 conditional use permit pursuant to Section 24-12(g) of the County Code to operate a  
263 family day home with employees at 3308 Plowfield Court (CLARENDON WOODS)  
264 (Parcel 808-734-8001) zoned One-Family Residence District (R-3AC) (Fairfield). The  
265 Board approved this request subject to the following conditions:  
266

267 1. This conditional use permit applies only to the operation of a large family day home  
268 with one employee from outside the home. All other applicable regulations of the County  
269 Code shall remain in force.  
270

271 2. No more than 12 children, exclusive of the care provider's own grandchildren, may  
272 receive daycare services at any one time.  
273

274 3. The hours of operation shall be limited to Monday through Friday, 6:00 am to 6:00 pm.  
275

4. The applicant shall install a fence at least four feet tall around the perimeter of the rear yard for the security of the children.

Affirmative:	Bell, Green, Harris, Johnson, Reid	5
Negative:		0
Absent:		0

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

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

Mr. Blankinship - Conditional use Permit 2019, number 15, Eastern Henrico Ruritan Club.

**CUP2019-00015 EASTERN HENRICO RURITAN CLUB** requests a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to allow a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768) zoned Agricultural District (A-1) (Varina).

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

Mr. Madrigal - Thank you, Mr. secretary. Madam Chair, members of the board, before you is a request to allow a turkey shoot by the Eastern Henrico Ruritan Club. This organization was chartered in May of 1967 and held its first turkey shoot that same year. Since then they have held this annual fundraising event on Fridays, from October to December, and on the Wednesday before Thanksgiving Day.

The event is held on the baseball field at the Eastern Government Center immediately west of the Ruritan Club building. The property is zoned A-1 and is designated Government on the 2026 Future Land Use Map. Clubs, lodges or similar nonprofits are permitted in the A-1 district subject to the approval of a provisional use permit. Because the Ruritan Club predates this section of code, the existing facility is grandfathered as a legal non-conforming use.

The turkey shoot consists of a firing line set up along the home base line and a row of 16 targets along the second base line. Participants use shotguns loaded with low-powered birdshot shell shooting in a northerly direction towards a wooded area and the county's maintenance and storage yard. Although the Glen Echo Park subdivision is approximately 300 feet to the west of the shooting area, only one noise complaint was received in October of 2015. Police responded to the complaint and notified the property owner that the noise was coming from the turkey shoot and no further action was required.

322 There have been no other reported complaints, and staff is not aware of any safety  
323 concerns arising from prior events. Additionally, because this event occurs in the evening  
324 after the government offices are closed, this annual event has proven not to cause any  
325 substantial detriment.

326  
327 In conclusion, the Ruritan Club has been part of the Eastern Government Center Complex  
328 for over 50 years. The use is consistent with both the zoning and comprehensive plan  
329 designations on the property. Furthermore, the organization has proven over its long  
330 tenure that the annual turkey shoot is run in a safe and responsible manner. Staff is not  
331 aware of any complaints or negative issues associated with this fundraising activity.  
332 Based on the facts of the case, staff recommends approval subject to conditions, and this  
333 concludes my presentation.

334  
335 Ms. Harris - Yes, Mr. Madrigal, on page 2 of your report, you mentioned  
336 conditions 9 and 10, that's the third line, and we only have 9 conditions.

337  
338 Mr. Blankinship - Good eye.

339  
340 Mr. Madrigal - Yes. After some discussion we eliminated condition number  
341 10, because it was not required, and forgot to change the staff report. I apologize for that.

342  
343 Ms. Harris - One question I have.

344  
345 Mr. Madrigal - Yes.

346  
347 Ms. Harris - Who owns that land? Isn't that county owned land?

348  
349 Mr. Madrigal - It's county owned land. Yes.

350  
351 Ms. Harris - Yes, and so they lease it to the Ruritans?

352  
353 Mr. Madrigal - There is an agreement. I'm not sure what the nature of that  
354 agreement is. I mean, I would assume it's a lease, but I'm not 100 percent sure.

355  
356 Ms. Harris - All right. I know they've been there for years. Are there other  
357 questions from board members? Thank you so very much.

358  
359 Mr. Madrigal - Thank you.

360  
361 Ms. Harris - Okay. Would the applicant please come forward now sir. I  
362 need you to identify yourself and spell your last name.

363  
364 Mr. Fifer - Yes, ma'am. My name is Tom Fifer, F-I-F-E-R.

365  
366 Ms. Harris - Okay, Mr. Fifer, let us know what you want and why you want  
367 it.

68  
369 Mr. Fifer - We've had a turkey shoot going on here for, like you say, the  
370 last 50-some years, and our permit has expired, we'd like to renew it if we could.

371  
372 Ms. Harris - Okay.

373  
374 Mr. Fifer - It is an annual event that we hold for fundraising purposes. All  
375 our funds are given back to the county in the way of assistance to people in the county  
376 that need it.

377  
378 Ms. Harris - Okay. Are there questions from board members, Mr. Fifer?

379  
380 Mr. Johnson - Mr. Fifer, in the past has the Ruritan Club been certified for  
381 two years each time you had your certification come up?

382  
383 Mr. Fifer - I think each one of these permits that is issued is for a two-  
384 year duration.

385  
386 Mr. Bell - I've watched it grow out there, like you have as I was looking  
387 out in that area 50 years ago. Have you gotten much interest in terms of increased  
388 number of people that are turkey shooting now versus, let's say, 1980?

389  
390 Mr. Fifer - Well the main problem we see with it, is it's getting a little  
391 harder to find workers to work the turkey shoot, and it's also become less attended by the  
392 public than it has been in the past. Fact we on the verge of considering not holding it  
393 again, but we thought we'd try it this year -- last year it was such a rainy year, everything  
394 was rained out and we didn't do very well at all as far as shooting. But we are going to  
395 try it again this year if we're issued this permit.

396  
397 Mr. Bell - And the funds are still going to the Ruritan Club out there?

398  
399 Mr. Fifer - Yes, sir.

400  
401 Mr. Bell - Good. Thank you.

402  
403 Ms. Harris - Are there other questions? Thank you so very much for  
404 coming in, sir.

405  
406 Mr. Fifer - Thank you.

407  
408 **[After the conclusion of the public hearings, the Board discussed the case and**  
409 **made its decision. This portion of the transcript is included here for convenience**  
410 **of reference.]**

411  
412 Ms. Harris - We move now to the conditional use permit number 15. What  
413 is the pleasure of the board?

414  
415 Mr. Johnson - I motion that we approve this -- we approve condition 15. Also  
416 move that the conditional use permit be subject to the conditions recommended by the  
417 staff, and also the Ruritan Club been out there for years and years, and doing the same  
418 thing, so -- and they haven't had any incidents. And also, I do not see any reason the  
419 turkey shoot would be a detrimental impact to the property. And allowing Ruritan Club to  
420 raise the funds for that area as well. Again, I recommend approval.

421  
422 Ms. Harris - Okay. Is there a second to this motion?

423  
424 Mr. Reid - Second.

425  
426 Ms. Harris - Been moved and property seconded that we approve this  
427 conditional use permit. Is there any discussion? And I think we have to subject this to the  
428 test about not having an adverse effect on the health, safety, or welfare of the community.  
429 Okay, any more discussion? All in favor of approving this conditional use permit say aye.  
430 Those opposed say no. Ayes have it and it is so ordered.

431  
432 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr.  
433 Reid, the Board **approved** application **CUP2019-00015 EASTERN HENRICO RURITAN**  
434 **CLUB's** request for a conditional use permit pursuant to Section 24-116(d)(1) of the  
435 County Code to allow a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768)  
436 zoned Agricultural District (A-1) (Varina). The Board approved this request subject to the  
437 following conditions:

438  
439 1. This conditional use permit applies only to the Ruritan Club annual turkey shoot  
440 fundraiser. All other applicable regulations of the County Code shall remain in force.

441  
442 2. Hours of operation shall be limited to 6:00 pm to 10:00 pm on Fridays, October through  
443 December, and on the Wednesday before Thanksgiving Day, 2019 and 2020. This permit  
444 shall expire on December 31, 2020.

445  
446 3. No firearm shall be discharged within 300 feet of any lot occupied by a dwelling, or  
447 across any road or street, or within 300 feet of any building other than buildings  
448 immediately adjacent to the shooting area located on the same parcel.

449  
450 4. The turkey shoot shall only involve the use of shotguns no larger than 12 gauge and  
451 low powered (2-3/4") shells.

452  
453 5. The site shall be clearly posted to show where shooting will occur.

454  
455 6. Sufficient off-street parking shall be provided for all cars visiting the premises.

456  
457 7. No alcoholic beverages may be consumed on the property during the turkey shoot. A  
458 sign to this effect must be conspicuously posted in the immediate vicinity of the shooting

59 area. No person under the influence of alcohol, as defined in §18.2-266 of the Code of  
460 Virginia, may be permitted in the shooting area.

461  
462 8. Restrooms shall be provided.

463  
464 9. The applicant shall provide general liability insurance in the minimum amount of  
465 \$1,000,000 per occurrence, \$2,000,000 aggregate, naming the County of Henrico as an  
466 additional insured. This coverage shall be primary to the additional insured and to any  
467 self-insurance or insurance afforded to the County of Henrico. This insurance policy must  
468 be in place no later than October 1, 2019, and a copy shall be submitted to the Planning  
469 Department.

470  
471  
472 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
473 Negative: 0  
474 Absent: 0

475  
476  
477 **[At this point, the transcript continues with the public hearing on the next case]**

478  
479  
480 Ms. Harris - Mr. Blankinship, would you call the next case, please?

481  
482 Mr. Blankinship - Conditional use permit 2019, number 16, William R. Hill IV and  
483 Claire W. Hill.

