

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**  
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**  
4 **COMPLEX, ON THURSDAY, AUGUST 23, 2007, AT 9:00 A.M., NOTICE**  
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH AUGUST**  
6 **2, 2007 AND AUGUST 9, 2007.**

7  
Members Present: James W. Nunnally, Chairman  
Richard Kirkland CBZA, Vice-Chairman  
Elizabeth G. Dwyer  
Helen E. Harris

Member Absent: R. A. Wright

Also Present: David D. O'Kelly, Assistant Director of Planning  
Benjamin Blankinship, Secretary  
Paul Gidley, County Planner  
Ann B. Cleary, Recording Secretary  
Carla Brothers

8  
9 Mr. Nunnally - Good morning, ladies and gentlemen. We welcome  
10 you to our August 23, 2007 meeting of the Board of Zoning Appeals of Henrico  
11 County. Will you please stand and join us in the **Pledge of Allegiance to the**  
12 **Flag of Our Country**. Thank you. Mr. Blankinship, would you read the rules for  
13 the meeting, please, sir?

14  
15 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,  
16 ladies and gentleman. The rules for this meeting are as follows. Acting as  
17 Secretary, I will call each case and while I'm speaking, the applicant should come  
18 down to the podium. We will then ask everyone who intends to speak on that  
19 case to stand and be sworn in. The applicant will be given an opportunity to  
20 speak and then anyone else who wishes to speak will be given the opportunity.  
21 After everyone has spoken, the applicant and only the applicant will have an  
22 opportunity for rebuttal. After the Board members have heard all the testimony  
23 and asked any questions, they will take the matter under advisement and they  
24 will render all of their decisions at the end of the meeting. If you wish to know  
25 their decision on a specific case, you can either stay until the end of the meeting  
26 or you can check the Planning Department website this afternoon, or you can call  
27 the Planning Department this afternoon. This meeting is being tape recorded, so  
28 we'll ask everyone who speaks to speak directly into the microphone on the  
29 podium, state your name, and please spell your last name so that we get correct  
30 in the record. Finally, out in the foyer, there are two binders that contain the staff  
31 report for each case, including the conditions that have been recommended by  
32 the staff. It's important that you be familiar with the conditions.

34 Mr. Chairman, I believe we left a note on the table for you from one of our  
35 applicants. He said he, "requests withdrawal at this time," and mentions possibly  
36 reapplying at a later date. My recommendation is that you handle this as a  
37 request for deferral.

38  
39 Ms. Dwyer - Mr. Blankinship, could you follow-up with this  
40 applicant and determine whether they, in fact, want to dismiss it and then re-file  
41 later, or whether they want to defer?

42  
43 Mr. Blankinship - I certainly will. I have talked to them several times  
44 about their application. I believe we mentioned this in the report that staff was  
45 concerned that their plat may not have been accurate, or their sketch on the plat  
46 may not have been accurate. So, I was actually glad to see this because I'd  
47 rather have them defer and get it correct the first time than go forward and then  
48 have to change it.

49  
50 Ms. Dwyer - Okay. Do we need a motion for that?

51  
52 Mr. Blankinship - Yes.

53  
54 **UP-015-07** **RON BRUNETTE** requests a conditional use permit  
55 pursuant to Section 24-95(i)(4) to build a detached garage in the side yard at 109  
56 Kanawha Road (Chatham Hills) (Parcel 764-731-5850), zoned R-1, One-family  
57 Residence District (Tuckahoe).

58  
59 Ms. Dwyer - I move we defer case UP-015-07, Ron Brunette, until  
60 the September meeting.

61  
62 Mr. Kirkland - Second.

63  
64 Mr. Nunnally - Motion made by Ms. Dwyer, seconded by Mr. Kirkland  
65 it be deferred until next month. All in favor say aye. All opposed say no. The  
66 ayes have it; the motion carries. It's been deferred.

67  
68 After an advertised public hearing, **UP-015-07, Ron Brunette**, has been  
69 **deferred** until the September 27, 2007 meeting by request of the applicant.

70  
71 Mr. Nunnally - Next case, Mr. Blankinship.

72  
73 **UP-009-07** **WEST END ASSEMBLY OF GOD** requests a  
74 temporary conditional use permit pursuant to Section 24-116(c)(1) to erect a  
75 temporary box office and a tent at 401 N Parham Road (Parcel 753-736-0655),  
76 zoned R-1, One-family Residence District (Tuckahoe).

77  
78 Mr. Nunnally - Is anyone else here interested in this case? If so, will  
79 you please stand and be sworn in?