484  
485 **CUP2019-00016 WILLIAM R. HILL IV AND CLAIRE W. HILL** request a  
486 conditional use permit pursuant to Section 24-95(i)(4) of the County Code to build a  
487 garage in the front yard at 101 Grattan Road (WESTHAM RIDGE) (Parcel 757-732-4487)  
488 zoned One-Family Residence District (R-1) (Tuckahoe).

489  
490 Mr. Blankinship - Would everyone who intends to speak to this case please  
491 stand and be sworn? Raise your right hand, please. Do you swear the testimony you're  
492 about to give is the truth, the whole truth, and nothing but the truth, so help you God?  
493 Thank you. Mr. Gidley.

494  
495 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Madam Chair,  
496 members of the board.

497  
498 The subject property is located near the intersection of Ridge and River Roads, and as  
499 you can see here, contains a ranch-style dwelling. And on the site map, the front of the  
500 home faces Grattan Road, with the side on Cameron. Most people would consider the  
501 front to be Grattan Road, but the zoning ordinance defines the front as the shortest street  
502 side, so technically under the zoning ordinance Cameron Road is the front yard, despite  
503 the house facing Grattan. The applicant would like to put a two-story, 28-foot by 28-foot  
504 detached garage in the side and front yards, as you can see right here, at the end of their

505 driveway. And because it would be in the front and side yards it does require a conditional  
506 use permit.

507  
508 In evaluating this request; the R-1 zoning of the property allows for the dwelling and as  
509 I've said, a conditional use permit can be issued for the garage. As far as any detrimental  
510 impact to nearby property, the home faces Grattan Road, again, right here, so to the  
511 average person, the location of the garage would be in the rear yard. And so, it does,  
512 you know, make sense from that perspective. That said, staff does have some concerns  
513 about the proposed structure, especially it's size. And these are the elevations, and as  
514 you can see here, a detached garage is supposed to be subordinate to principal use,  
515 which is a ranch home, as I mentioned. In this case this is a two-story detached garage.

516  
517 As you can see here, the second floor would be amplified by two large dormers that would  
518 be located on two of the four sides. This would increase the bulk of the proposed  
519 structure, which would be located only five feet off the neighbor's property line. This is a  
520 driveway here, and the garage would come up -- would be constructed up here. And you  
521 zoom in -- and as you can see now there's quite the buffer here between the proposed  
522 garage location and the neighboring property. When the garage is constructed, a lot of it  
523 would encroach into this buffer, and, as you can see here, on the proposed plot plan --  
524 this shows the garage, the driveway, and you can see half of the buffer would be  
525 eliminated by the garage. In addition, there is a power pole here, and that would be  
526 relocated, so the buffer in this area would also be impacted significantly. And this is the  
527 second floor of proposed plan, and it shows a hobby room with a half-bath right here.

528  
529 The concern staff has, is the potential to convert this into an apartment unit by this, or a  
530 future property owner. This is something -- and in this area, especially, over the years  
531 both the county and the local elected official have received a number of complaints about  
532 people trying to add accessory apartments in a single-family neighborhood. So, it is  
533 something we try to be aware of and be cognizant of.

534  
535 And, as you can see on the elevations as well, you can see there are exterior stairs here.  
536 Most of the time I think people would put the stairs inside from a maintenance perspective,  
537 rather than having the elements beat down on them, but by having the exterior stairs it  
538 does allow access to the second floor independent of the property owners, you know,  
539 property inside on the first floor. And so, it is something seen often with accessory  
540 dwelling units.

541  
542 In conclusion, the orientation of the home towards Grattan Road makes the proposed  
543 location of this structure reasonable. Staff is concerned about the size of the proposed  
544 structure, and its impact on the -- on the buffer and the exterior access to the second  
545 floor. As a result, staff can only recommend approval of this request if it were reduced to  
546 just one floor and the second floor is eliminated.

547  
548 This concludes my presentation and I'll be happy to answer any questions you may have.  
549 Thank you.

550

51 Ms. Harris - Mr. Gidley, you mentioned a power pole.  
552  
553 Mr. Gidley - Yes, ma'am.  
554  
555 Ms. Harris - You said it would be relocated, is there one there on the  
556 property?  
557  
558 Mr. Gidley - Yes, ma'am. This is the driveway coming up here. The buffer  
559 is here, as you can see, the edge of the woods is in this area. The proposed garage  
560 would take out roughly half that buffer, and then you have an overhead power line here  
561 and a power pole right here, and it's noted on here to be relocated. And you see the  
562 arrow pointing towards that. And so, to get in here and relocate this would further damage  
563 the buffer, and at that point most of the buffer would be impacted.  
564  
565 Ms. Harris - So we don't know where it will be relocated?  
566  
567 Mr. Gidley - No, not specifically. I would assume they'd try to relocate it  
568 over here, but I don't know for sure.  
569  
570 Ms. Harris - Okay, are there other questions from board members?  
571  
572 Mr. Bell - I'm sorry, but with the buffer area you've been talking about  
573 would you classify that as unsafe with this, or detrimental, the changes that would be  
574 made?  
575  
576 Mr. Gidley - Address detrimental impact you said?  
577  
578 Mr. Bell - With the buffer area that you've been talking about.  
579  
580 Mr. Gidley - Okay.  
581  
582 Mr. Bell - You know, how would you read that in terms of additional  
583 safety, or lack of safety, or detrimental or nondetrimental impact?  
584  
585 Mr. Gidley - Rather than a safety issue I look at it as an impact on the  
586 neighbor. Again, you can see right here there's a substantial buffer, and it does contain  
587 a lot of evergreens, two large holly trees are in here. And so, there's a lot of privacy. You  
588 know, people can put a shed or something up near the property line, but this is a pretty  
589 significant size structure, rather than just your typical shed from Home Depot or Lowes.  
590 This a pretty large structure to be just five feet off the property line.  
591  
592 Ms. Harris - Other questions? Thank you, Mr. Gidley.  
593  
594 Mr. Gidley - Thank you, ma'am.

95

596 Ms. Harris - Will the applicant come forth, please, and state your case.  
597 Give us your name, spell your last name.

598  
599 Mr. Hill - William Hill, H-I-L-L. How you all doing today?

600  
601 Ms. Harris - Good.

602  
603 Mr. Hill - Good.

604  
605 Ms. Harris - Thank you.

606  
607 Mr. Hill - We'll see here, I have brought -- I know your concerns. I have  
608 brought new elevation and new plans from the architect where I am willing to scale it  
609 down, and I'm willing to take off the side dormers, and put one on the rear.

610  
611 I've also changed the exterior steps to go on the interior of the garage, to take that off. I  
612 understand the buffer situation.

613  
614 But I've talked to all my surrounding neighbors, you all, you know, notified them,  
615 everything. No one has an issue. I'm willing to scale it down to where the buffer right  
616 there with the evergreens and the holly really wouldn't have to be touched, just basically  
617 trimmed. I mean, I don't want to take those out, either. And, essentially, putting a garage  
618 there would give my neighbor more privacy, because you can actually see through all that  
619 stuff. He also lives in Florida nine months out of the year.

620  
621 I want to make it very clear that the upstairs is not going to be a living dwelling. It's going  
622 to be more of a finished attic, hobby room. My wife's an artist, I plan on having two more  
623 kids, I'd like to have a playroom so that my one-story house -- we have nowhere to really  
624 for my kids to run, to play around, with the whole living rooms, bedroom. We've been  
625 there since October and I've noticed that, you know, it's getting kind of tight. I have a lot  
626 of hobbies, I need to store things, but, like I said, I'm willing to put the steps on the inside.  
627 That was all preliminary things I worked out with my architect. I do understand that the  
628 steps are, on the exterior, probably a little much, and the side dormers were a little much.

629  
630 So, if you look on there, and I want to make it very clear, too, that what I have on there --  
631 it's not going to be used for a dwelling, an apartment, an in-law suite. I want to also point  
632 out that the garage is designed to be in scale with the house and maintain the same one-  
633 story (indiscernible). I'm not going to skimp on any materials. I'm doing brick, I'm painting  
634 it white, doing a slate roof. It should look nearly identical to my house. That's what I want  
635 it to look like. I'm 34, I plan on living there till I die. Would like to do this while I have the  
636 money and before I have too many kids and can't afford it.

637  
638 I'm essentially trying to make legal use of my property, in that the ordinance has a peculiar  
639 definition of a front yard, as you saw him say the way it faces. I mean, technically if I put  
640 it on the left side of my house, if I had room, I wouldn't have to be doing a conditional use  
641 permit. I want to be a good neighbor, once again, I'm not scrimping on the construction.

642 I want it to look just like it was built at the same time as my house back in the early 1950s.  
643 I'm doing brick, I want to use brick, slate roof, to look identical, you know, keep the roof  
644 line.

645  
646 Trust me, I don't want it to look out, you know, out of the ordinary. I don't want it to be  
647 15, 20 feet above my roof right now. You know, a hobby room and a finished attic is not  
648 an unusual thing with a detached garage, and the reason for the half-bath is my wife is  
649 going to use it a lot for her artwork. She's a local artist, and she doesn't want to have to  
650 go down and into our house to use the bathroom and come back up. So that's my case.  
651 But, like I said, I'm willing to scale it down. Those are the new plans, taking the side  
652 dormers off, putting just one on the rear, it wouldn't be seen from the street, exterior steps  
653 would be on the interior. I understand the concern from the original plans, and I think  
654 that's about all I have. I mean, everything as your conditions on here I'm willing to abide  
655 by, you know, the roof pitch, the grading, clearing, getting an environmental compliance  
656 plan. I understand all that. Exterior lighting will be shielded.

657  
658 And, like I said, I've talked to every, single one of my neighbors, and I don't see any of  
659 them here. They've had the opportunity to, and none of them have an issue. There's  
660 also -- I'd say there's one, two, three, four two-car garages with finished upstairs off  
661 Cameron Road. One being literally right across from my driveway, Mr. Jim Brown who  
662 lives there, he has a two-story with a finished above, and he uses it for when his grandkids  
663 come over.