80  
81 Mr. Blankinship - Raise your right hand, please. Do you swear the  
82 testimony you're about to give is the truth and nothing but the truth so help you  
83 God?  
84  
85 Mr. Ruhlen - I do.  
86  
87 Mr. Blankinship - Thank you.  
88  
89 Mr. Nunnally - Please state your name for the record, sir, and tell us  
90 what you're requesting.  
91  
92 Mr. Ruhlen - My name is Terry Ruhlen. I'm requesting a—  
93  
94 Mr. Nunnally - Excuse me, sir. What did you say, Terry—  
95  
96 Mr. Ruhlen - Terry Ruhlen.  
97  
98 Mr. Nunnally - All right, sir.  
99  
100 Mr. Ruhlen - We have a request for a tent and a box office for our  
101 annual church production. It's seen by over 25,000 people. The production  
102 started probably about 20 years ago, and through growth, we've gotten too big  
103 for our britches, I guess. We do have a permit in for some expansion, but for the  
104 last couple of years, we've needed an additional box office outside, which is in  
105 the form of a trailer, and a tent in the back to help us satisfy fire code so we can  
106 keep our inside hallways un-congested.  
107  
108 Mr. Kirkland - Mr. Blankinship, does this case vary any from last  
109 time we approved it?  
110  
111 Mr. Blankinship - I don't believe so. I think it's exactly the same.  
112  
113 Mr. Kirkland - Okay.  
114  
115 Mr. Ruhlen - Yes it is, yes sir.  
116  
117 Ms. Dwyer - What are the dates of the production?  
118  
119 Mr. Ruhlen - The Wednesday following Thanksgiving and it's two  
120 weeks. So, it will go the Wednesday, Thursday, Friday, Saturday, Sunday  
121 beginning the Wednesday following Thanksgiving. Let's see, it would be—  
122  
123 Ms. Dwyer - So, it would be the 28<sup>th</sup> of November, maybe?  
124

125 Mr. Ruhlen - Yes ma'am. The 28<sup>th</sup> of November and it would go  
126 through the 9<sup>th</sup> of December.  
127  
128 Ms. Dwyer - Okay.  
129  
130 Ms. Harris - My question is I noticed that we indicated the dates  
131 for the tent, the beginning and the ending date. Should we specify the beginning  
132 date that the trailer will be used? I noticed that in the letter, permission was  
133 asked that it be used from August 30<sup>th</sup> until December. In the evaluation, you  
134 notice that we do not mention the date that the trailer will be used, the beginning  
135 date. We have the ending date.  
136  
137 Mr. Ruhlen - Could we stick with that 30 August date? I think that  
138 was the date that was stated in the letter.  
139  
140 Ms. Harris - Then we need place that somewhere. You notice in  
141 the evaluation, we have it would be used—talking about the tent—it would be  
142 used from October of this year through January 2008. That's the tent, but my  
143 question is about the trailer. We have in the condition that the trailer will be  
144 removed from the site on or before December 10<sup>th</sup>, but we don't have anywhere  
145 that, the request the date sought is being honored. The letter from Shirley Long  
146 said that the permit would be for a mobile office to be used from August the 30<sup>th</sup>.  
147 So, shouldn't that August 30<sup>th</sup> date be somewhere, as far as the—  
148  
149 Mr. Blankinship - If you're concerned about it, certainly. It's a week  
150 away, so.  
151  
152 Ms. Harris - So it will be—  
153  
154 Mr. Ruhlen - Yes ma'am.  
155  
156 Ms. Harris - The office will be open?  
157  
158 Mr. Ruhlen - We haven't, obviously, got it on site right now, but  
159 once we get approval—We won't bring it in before then. Some time after the 30<sup>th</sup>.  
160  
161 Ms. Harris - Okay.  
162  
163 Mr. Ruhlen - Typically, it's the first week of September when we  
164 bring it on site.  
165  
166 Ms. Dwyer - Technically, Mr. Blankinship, they could install the  
167 trailer and tent anytime after we approve it?  
168  
169 Mr. Blankinship - I'd be happy to sign the building permit tomorrow,  
170 unless the Board has some objection to it being put up in the next week. I would