664  
665 But I just want to be very clear, it's not an apartment, it's not an in-law suite, no one's  
666 living up there. I'm not collecting rent. It's more or less put a TV in, put all my wife's art  
667 stuff in, because I don't have any room to put it anywhere. Right now, it eats up a lot of  
668 room. She used to have an art studio in the Fan, we had to sell it. A playroom, you know,  
669 whatever, but it's not -- there's no bed going in there. There's none of that going in there.

670  
671 Like I said, I'm willing to work on scaling it down a little bit. I'm at 20, and my 20 is a little  
672 big. The end of the house, you look on the far left, that was a one-car garage at one  
673 point, and they turned it into a little two-bedroom with a bath, so that's why I don't have a  
674 garage. And I've always wanted one. I have a warehouse where I work that I own  
675 downtown, but I can't keep all my stuff there. That's for strictly food products and that we  
676 --- distribute.

677  
678 I think that's all I have to say, but just want to be adamant that it's not a living dwelling,  
679 I'm not collecting rent, not an in-law suite, it's art studio, playroom, area for me to get  
680 away from my wife as she's driving me crazy. You know, it's nothing special

681  
682 Mr. Green - Build one for me?

683  
684 Mr. Hill - Yeah. I mean, you know, man's room. Whatever -- you can  
685 call it a lot of different things, but it's not intended to be a living dwelling. I already have  
686 an attic that runs the whole length of my house, so I don't need, essentially, another, just  
687 attic to store stuff. But it would really help our family out, especially for my wife's

688 profession, due to her art work up there, because between that and nowhere really for  
689 the kids to play, because it's a very open floorplan that is a bit overwhelming. So, I wanted  
690 to start the situation sooner, rather than later, and, like I said, before I have more kids and  
691 probably can't afford it.

692  
693 Ms. Harris - Okay, Mr. Hill. Okay, so you do not agree with condition three.

694  
695 Mr. Hill - I mean, I agree with it, essentially. I'm keeping the roof pitch  
696 equal to or lower than the existing dwelling. I'm taking the exterior stairs, putting them  
697 inside. I'm taking the big bulky side dormers off and just putting one on the rear.

698  
699 Ms. Harris - No the sentence that says the plans shall be modified to  
700 reduce the garage to one story.

701  
702 Mr. Hill - Yes.

703  
704 Ms. Harris - That's what you do not agree with. Right?

705  
706 Mr. Hill - No, I do not.

707  
708 Ms. Harris - Okay. What size of garage do you propose?

709  
710 Mr. Hill - Either 24 by 24 or 24 by 28. Like I said, taking the side  
711 dormers off would reduce the bulk of it, and put it on the rear, and then the steps would  
712 also be on the interior of the garage, which, you know, is -- should have been done  
713 originally. But this was all preliminary stuff, which would also eat up a little bit of room in  
714 the garage, but that's fine.

715  
716 Ms. Harris - Okay, because your original request was 28 by 28, but you  
717 said you can scale it down to 24 by 24, or 24 by 28.

718  
719 Mr. Hill - Yes, ma'am, which would also, that buffer, you wouldn't really  
720 have to go into it at all.

721  
722 Ms. Harris - Okay. Questions from board members? Excuse me.

723  
724 Mr. Bell - You say your neighbors are all in agreement with this.  
725 Nobody's expressed any opposition?

726  
727 Mr. Hill - No. You sent a notification to all the surrounding -- like, see  
728 the way my house sits and faces. It's, you know, defining it the front yard, side yard, I  
729 know how you have to do it, with the ordinance and zoning and all. But, no. I've spoken  
730 to everyone around me that you sent notices to. And, like I said, the neighbor that's  
731 behind me where the buffer is, he lives in Florida and no one's even seen him in a year,  
732 9 to 12 months is what I've been told. I've never met him. He's got notification, someone  
733 collects his mail and sends it to him in Florida. He's had ample time to contact me. I left

34 my phone number. I have not heard from him. He also has a very large addition off the  
735 back of his house that kind of encroaches on my back yard, and my privacy as well, but,  
736 you know, that's none of my business.

737

738 But, like I said, it's simply just a garage, store yard equipment. I have a pool, the floats,  
739 and then the upstairs is simply for my wife, a playroom, you know, whatever you want to  
740 call it. And she just -- she needs a half bath, because she spends some -- upwards of  
741 eight hours there painting when she gets ---.

742

743 Ms. Harris - Okay. I think you answered his question. Okay, other  
744 questions from board members?

745

746 Mr. Green - Did you say you have a pool in the back yard?

747

748 Mr. Blankinship - Yeah, you see it on the aerial.

749

750 Mr. Hill - It was there prior. I didn't put it in.

751

752 Ms. Harris - Questions?

753

754 Mr. Johnson - Yes. Mr. Hill, you mentioned that there were other garages in  
755 the neighborhood that was two stories.

56

757 Mr. Hill - Yes.

758

759 Mr. Johnson - Where would they be located?

760

761 Mr. Hill - Where are they located? Basically just across the street from  
762 my garage, that's a two-car garage with a second floor on top, and then if you go south,  
763 down Cameron -- no, other direction. Let's see, keep going -- that house right there has  
764 one as well. As far as being close to my house. There's others within the neighborhood,  
765 but it's a pretty large neighborhood.

766

767 Ms. Harris - But they're no side -- they're not located on the corner, like  
768 your property is.

769

770 Mr. Hill - Exactly. That's kind of --

771

772 Ms. Harris - So they don't have the same problem with the --

773

774 Mr. Hill - No. So, I've spoken to all my neighbors, no one has an issue,  
775 they're all for it. They understand needing a garage and, like I said, none of them are---

776

777 Ms. Harris - Okay. Other questions, Mr. Johnson?

78

779 Mr. Johnson - Also, Mr. Hill, on the sketch that you handed out.

780  
781 Mr. Hill - Yes, sir.  
782  
783 Mr. Johnson - You have the one in color? Both of them have proposed  
784 second south elevations. Is that right for both of them?  
785  
786 Mr. Blankinship - One of those is a typo, I think.  
787  
788 Mr. Hill - One of them might be a typo, yes.  
789  
790 Mr. Blankinship - And the one on the top right would be the south elevation,  
791 because it shows the shed dormer.  
792  
793 Mr. Hill - Yes. The ones I gave you today, like I said, I eliminate the  
794 exterior stairs, put them on the interior, which also is safer. And then the side dormers  
795 are taken off to make it way less bulky, and just put one on the rear overlooking my back  
796 yard. That way the upstairs has some type of room. Because if you just have an A-frame  
797 it's going to be, you know, pretty tight. So that's just simply to get a little bit of space, and  
798 then also from the street no one's even going to see it. So, but like I said, I'm going to  
799 put the money into it to do brick, paint it white, do a slate roof. It should flow very nice  
800 with my house. I don't want it to look foreign at all. So --  
801  
802 Ms. Harris - Okay, thank you. Anything else from board members? Thank  
803 you, Mr. Hill, for coming in.  
804  
805 **[After the conclusion of the public hearings, the Board discussed the case and**  
806 **made its decision. This portion of the transcript is included here for convenience**  
807 **of reference.]**  
808  
809 Ms. Harris - Okay, the third conditional use permit, number 16. What is  
810 the pleasure of the board?  
811  
812 Mr. Reid - I move that we approve conditional use permit 2019-00016  
813 subject to the revisions suggested by Mr. Hill in his presentation; reducing the size of the  
814 garage and also eliminating the outside staircase. Even though the house faces Grattan  
815 Road, it has a driveway on Cameron Road. The garage will be served by the existing  
816 driveway and will be set back from the street far enough that most people will not notice  
817 it. This appears to be the most logical place on the lot to build a garage, and I do not  
818 think it will have a detrimental impact on the property.  
819  
820 Ms. Harris - Okay. Is there a second?  
821  
822 Mr. Green - Second.  
823  
824 Ms. Harris - Okay. It's been moved and properly seconded that we  
825 approve this conditional use permit. Is there any discussion on this particular motion?

826  
827 Mr. Blankinship - Just to make sure I understand the motion, Mr. Reid, you are  
828 accepting the plans submitted by the applicant at this morning's hearing?  
829

830 Mr. Reid - Yes. Yes, sir.  
831

832 Ms. Harris - Other questions? Okay. All in favor of approving this  
833 conditional use permit say aye. Opposed say no. The ayes have it and so ordered.  
834

835 After an advertised public hearing and on a motion by Mr. Reid, seconded by Mr. Green,  
836 the Board **approved** application **CUP2019-00016 WILLIAM R. HILL IV AND CLAIRE W.**  
837 **HILL's** request for a conditional use permit pursuant to Section 24-95(i)(4) of the County  
838 Code to build a garage in the front yard at 101 Grattan Road (WESTHAM RIDGE) (Parcel  
839 757-732-4487) zoned One-Family Residence District (R-1) (Tuckahoe). The Board  
840 approved this request subject to the following conditions:  
841

842 1. This conditional use permit applies only to the construction of a detached garage in the  
843 front and side yard only. All other applicable regulations of the County Code shall remain  
844 in force.  
845

846 2. Only the improvements shown on the plot plan and building design filed with the  
847 application, as modified by these conditions, may be constructed pursuant to this  
848 approval. Any additional improvements shall comply with the applicable regulations of the  
849 County Code. Any substantial changes or additions to the design or location of the  
850 improvements shall require a new conditional use permit.  
851

852 3. The plans shall be modified as shown on the plans submitted at the public hearing,  
853 except that the width of the garage shall be reduced to 24 feet.  
854

855 4. The new construction shall match the existing dwelling as nearly as practical in  
856 materials and color.  
857

858 5. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
859 shall obtain approval of an environmental compliance plan from the Department of Public  
860 Works.  
861

862 6. All exterior lighting shall be shielded to direct light away from adjacent property and  
863 streets.  
864

865 7. The building may not be occupied as a dwelling.  
866

867 8. A building permit must be approved by April 25, 2021, or this variance will expire. If the  
868 building permit is cancelled or revoked because it was not diligently pursued, this variance  
869 will expire at that time.  
870

871

872	Affirmative:	Bell, Green, Harris, Johnson, Reid	5
873	Negative:		0
874	Absent:		0

875  
876

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

878

879 Ms. Harris - Now we are ready to move to the variances?

880

881 Mr. Blankinship - All right. There's one variance on the agenda this morning,  
882 variance 2019, number 5, Martin C. Collins.

883

884 **VAR2019-00005** **MARTIN C. COLLINS** requests a variance from Section 24-9  
885 of the County Code to build a one-family dwelling at 7990 Upper Western Run Lane  
886 (Parcel 855-688-9603) zoned Agricultural District (A-1) (Varina). The public street  
887 frontage requirement is not met. The applicant proposes 0 feet public street frontage,  
888 where the Code requires 50 feet public street frontage. The applicant requests a variance  
889 of 50 feet public street frontage.

890

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

894

895 Mr. Gidley - Thank you, Mr. Secretary and members of the Board. The  
896 subject property is located one-half mile south of the intersection of Elko and Charles City  
897 Roads. It is accessed by Upper Western Run Lane, which is a private gravel road that  
898 comes south off of Charles City. You can see the road right here. This is Upper Western  
899 Run.

900

901 This land was originally part of a 102-acre parcel owned by the Cochran Family. It was  
902 created by family division in 1994, and you had a 2-acre and an 18-acre parcel with a  
903 variance being approved for the 2-acre parcel. The owner of that parcel, Linda Evans,  
904 passed away, and her sons inherited both parcels. The sons have since had a boundary  
905 line adjustment to divide these two parcels more equally into 8 and 12-acre parcels. And  
906 if this is all sounding familiar, a few months ago you had a variance request for the 12-  
907 acre parcel, which is located right down here, and now this is the companion case, so to  
908 speak, for the 8-acre parcel highlighted in yellow right here.

909

910 In evaluating this request, is the property unreasonably restricted? The front half of the  
911 property, as you can see here, is generally level. The back half, though, has significant  
912 slopes on it. There's also floodplain and wetlands, because there's a creek that runs  
913 down through there. It's not really practical just to have a farm with this small area you  
914 see right here. A dwelling would appear to be the only reasonable use of the property,  
915 and that's not possible unless they receive a variance from the public street frontage  
916 requirement, so it does appear to be unreasonably restricted.

917

18 Assuming you agree with that, we can go to the five subtests. It was acquired in good  
919 faith by the property owner. Staff doesn't believe there's going to be a substantial  
920 detrimental impact if you put a dwelling here. That's pretty much the development pattern  
921 in the general area. As far as the general condition, being better addressed by a code  
922 amendment. There has been a code amendment in 2012 -- I'm sorry, in 2011 that  
923 regulates family subdivisions, but this lot was created prior to that code amendment. The  
924 one-family dwelling is a permitted use in the A-1 district, and a special exception is not  
925 available.

926  
927 So, in conclusion, the property was acquired in good faith by the Cochran Family, and  
928 inherited by various family members. A dwelling would appear to be the only reasonable  
929 use for the property, and staff is not aware of any substantial detrimental impact on nearby  
930 property owners. As a result, we recommend approval of this request, subject to the  
931 conditions in your staff report. And that concludes my presentation. If you have any  
932 questions, I'll be happy to answer those. Thank you.

933  
934 Ms. Harris - Mr. Gidley, I noticed that we said here that the heirs and the  
935 owners shall accept responsibility for maintaining access to the property.

936  
937 Mr. Gidley - Yes, ma'am.

938  
939 Ms. Harris - Have we had any cases where they don't; someone reneges  
40 on their agreement to maintain that private road? What do they do -- what do we do when  
941 someone does not agree?

942  
943 Mr. Gidley - Typically when -- as you know, when people come in for an  
944 application for a variance, there's a condition on there about accepting their responsibility  
945 for the maintenance. In this case there is a recorded agreement already that provides a  
946 legal easement to the property, and also provides for maintenance of Upper Western Run  
947 Lane. That has been recorded, and I've read it myself.

948  
949 I'm not personally familiar where someone's not kept up property. I think typically it's in  
950 their interest to, so I can't speak to what happens based upon past experience. That said,  
951 if someone didn't abide by, the people on the street could come in, I would assume, and  
952 ask the Board of Zoning Appeals to potentially get involved now.

953  
954 I'm not sure what you would do after they already have a use permit, you know.

955  
956 Mr. Blankinship - I suppose what they'd do is go to court and compel them to  
957 do their part to maintain. I can think of one case, Madam Chair, where we -- the board  
958 imposed a condition similar to this one, and approved the variance, and the applicant,  
959 you know, took a closer look at the cost of doing that and decided not to move forward  
960 with it, because he knew he couldn't. You know, the expense of building a road would  
961 have been too great. But I can't think of one where we've put that condition on a case,  
62 they've built the house, and then failed to maintain the road.

63

964 Ms. Harris - Okay. Since it's legally recorded. I imagine they would have  
965 legal recourse to -- if they did not agree with --  
966  
967 Mr. Blankinship - Exactly.  
968  
969 Ms. Harris - Or if they did not follow the agreement. Are there any  
970 questions for Mr. Gidley from board members? Thank you so very much.  
971  
972 Mr. Gidley - Thank you, Madam Chair.  
973  
974 Ms. Harris - Now we can hear from the applicant, please. Come forward,  
975 give us your name, state your last name and spell it please.  
976  
977 Mr. Collins - Yes, my name is Martin Collins, C-O-L-L-I-N-S.  
978  
979 Ms. Harris - And Mr. Collins, please let us know what you are requesting.  
980  
981 Mr. Collins - I'm requesting a variance for the purpose of building a home  
982 on this family property. You all have any concerns about the driveway; we actually had  
983 four loads of gravel brought in on the driveway yesterday, and that was between -- paid  
984 for by me and my brother. We didn't even ask for any consideration of the other people  
985 who were already on the driveway. So, we're, we're proactively, you know, doing our part  
986 for the driveway.  
987  
988 Ms. Harris - Right.  
989  
990 Mr. Collins - But, yes. I'm just asking for the variance to be granted to build  
991 a single-family dwelling. It wouldn't be -- its really not -- that's the only use for it is to build  
992 a home on.  
993  
994 Ms. Harris - I did drive out there again. I thought the road looked familiar.  
995  
996 Mr. Collins - Yes.  
997  
998 Ms. Harris - It's because we had the other case.  
999  
1000 Mr. Collins - Yes, ma'am.  
1001  
1002 Ms. Harris - And I noticed that you -- even when I drove out there you had  
1003 fresh dirt on some of the road. I was kind of concerned about driving over it, because I  
1004 didn't know if you were covering up a hole, or something.  
1005  
1006 Mr. Collins - Oh, well, sometimes on the gravel driveways like that it'll  
1007 develop, you know, potholes and you just fill them in and, you know, like, but what we did  
1008 yesterday we had dump trucks come in there and actually spread gravel throughout the  
1009 whole -- not the whole road, but a good portion of it, the low-lying areas.

10  
1011 Ms. Harris - Yeah. Because that road is about a-fourth of a mile long, is it  
1012 not?  
1013  
1014 Mr. Collins - Yes, ma'am.  
1015  
1016 Ms. Harris - That's what I thought.  
1017  
1018 Mr. Collins - Yes.  
1019  
1020 Ms. Harris - That's what my GPS told me.  
1021  
1022 Mr. Collins - Yes, and you know, the expense of it grows quite rapidly.  
1023  
1024 Ms. Harris - Right.  
1025  
1026 Mr. Collins - Those trucks coming down through there, but --  
1027  
1028 Ms. Harris - Was the sign out there? Did you see a blue sign from the  
1029 County of Henrico about a public hearing?  
1030  
1031 Mr. Collins - I don't recall. I don't know.  
32  
1033 Ms. Harris - Okay, because I did not see that sign, and before I did.  
1034  
1035 Mr. Blankinship - We posted one sign for both cases, and it wasn't supposed to  
1036 be removed after his brother's application was approved, because his was still pending,  
1037 but we might have removed it.  
1038  
1039 Mr. Collins - Okay. I know that everybody did get a notice in the mail. And,  
1040 like I said, that property has been in our family, since I was born, and nobody has any  
1041 disagreement with me building a house there, or my brother. Actually everybody's, you  
1042 know, showing encouragement.  
1043  
1044 Ms. Harris - Good. Are there any questions from board members?  
1045  
1046 Mr. Johnson - Yes. Mr. Collins, I also went out there and noticed the long  
1047 road right there.  
1048  
1049 Mr. Collins - Yes.  
1050  
1051 Mr. Johnson - Also, when there are vehicles coming in opposite directions,  
1052 do you have to wait for one to pass, or something? It's kind of narrow in some places.  
1053

1054 Mr. Collins - In some places it is, but we usually keep that addressed. It's  
1055 really not a problem. It's not, you know, not a lot of people a coming and a going.  
1056 Occasionally two cars may pass. And there's actually room for both cars to pass.

1057  
1058 Mr. Johnson - Okay.

1059  
1060 Ms. Harris - Did you read the conditions, Mr. Collins, in the report?

1061  
1062 Mr. Collins - Yes, ma'am. I did.

1063  
1064 Ms. Harris - And you agree with all the conditions?

1065  
1066 Mr. Collins - Yes ma'am.

1067  
1068 Ms. Harris - Okay. Are there other questions from board members? We  
1069 thank you for coming in.

1070  
1071 Mr. Collins - All right, thank you. Thank you.

1072  
1073 **[After the conclusion of the public hearings, the Board discussed the case and**  
1074 **made its decision. This portion of the transcript is included here for convenience**  
1075 **of reference.]**

1076  
1077 Ms. Harris - We'll move now to the variance case, number 5. Okay, what  
1078 is the pleasure of the board?

1079  
1080 Mr. Johnson - I recommend that we approve this case. Also, the lack of  
1081 public street frontage is a hardship, and it also -- they have had it since 1960, which is a  
1082 long time. And also, there is no reasonable use for the property, as well, and all five  
1083 subtests of the Code have been met, and the hardship was not created by the applicant  
1084 because of the property never had street frontage as well. I recommend approval.

1085  
1086 Ms. Harris - Is there a second to this motion?

1087  
1088 Mr. Bell - Second.

1089  
1090 Ms. Harris - Okay. It's been moved and property seconded that we  
1091 approve this variance case. Any further discussion on this particular motion? All in favor  
1092 of approval say aye. Those opposed say no. The variance has been approved.

1093  
1094 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Bell,  
1095 the Board **approved** application **VAR2019-00005 MARTIN C. COLLINS** request for a  
1096 variance from Section 24-9 of the County Code to build a one-family dwelling at 7990  
1097 Upper Western Run Lane (Parcel 855-688-9603) zoned Agricultural District (A-1)  
1098 (Varina). The public street frontage requirement is not met. The applicant proposes 0 feet  
1099 public street frontage, where the Code requires 50 feet public street frontage. The

1100 applicant requests a variance of 50 feet public street frontage. The Board approved this  
1101 request subject to the following conditions:

1102  
1103  
1104 1. This variance applies only to the public street frontage requirement for one dwelling  
1105 only. All other applicable regulations of the County Code shall remain in force.

1106  
1107 2. Only the improvements shown on the plot plan filed with the application may be  
1108 constructed pursuant to this approval. Any additional improvements shall comply with the  
1109 applicable regulations of the County Code. Any substantial changes or additions to the  
1110 design or location of the improvements shall require a new conditional use permit.

1111  
1112 3. Approval of this request does not imply that a building permit will be issued. Building  
1113 permit approval is contingent on Health Department requirements, including, but not  
1114 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well  
1115 location.

1116  
1117 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
1118 shall obtain approval of an environmental compliance plan from the Department of Public  
1119 Works.

1120  
1121 5. The driveway from Upper Western Run Lane to the homesite shall be improved with a  
1122 durable asphalt or compacted gravel surface at least 10 feet wide with 12 feet of horizontal  
1123 clearance and 14 feet of overhead clearance to provide access for police, fire, emergency  
1124 medical services, and other vehicles. The owners of the property, and their heirs or  
1125 assigns, shall accept responsibility for maintaining access to the property.

1126  
1127 6. A building permit must be approved by April 25, 2021, or this variance will expire. If the  
1128 building permit is cancelled or revoked because it was not diligently pursued, this variance  
1129 will expire at that time.

1130  
1131  
1132 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1133 Negative: 0  
1134 Absent: 0

1135  
1136  
1137 **[At this point, the transcript continues with the Board of Zoning Appeals Meeting]**

1138  
1139 Ms. Harris - Let's look now at the minutes and after the minutes we do  
1140 have a discussion of some information we received. But the first set of minutes was  
1141 September 27, 2018 that we received in the mail. A motion is in order to approve these  
1142 minutes.

1143  
1144 Mr. Green - So moved.  
1145

1146 Mr. Reid - Second.  
 1147  
 1148 Ms. Harris - Okay. It's been moved and properly seconded that we  
 1149 approve the September 27th minutes, 2018. All in favor say aye. Those opposed say  
 1150 no. The ayes have it, and it is so ordered.  
 1151

1152  
 1153 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
 1154 Negative: 0  
 1155 Absent: 0  
 1156

1157  
 1158 Ms. Harris - Okay, and then we move to the next set of minutes, which was  
 1159 March 11th. Oh, sorry, the meeting was on March the 28th.  
 1160

1161 Mr. Green - So moved. I motion.  
 1162

1163 Mr. Johnson - I seconded it.  
 1164

1165 Ms. Harris - Okay, so moved and properly seconded that we would accept  
 1166 these minutes as presented. Any discussion on the motion? All in favor of approving the  
 1167 minutes, or accepting the minutes, say aye. Those opposed say no. The ayes have it  
 1168 and it is so ordered.  
 1169

1170  
 1171 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
 1172 Negative: 0  
 1173 Absent: 0  
 1174

1175  
 1176 Ms. Harris - Okay. Gentleman, we received in a letter from Mr.  
 1177 Blankinship on several issues, and what I tried to do was to summarize the issues so we  
 1178 can agree or disagree or do whatever we need to do. So, the first issue that I see  
 1179 regarding the public hearing is to give the county staff 10 minutes, the applicants 10  
 1180 minutes to make his or her presentation, and other speakers 3 minutes. We found that  
 1181 necessary based on our experience. If the Board believes that if more time is needed,  
 1182 we do have a reasonable time limit we can use. So, do we want to take this -- I think we  
 1183 need to take it issue by issue?  
 1184

1185 Mr. Green - Yes.  
 1186

1187 Ms. Harris - Okay, can I get a motion?  
 1188

1189 Mr. Green - So moved.  
 1190

1191 Mr. Johnson - Second.

92

1193 Ms. Harris - Okay. It's been moved and properly seconded that we will  
1194 accept the recommendation of 10 minutes for staff, 10 minutes for applicant, and other  
1195 speakers 3 minutes, and then allow reasonable time limit. Because the guidelines say  
1196 other reasonable time limits. Is there any further discussion on this motion? All in favor  
1197 say aye. Opposed say no. Ayes have it and it is so ordered.

1198  
1199

1200 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1201 Negative: 0  
1202 Absent: 0  
1203  
1204

1205 Ms. Harris - The next issue that I see is to hear and decide each case  
1206 before proceeding to the next case. Now you notice today we did the variances first and  
1207 then we did -- I'm sorry. We did the conditional use permits first, because usually they  
1208 are shorter cases, and we did the variance last. And we'd usually do that, I believe.

1209

1210 Mr. Blankinship - Yes, ma'am.

1211

1212 Ms. Harris - Do we want to decide each case right there on the spot before  
1213 moving, or do we want to decide on the group of conditional use permits, which will give  
1214 the people who have come in for just that, they could leave before we actually discuss  
1215 the variances. Before we actually listen to the presentation for the variances, or do we  
1216 want to decide -- so, actually, three options. I don't know how you see it.

1217

1218 We can decide each case before proceeding to the next case, or we can do all the  
1219 conditional use permit cases and decide those, and then move on to the variance cases,  
1220 or we could keep it as it is. Yes.

1221

1222 Mr. Green - I would recommend that we decide each case as we finish it.  
1223 That is respectful to the folks that are here, and they can know the status, they don't have  
1224 to worry about calling staff back, or figuring that out. And I don't think that'll take too much  
1225 time.

1226

1227 Ms. Harris - Okay, any more discussion?

1228

1229 Mr. Reid - I agree with Mr. Green on that.

1230

1231 Ms. Harris - Okay. Mr. Johnson?

1232

1233 Mr. Johnson - I agree with that.

1234

1235 Ms. Harris - Okay, can I have a motion?

36

1237 Mr. Johnson - Motion that we approve that; having the solution after the  
1238 presentation.  
1239  
1240 Ms. Harris - Okay, the vote after each case before proceeding to the next  
1241 case?  
1242  
1243 Mr. Johnson - Yes.  
1244  
1245 Ms. Harris - Okay. Any discussion on the motion? We did get a second,  
1246 did we not?  
1247  
1248 Mr. Reid - Yes, second.  
1249  
1250 Mr. Blankinship - Mr. Reid.  
1251  
1252 Ms. Harris - We need a second. Mr. Reid second. Okay, any further  
1253 discussion on this? Okay. All in favor of deciding each case before proceeding to the  
1254 next case say aye. Those opposed say no. The ayes have it and it is so ordered.  
1255  
1256  
1257 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1258 Negative: 0  
1259 Absent: 0  
1260  
1261  
1262 Ms. Harris - Okay. Then the next thing that is discussed is the appeal.  
1263 And the suggestion is that we'll give 10 minutes for the administrative officer's  
1264 explanation, then 10 minutes for the appellant's burden of proof, and then 3 minutes for  
1265 any type of a presumption via preponderance of the evidence, or a rebuttal. I think that's  
1266 the recommendation.  
1267  
1268 Mr. Green - So moved.  
1269  
1270 Ms. Harris - Is there a second?  
1271  
1272 Mr. Reid - Second.  
1273  
1274 Ms. Harris - Okay. Any discussion? Mr. Blankinship, did I state that  
1275 correctly?  
1276  
1277 Mr. Blankinship - You may have skipped a line there, it'd be 10 minutes for the  
1278 county to present the argument, 10 minutes for the appellant to present their appeal, and  
1279 then 3 minutes for any other individual who wishes to speak. It is a public hearing, so we  
1280 have to allow anyone who wants to speak, to speak.  
1281  
1282 Ms. Harris - Okay.

1283  
1284 Mr. Blankinship - But then what -- the confusing thing has been about rebuttal,  
1285 and in the state code for appeals there is no rebuttal. Our rules currently treat appeals  
1286 the same as the other cases, so we've been trying to allow a rebuttal and trying to figure  
1287 out who's supposed to be rebutting. But the correct answer under the state code is that  
1288 there would be no rebuttal at the end.  
1289  
1290 Ms. Harris - So anyone who wishes to speak --  
1291  
1292 Mr. Blankinship - Would be given three minutes.  
1293  
1294 Ms. Harris - Okay.  
1295  
1296 Mr. Blankinship - Yes, ma'am.  
1297  
1298 Ms. Harris - Okay.  
1299  
1300 Mr. Johnson - And, Madam Chair, does that mean that we would not have  
1301 any -- there would be no mention of rebuttals?  
1302  
1303 Mr. Blankinship - Right.  
1304  
1305 Mr. Johnson - Okay.  
1306  
1307 Ms. Harris - Because you remember the case we had in which the --  
1308  
1309 Mr. Blankinship - The rebuttal lasted two hours.  
1310  
1311 Ms. Harris - We spoke about--- because that name had been mentioned,  
1312 they thought they were due to rebut. But we just said we will not deny any speaker the  
1313 opportunity to speak, limiting them three minutes, and hopefully they would stay on topic  
1314 with the preponderance of the evidence.  
1315  
1316 Okay that's the discussion. All in favor of making this a policy say aye. Opposed say no.  
1317  
1318  
1319 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1320 Negative: 0  
1321 Absent: 0  
1322  
1323  
1324 Mr. Green - Is there a clock so that they know that they have three  
1325 minutes?  
1326  
1327 Mr. Blankinship - We'll have to figure out how to do that.  
1328

1329 Ms. Harris - Okay. Then the next issue in the letter that we received talked  
1330 about stating a motion. That you notice today it was helpful to have the motion stated. It  
1331 was helpful to me. I know it's more work for the members of the staff to provide legal or  
1332 factual reasons why we should approve or not approve a particular case. Do you really  
1333 want the motion to be stated by the planning staff?  
1334  
1335 Mr. Green - Yes. And I think that's an excellent idea.  
1336  
1337 Mr. Reid- I think it's an excellent idea.  
1338  
1339 Ms. Harris - Do you like that?  
1340  
1341 Mr. Reid - I like that, yes.  
1342  
1343 Ms. Harris - We don't want to take away from you the privilege of making  
1344 up your own mind. You know, still you don't have to accept it, but it is helpful maybe to  
1345 have something.  
1346  
1347 Mr. Bell - Well, it's still possible to add to it as well, isn't it?  
1348  
1349 Ms. Harris - Exactly.  
1350  
1351 Mr. Blankinship - Absolutely, or just throw them away and do your own thing.  
1352  
1353 Mr. Green - It's guidance.  
1354  
1355 Ms. Harris - Right.  
1356  
1357 Mr. Blankinship - And we will always give you an approve, a deny, and a defer,  
1358 so that there's no misunderstanding on the public that we're guiding you on how to decide  
1359 the case. But that is not --  
1360  
1361 Ms. Harris - Because I think it's been suggested to us that when we state  
1362 the motion and reasons for the motion, when we discuss it, we need to provide legal or  
1363 factual reasons, so if the case goes to circuit court the judge will have something to fall  
1364 back on.  
1365  
1366 Mr. Blankinship - Right.  
1367  
1368 Ms. Harris - And we do have some cases like that now. In fact, don't we  
1369 have one case that is supposed to go to the Supreme Court?  
1370  
1371 Mr. Blankinship - Yes, ma'am.  
1372  
1373 Mr. Reid - The East End Landfill.  
1374

75 Ms. Harris - Yes. So, it does happen. So, anyway, let's have a motion  
1376 that we will get the county staff -- the planning staff to provide three motions -- a draft with  
1377 three motions, pro, con and defer that we may use in decision making.  
1378

1379 Mr. Green - And also putting in our own analysis as well.  
1380

1381 Ms. Harris - Right. And, of course, we will just make our own decision, our  
1382 own mind, we'll just use this as a reference.  
1383

1384 Mr. Green - Right. Yes.  
1385

1386 Ms. Harris - Okay. Can we have a motion to that affect?  
1387

1388 Mr. Bell - I move so.  
1389

1390 Mr. Green - Second.  
1391

1392 Ms. Harris - It's been moved and property seconded that the staff will  
1393 provide three motions -- a draft, three motion draft; pro, con and defer, that we can use  
1394 as a reference if we so choose. All in favor of the motion say aye. Those opposed say  
1395 no. Ayes have it.  
1396

97  
1398 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1399 Negative: 0  
1400 Absent: 0  
1401  
1402

1403 Ms. Harris - And that takes care of -- what's the other issue?  
1404

1405 Mr. Blankinship - Well while we were doing that, we went ahead and drafted  
1406 that whole nine-page revision of the minutes, you know, carrying over to making it more  
1407 similar to the planning commission. I mean, not minutes, the rules of procedure. The  
1408 side-by-side. You covered the main points of it. I just want to make sure that nobody has  
1409 any other --  
1410

1411 Ms. Moore - There was one that probably should be brought out, and that's  
1412 the maximum items on the agenda.  
1413

1414 Mr. Blankinship - Oh, right. Yes, that was the --- .  
1415

1416 Ms. Moore - Which is on page 7 of 12 in the revised --  
1417

1418 Ms. Harris - Let's look at the Rules and Regulations for the Board of  
1419 Zoning Appeals. Page 7 of 12. Currently a maximum of 12 cases will be placed in each  
1420 month's agenda.

1421  
1422 Mr. Blankinship - Currently it's 25, Madam Chair.  
1423  
1424 Ms. Harris - I'm sorry. A maximum 25 cases will be placed in each month's  
1425 agenda, and when the 25<sup>th</sup> case is received prior to the filing deadline, the agenda will be  
1426 complete at the date 25<sup>th</sup> case is received. And we're changing it to 12 cases. Is that  
1427 right?  
1428  
1429 Mr. Blankinship - Yes, ma'am. I do remember days when we had to cut off at  
1430 25, because we had reached the limit before the deadline, but it's been a long time since  
1431 we've had that many.  
1432  
1433 Ms. Moore - Quite frankly that would be hard to analyze even on staff.  
1434  
1435 Mr. Johnson - Yes.  
1436  
1437 Mr. Blankinship - Yes. Those reports used to be two or three sentences.  
1438  
1439 Ms. Moore - Right.  
1440  
1441 Ms. Harris - I called Mr. Blankinship -- go ahead, Mr. Bell.  
1442  
1443 Mr. Bell - Just one question there, hopefully there are no more 25  
1444 cases, but when something does occur that is an exception to the 12, how's that going to  
1445 be handled?  
1446  
1447 Mr. Blankinship - It would roll to the next month.  
1448  
1449 Mr. Bell - Okay.  
1450  
1451 Mr. Blankinship - So even though they had made the deadline, say for the June  
1452 meeting, they wouldn't be heard until July.  
1453  
1454 Mr. Bell - All right.  
1455  
1456 Ms. Harris - Okay, because here it is in 2(a), on page 7 of 12, it does say  
1457 if the 12-case limit is reached prior to the deadline, any additional cases shall be carried  
1458 forward to the next meeting.  
1459  
1460 Ms. Moore - These are also new cases, so if something was deferred that  
1461 would still be placed on the next agenda it was deferred to.  
1462  
1463 Mr. Blankinship - Right. That would not count against the -- .  
1464  
1465 Ms. Harris - It would not count in -- .  
1466

1467 Mr. Blankinship - A deferred case would not count against the 12.  
1468  
1469 Ms. Harris - Okay. I had a question about the duties of the secretary. I  
1470 had talked with Mr. Blankinship briefly about it. Let's see if I can find that page.  
1471  
1472 Mr. Blankinship - It should be right at the, like, page three.  
1473  
1474 Mr. Green - Are you the secretary?  
1475  
1476 Mr. Blankinship - Yes.  
1477  
1478 Ms. Harris - It shows what Mr. Blankinship has been doing all of these  
1479 years, but then if you look at the proposed guidelines, I guess, proposed rules and  
1480 regulations, it kind of cuts it down.  
1481  
1482 Mr. Blankinship - I just summarized.  
1483  
1484 Ms. Harris - But what I fear is if someone else looks at these rules and  
1485 regulations they'll think all they have to do is conduct, you know, the official  
1486 correspondence and then sends them out, attend meetings, and keep those applications  
1487 in the files. But, as we know, Mr. Blankinship does a lot more. If you look on the left side  
1488 there, you can see all that he does. And so, I don't know if you want to change that or  
1489 just let it stay.  
1490  
1491 Mr. Green - I would maybe just let it stay.  
1492  
1493 Ms. Harris - Yes. So, the current situation would be what we use, right?  
1494 Rather than change it to the proposed? Is that what you're saying?  
1495  
1496 Mr. Green - Yes.  
1497  
1498 Ms. Harris - Okay. I don't know if we had a --  
1499  
1500 Mr. Green - You're not retiring are you?  
1501  
1502 Mr. Blankinship - No. I wish.  
1503  
1504 Ms. Moore - We all know those responsibilities are in there, it's just  
1505 broader, and we've moved to -- yeah.  
1506  
1507 Ms. Harris - We don't want anyone to come in new and think that's all I  
1508 have to do. It is so much more.  
1509  
1510 Mr. Bell - You're talking about article 1-4, right?  
1511  
1512 Ms. Moore - Yes.

1513  
1514 Mr. Blankinship - Yes, that's correct. I certainly don't oppose having it all listed.  
1515 Just to my eyes a summary, for the purpose of the rules. That's all I was trying to do, was  
1516 summarize. No objection to leaving it as --  
1517  
1518 Ms. Harris - So you were not trying to get out of it and --  
1519  
1520 Mr. Blankinship - No, ma'am. Now, when I try to get out on things I just, you  
1521 know, I just call for help.  
1522  
1523 Mr. Green - So if we cut your duties do they cut your pay!  
1524  
1525 Mr. Bell - Also, when I looked at this I saw where we got a lot of great  
1526 stuff, and I also felt that at time of hire, I mean, when someone new comes on here this  
1527 one should be something they should read very first thing, because it's simple, and give  
1528 them a good overview of what we're doing. Where in the past, no one's had it, they've  
1529 waited around till they could get scheduled to go to that class, or they said, "I'm not going  
1530 to the class." They just picked it up. But this is wonderful, I thought, and it's a simple read  
1531 for anyone who first comes in. So, I would recommend that that be something that is  
1532 done administratively in the future.  
1533  
1534 Mr. Blankinship - Certainly will.  
1535  
1536 Ms. Harris - Look at page 11 of 12 -- I'm sorry, go ahead, Mr. Johnson.  
1537  
1538 Mr. Johnson - I was noticing, Article 2 duties and I was looking at -- talking  
1539 about the state regulations, you know, they said duties, slash, power. And I was  
1540 wondering, does that make a difference?  
1541  
1542 Ms. Moore - Well, I think it does. The state code specifically enables  
1543 powers to you, what you can and can't decide on or -- and then the duties would be how  
1544 you implement those, I think.  
1545  
1546 Ms. Harris - Where do you see the use of the word, "power", Mr. Johnson?  
1547 I see duties, but did you say -- Article 2 you said something about powers.  
1548  
1549 Mr. Johnson - Oh, no. I was referring to when they mentioned the codes I  
1550 saw looking up from the codes, and I see it has "power" and "duties".  
1551  
1552 Ms. Harris - Okay, so do you want to tell --  
1553  
1554 Mr. Johnson - And I was wondering whether they're --  
1555  
1556 Ms. Moore - I see what you're saying. Okay.  
1557  
1558 Mr. Johnson -- Yes.

59  
1560 Ms. Harris - The heading there, is what you're talking about?  
1561  
1562 Mr. Johnson - Right. Yes.  
1563  
1564 Ms. Harris - Okay. Do we want to say duties/powers, or just -- ?  
1565  
1566 Mr. Blankinship - The code has powers and duties of Boards of Zoning Appeals  
1567  
1568 Ms. Harris - So we want to add --  
1569  
1570 Mr. Blankinship - Just say powers and duties?  
1571  
1572 Ms. Harris - Yes.  
1573  
1574 Mr. Blankinship - Make it parallel?  
1575  
1576 Ms. Harris - Yes.  
1577  
1578 Mr. Johnson - Yes.  
1579  
1580 Ms. Harris - Look at the last page. For example, have you ever had a  
1581 situation or case we've had that it bothered you after we left? Well, the reconsideration  
1582 is on page 11 of 12. And if there is a problem like that, a motion for reconsideration of a  
1583 decision by the board may be requested prior to the next regular meeting. Provided that  
1584 there is new evidence submitted. So, do we agree with that? We rarely do that, but we  
1585 can reconsider.  
1586  
1587 Mr. Johnson - I would -- yes.  
1588  
1589 Ms. Harris - Okay.  
1590  
1591 Mr. Johnson - Because sometimes one might think about something that  
1592 they overlooked and --  
1593  
1594 Ms. Harris - Right. A fact, or --  
1595  
1596 Mr. Johnson - Yes.  
1597  
1598 Ms. Harris - That we may have overlooked. You know, right?  
1599  
1600 Mr. Blankinship - Yes, and I don't believe we've changed that from the  
1601 existing, have we?  
1602  
1603 Mr. Johnson - Right.  
1604

1605 Mr. Blankinship - I mean, you know, we've probably moved a few words  
1606 around here and there.  
1607  
1608 Ms. Harris - Yes.  
1609  
1610 Mr. Blankinship - But I think it is basically the same.  
1611  
1612 Ms. Harris - Basically the same thing. But instead of saying no to  
1613 hearing the proposal, it says a motion for, you know, so it's the wording, I think is  
1614 basically the same thing.  
1615  
1616 Mr. Blankinship - Yes.  
1617  
1618 Mr. Bell - How would that be done? I mean, if it would be to have a  
1619 meeting --  
1620  
1621 Mr. Blankinship - The way it's done, normally when we've had it in the past it's  
1622 been the applicant who's been denied, and then had some new information come to  
1623 light that they thought would change the case. So, they write me a letter stating the new  
1624 evidence and requesting a rehearing. And I bring it to you, it has to be done by the next  
1625 meeting. So, like this morning, if we had denied -- or you had denied one and the  
1626 applicant had written me a letter in the next week or two, it would go on the next  
1627 agenda, the May agenda, only as the question, "Shall we rehear this case?" And you  
1628 would discuss the new evidence and make a decision whether to réhear. And if you did  
1629 vote to rehear, then the case would be placed again on the June agenda.  
1630  
1631 Mr. Johnson - Oh, okay.  
1632  
1633 Mr. Green - So, someone we denied can --  
1634  
1635 Mr. Blankinship - Can request a rehearing if they produce evidence. And not  
1636 just evidence that they forgot to bring, or failed to bring, it has to be evidence that could  
1637 not have been presented at the hearing.  
1638  
1639 Mr. Green - Are they aware of that going into a hearing?  
1640  
1641 Mr. Blankinship - Probably not  
1642  
1643 Mr. Green - So how would they know?  
1644  
1645 Mr. Blankinship - They usually call. People call me and say, "Look, this just  
1646 came up, is there any way to reconsider that decision?"  
1647  
1648 Mr. Johnson - Okay, that's enough.  
1649

1650 Ms. Harris - So we would not consider that at the next meeting, or we have  
1651 to do it before the next meeting?  
1652

1653 Mr. Blankinship - At the very next meeting you make the decision whether to  
1654 rehear the case.  
1655

1656 Ms. Harris - Okay.  
1657

1658 Mr. Blankinship - And if you decide yes, then the following meeting you would  
1659 rehear the case. You wouldn't actually rehear the case the next meeting.  
1660

1661 Ms. Harris - Okay.  
1662

1663 Mr. Green - But if someone brought it to our attention, then two or three  
1664 meetings later we can still -- you said the next meeting.  
1665

1666 Mr. Blankinship - The request to rehear has to be on the very next hearing. It's  
1667 sort of like allowing 30 days to appeal in the circuit court. At some point the neighbors  
1668 need to know the decision is final, it can't be reconsidered.  
1669

1670 Mr. Green - But the only problem I have with that, is that if folks aren't  
1671 really aware that this exists, that they don't know that they have that ability to do that. So,  
1672 they've -- they're denied somewhat due process of a situation --. For example, I look at  
1673 the Mann Kidwell case. If this individual knew that he could have come to this meeting  
1674 and asked for reconsideration, he would -- that couple might have. But the fact that they  
1675 don't know that this exists, what we're saying now is that you can't bring it back to us  
1676 when it's clearly here that it can. So I would think we need to be a little bit more -- we  
1677 need to either give this information out as part of the entire package, so they can know  
1678 that they have it, or not -- or change the language that the board meeting request prior to  
1679 the next regular meeting.  
1680

1681 Mr. Blankinship - That's certainly something we should think about.  
1682

1683 Mr. Green - Yes. I don't think it's -- .  
1684

1685 Mr. Blankinship - I don't know the answer to that.  
1686

1687 Ms. Moore - And they would still be like any new case, they'd still send out  
1688 -- notices would be sent out just like any normal case.  
1689

1690 Mr. Blankinship - Right.  
1691

1692 Mr. Green - Yeah. But the rules say it has to be, for example, we ruled on  
1693 the Mann Kidwell case, he would have to ask for reconsideration at this meeting.  
1694

1695 Ms. Moore - So, they would need to be aware that there's a time limit.

1696  
1697 Mr. Blankinship - Yes. When we send the denial letter it has a statement in  
1698 there you can appeal to circuit court. But it does not -- we do not routinely tell people that  
1699 they have the right to a rehearing.  
1700  
1701 Mr. Green - Right.  
1702  
1703 Mr. Blankinship - On the other hand, when something's approved, the neighbor  
1704 has that same right, and we don't notify them of that, either. So, we'll have to think about  
1705 that. I understand what you're saying. This is important for them. People don't have that  
1706 right if they don't know they have that right. It's like your Miranda rights. You don't know  
1707 that they exist, then you're not really there. We're -- let's give that some thought.  
1708  
1709 Mr. Green - Because then what happens if they come back to us and say,  
1710 I'd like this reconsidered?  
1711  
1712 Mr. Blankinship - And of course they can apply again, after a year.  
1713  
1714 Mr. Green - But that's different, the rules say that they have the right for  
1715 reconsideration.  
1716  
1717 Mr. Blankinship - Right.  
1718  
1719 Ms. Moore - So, it might be as simple as just making a statement, you  
1720 know, 30 days to appeal, or should you have new evidence --  
1721  
1722 Mr. Blankinship - But, I don't know the legal basis for that either. I'd like to give  
1723 that some thought. But I do appreciate the suggestions.  
1724  
1725 Mr. Green - No. I mean, I would just use the language that's already there.  
1726 I mean, why --  
1727  
1728 Mr. Blankinship - Just provide it to the -- to the applicant in the case of a denial?  
1729  
1730 Mr. Green - Right, reconsideration. I would just -- . Submit new evidence  
1731 or something, like --  
1732  
1733 Mr. Blankinship - So you're not suggesting change the rule, you're just  
1734 suggesting notifying the applicant of that.  
1735  
1736 Mr. Green - I would just put that in that part, that it says reconsideration,  
1737 you know, if they deny it they can -- my assumption is, and has always been, and I've  
1738 been here about, what, a year, that if they're denied they -- the next step is the circuit  
1739 court.  
1740  
1741 Mr. Blankinship - Right.

1742  
1743 Mr. Green - Never was I -- never was I aware that the next step was  
1744 reconsideration.  
1745  
1746 Mr. Blankinship - Yeah. There is a possibility.  
1747  
1748 Mr. Green - And so if we don't know it, they don't know it, then that's not -  
1749 - that's not fair. Because then they go to all that expense, potentially, of booting it up to  
1750 the circuit court when they may have additional evidence that they can present to us, and  
1751 that might -- that's subjected to what you all think might be new. It may not be new  
1752 evidence, and you still might say no.  
1753  
1754 Mr. Blankinship - Right. Right.  
1755  
1756 Ms. Moore - Maybe it's a statement that the board can make, just after they  
1757 make a decision, they could notify when you give the reasons for denial, maybe then you  
1758 can notify them, "And by the way, should you have new evidence." And just tell them right  
1759 there, might be an answer.  
1760  
1761 Mr. Green - Yes. But under our current rules, as people leave before we  
1762 make our decisions, they're not aware of that. I don't know why any information that you  
1763 send out you just couldn't send out this section.  
1764  
1765 Mr. Blankinship - That may be the easiest solution.  
1766  
1767 Ms. Harris - If they're denied we could send it out if they're denied.  
1768  
1769 Mr. Blankinship - If you have new information.  
1770  
1771 Ms. Harris - If you have new information  
1772  
1773 Mr. Johnson - New information, yes.  
1774  
1775 Mr. Blankinship - Comes to light.  
1776  
1777 Mr. Green - Well, as part of the process.  
1778  
1779 Mr. Blankinship - Right.  
1780  
1781 Mr. Green - I would not wait till they're denied. I would just do it as part of  
1782 the process.  
1783  
1784 Mr. Blankinship - Oh, okay. Okay.  
1785  
1786 Mr. Green - So as part of the process, -- how do they know that they can  
1787 go to the circuit court?

1788  
1789 Mr. Blankinship - That's in the denial letters.  
1790  
1791 Mr. Green - Okay. Then I would also put that in there.  
1792  
1793 Ms. Harris - In the denial letter you think.  
1794  
1795 Mr. Green - Reconsideration, yes.  
1796  
1797 Ms. Harris - So do we all agree that that should be in the denial letter?  
1798  
1799 Mr. Johnson - With new information.  
1800  
1801 Ms. Harris - Right. Stating about the new evidence.  
1802  
1803 Mr. Johnson - Right.  
1804  
1805 Ms. Harris - Okay. Any other proposal here that you want to look at? I  
1806 had something else. I've got page 2 of 12. I know you know this. The terms of the office  
1807 shall be for five years each. Go down to appointments to fill vacancies, shall be only for  
1808 the unexpired portion of the term. Members may be re-appointed to succeed themselves,  
1809 a member whose term expires, shall continue to serve until his successor is appointed  
1810 and qualified.  
1811  
1812 I think this is the time for me to tell you that I will not be seeking re-appointment after July.  
1813 But, I will, according to this, according to these guidelines, I will stay here, I will serve,  
1814 until my successor is appointed, but that should not be a problem, because I notified  
1815 everybody about four months in advance. But I think we still need to see this, you know,  
1816 that if you do decide to leave this position, that there's a way to leave it, in other words.  
1817 Okay, any other proposal here that you --?  
1818  
1819 Mr. Johnson - Madam Chair.  
1820  
1821 Ms. Harris - Yes.  
1822  
1823 Mr. Johnson - I want to mention number three on 2 of 12 as well.  
1824  
1825 Ms. Harris - Two of twelve.  
1826  
1827 Mr. Johnson - Because oftentimes the member was doing something with  
1828 another part of the county, or they didn't -- there are things that they didn't know that you  
1829 can't be on the board and be a part of that as well. So I'm glad this was put in, because  
1830 I know somebody was called because it was on a particular county board, another board,  
1831 and wondered why they couldn't be on both, or something like that.  
1832  
1833 Ms. Harris - Right.

1834 Mr. Blankinship - Yeah. That's taken verbatim from the state code as well.  
1835  
1836 Ms. Harris - Right.  
1837  
1838 Mr. Green - Right. So, they can be planning --  
1839  
1840 Ms. Harris - So the Board of Supervisors cannot sit on the BZA?  
1841  
1842 Mr. Blankinship - I guess not. Well, that would come into conflict anyway,  
1843 because your kind of at odds with the Board of Supervisors.  
1844  
1845 Ms. Harris - Oh. Okay, well -- . Any more discussion on the rules and  
1846 regulations -- the proposed rules and regulations? Okay. A motion is in order for us to  
1847 accept this, these proposals that's out, Rules and Regulations for this Board of Zoning  
1848 Appeal. Is there a motion?  
1849  
1850 Mr. Johnson - Motion that we accept the new regulations -- proposed  
1851 regulations.  
1852  
1853 Ms. Harris - Is there a second?  
1854  
1855 Mr. Reid - Second.  
1856  
1857 Ms. Harris - Okay. It's been moved and property seconded that we will  
1858 accept the proposed rules and regulations for this board. And we did include adding that  
1859 a statement will go to the applicants so they would know about reconsideration. Okay.  
1860  
1861 Mr. Green - So a question I have is that the individuals that have been  
1862 denied thus far, when does this take effect?  
1863  
1864 Mr. Blankinship - That's always been the rules, they have only that first meeting,  
1865 so anybody other than when we did a denial this morning. There will be no retroactive  
1866 change because that rule has been in effect -- .  
1867  
1868 Mr. Green - But where is it?  
1869  
1870 Mr. Blankinship - In the rules.  
1871  
1872 Mr. Green - But they don't see the rules.  
1873  
1874 Mr. Blankinship - Right. Well they're your rules. You know, the rules for you.  
1875  
1876 Mr. Green - Right. But we need to -- we need to make -- we need to  
1877 educate the populace that there is a rule, and if an individual is denied -- just like all these  
1878 individuals with the dogs that have been denied.  
1879

1880  
1881 Mr. Blankinship - Right.  
1882  
1883 Mr. Green - We need to let them know that if you bring new evidence to us we  
1884 can potentially reconsider.  
1885  
1886 Mr. Blankinship - And going forward we will do that, but there's no means for us  
1887 to do that retroactively.  
1888  
1889 Ms. Harris - These are our rules and regulations as of our vote today.  
1890 These are our rules and regulations that we vote on. We can vote it up or vote it down or  
1891 correct it or whatever we decide. But as of today, when we complete this vote these are  
1892 the new rules and regulations for this board. Okay. And I think Mr. Green, Mr. Blankinship  
1893 said that from now on that the applicants will be notified of the reconsideration procedure.  
1894 Whether we do it through a denial, or whether we do it --  
1895  
1896 Mr. Blankinship - Right. We'll find the best way to do that.  
1897  
1898 Ms. Harris - Okay, all right. Is that okay? I know what you're saying -  
1899  
1900 Mr. Blankinship - I can't notify somebody that was denied three months ago,  
1901 "Oh, by the way, you had the right to request a re-hearing until two months ago, but you  
1902 don't now." We can't go back in time and change that.  
1903  
1904 Mr. Green - I just see this as a -- I'm not comfortable with that. I think that  
1905 if it's a rule, all rules should be known, all regulations should be known, all laws should  
1906 be known, and even for us to just realize this is somewhat perplexing to me, that we didn't  
1907 know. I didn't know anything about a reconsideration. Was this ever given to us?  
1908  
1909 Mr. Blankinship - Yes it was. When you first were appointed, I sent you a letter  
1910 with a bunch of attachments; the state code, the county code, the rules, a whole bunch  
1911 of stuff I sent to you. And, of course, you can't adjust to all, you know, every sentence of  
1912 everything that's sent that first day. And rehearings don't come up very often, so it's not  
1913 something that we discuss on a routine basis. I do occasionally get a phone call from an  
1914 applicant saying, you know, "Something just came to light this week. Is there any way I  
1915 can get back in front of the Board on that?"  
1916  
1917 Mr. Green - Has that ever happened?  
1918  
1919 Mr. Blankinship - Yes.  
1920  
1921 Ms. Harris - Yes. Since I've been here, I've seen it happen once, since  
1922 I've been on the board, I think I've seen it happen once.  
1923  
1924 Mr. Green - Okay.  
1925

1926 Ms. Harris - Okay, any more discussion? Okay, then let's vote. Yes, Mr.  
1927 Johnson.  
1928  
1929 Mr. Johnson - Of course, we don't want the applicant to use it as a way to --  
1930  
1931 Mr. Blankinship - Correct, just a way to drag out the proceedings.  
1932  
1933 Mr. Johnson - Right.  
1934  
1935 Ms. Harris - Okay, so new evidence would be the determining -- and the  
1936 time of this other new evidence, too.  
1937  
1938 Mr. Green - Right. And that's done by staff, anyway, the new evidence.  
1939 Right?  
1940  
1941 Mr. Blankinship - Well you'd have to make the decision, probably. If they  
1942 insisted that it is, and we insisted its' not, then we'd have to come to you to have the  
1943 answer.  
1944  
1945 Mr. Green - Okay.  
1946  
1947 Ms. Harris - Okay. All in favor of accepting these proposed new rules and  
1948 regulations for our board say aye. Opposed say no --  
1949  
1950  
1951 Affirmative: Bell, Green, Harris, Johnson, Reid 5  
1952 Negative: 0  
1953 Absent: 0  
1954  
1955  
1956 Mr. Green - Wait a minute, clarification. They are not new. They were  
1957 already there.  
1958  
1959 Mr. Blankinship - Well they're revisions.  
1960  
1961 Ms. Harris - They're revisions. You have one section that says "current",  
1962 other side says "proposed".  
1963  
1964 Mr. Green - Okay.  
1965  
1966 Ms. Harris - So in a sense they are new, depending on how we define new.  
1967  
1968 Mr. Blankinship - Some of it's new, and some if it's --  
1969  
1970 Ms. Harris - Oh, some -- and some of it's new. Okay, I think that -- I think  
1971 we've said -- we voted already, right?

1972  
1973 Mr. Blankinship - Yes, ma'am.  
1974  
1975 Ms. Harris - Okay. Any more business before this Board?  
1976  
1977 Mr. Bell - Real quickly, just one question. You mentioned just a while  
1978 ago about the appeal, and a while back you mentioned that they needed all of our  
1979 documents.  
1980  
1981 Mr. Blankinship - Yes.  
1982  
1983 Mr. Bell - What's the status of that now?  
1984  
1985 Mr. Blankinship - That appeal is still pending in the circuit court. They have not  
1986 set a trial date yet.  
1987  
1988 Mr. Bell - Thank you.  
1989  
1990 Ms. Harris - Okay. Any other business before this body? If not, this  
1991 meeting stands adjourned, and thank you.  
1992  
1993  
1994  
1995  
1996  
1997  
1998  
1999  
2000  
2001  
2002  
2003  
2004

*Ms. Helen E. Harris*

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Ms. Helen E. Harris, Chairman

*Blankinship*

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Mr. Benjamin W. Blankinship, Secretary