171 think the use permit would become effective upon your decision, if you decide to  
172 grant.  
173  
174 Ms. Harris - My other question is on Condition 5, The Principles of  
175 Crime Prevention through Environmental Design. I was just curious about what  
176 environmental design prevents crime.  
177  
178 Mr. Blankinship - We would love to get you some materials on that.  
179 There is a full-time employee in the Division of Police, named Kim Vann, whose  
180 job is to promote this concept. She meets with the applicants and gives them  
181 suggestions on how to make their site more secure, basically. Better lighting—  
182  
183 Ms. Dwyer - Placement of shrubs.  
184  
185 Mr. Blankinship - Right. The way you can change things so that there  
186 are no convenient places for people to loiter, or attractive places, perhaps I  
187 should say, for people to loiter. It's that sort of thing. Site design in such a way  
188 that it discourages crime.  
189  
190 Ms. Harris - Mmm-hmm. I'd like to have a copy of that.  
191  
192 Mr. Blankinship - Okay.  
193  
194 Mr. Ruhlen - She has looked at our site. Kim has.  
195  
196 Mr. Kirkland - You all didn't have any problems last year with theft or  
197 anything, did you, sir?  
198  
199 Mr. Ruhlen - Not to my knowledge, no.  
200  
201 Mr. Kirkland - I was wondering, why does the tent need to stay on  
202 the site until January 31<sup>st</sup>? Do you have stuff stored under that until then?  
203  
204 Mr. Ruhlen - It doesn't. I'm not sure why. I guess the date was put  
205 in just to make sure we were—We're usually out of there right after Christmas.  
206 That date could be changed easily.  
207  
208 Mr. Kirkland - Okay.  
209  
210 Mr. Nunnally - You want to specify a date?  
211  
212 Mr. Kirkland - How about January 1<sup>st</sup>?  
213  
214 Mr. Ruhlen - That would be fine.  
215

216 Mr. Kirkland - Okay. I don't see why a tent needs to sit there 30  
217 days.  
218  
219 Mr. Ruhlen - I agree.  
220  
221 Mr. Kirkland - You pay rent on it and [unintelligible].  
222  
223 Mr. Ruhlen - Thank you.  
224  
225 Mr. Nunnally - Any other questions from the Board?  
226  
227 Ms. Dwyer - January 1<sup>st</sup> is a holiday. Why don't we move it up a  
228 couple days?  
229  
230 Mr. Kirkland - What's the day after New Year's Day?  
231  
232 Mr. Kirkland - I would say January 5<sup>th</sup>.  
233  
234 Mr. Kirkland - January 5<sup>th</sup>.  
235  
236 Mr. Nunnally - January the 5<sup>th</sup>.  
237  
238 Ms. Dwyer - Is that all right with you?  
239  
240 Mr. Ruhlen - Yes ma'am. Thank you.  
241  
242 Mr. Nunnally - Any other questions from the Board?  
243  
244 Ms. Dwyer - You've read all the conditions and agree to those?  
245  
246 Mr. Ruhlen - Yes ma'am.  
247  
248 Mr. Nunnally - I'll ask again, is anyone here in opposition to this  
249 request? Hearing none, that completes the case. Thank you for coming, sir.  
250  
251 Mr. Ruhlen - Thank you very much.  
252  
253 Ms. Dwyer - I move that we approve this case and the reasons for  
254 approving this temporary conditional use permit are that having looked at the  
255 surrounding area and the particular structures that are going to be erected here,  
256 there doesn't seem to be any infringement upon the neighbors. These are two  
257 temporary structures. Based on that, I think that this is an appropriate case for  
258 the use permit.  
259  
260 Mr. Kirkland - Change the date to January the 5<sup>th</sup>.  
261

262 Ms. Dwyer - Oh, yeah. For Condition #2, it would change from  
263 January 31<sup>st</sup> to January 5<sup>th</sup>.

264  
265 Ms. Harris - I second the motion.

266  
267 Mr. Nunnally - Motion by Ms. Dwyer, seconded by Ms. Harris it be  
268 approved. All in favor say aye. All opposed say no. The ayes have it; the motion  
269 carries. It's been approved.

270  
271 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by  
272 Ms. Harris, the Board **approved** application **UP-009-07**, West End Assembly of  
273 God's request for a temporary conditional use permit pursuant to Section 24-  
274 116(c)(1) to erect a temporary box office and a tent at 401 N Parham Road  
275 (Parcel 753-736-0655), zoned R-1, One-family Residence District (Tuckahoe).

276  
277 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
278 Negative: 0  
279 Absent: Wright 1

280  
281 Mr. Nunnally - Next case, Mr. Blankinship.

282  
283 **UP-011-07** **RICHMOND ELKS LODGE** requests a temporary  
284 conditional use permit pursuant to Section 24-116(c)(1) to operate a turkey shoot  
285 at 10022 Elk Pass Lane (Parcel 750-768-4929), zoned A-1, Agricultural District  
286 (Three Chopt).

287  
288 Mr. Nunnally - Is anyone here interested in the case? If so, will you  
289 please stand and be sworn. Richmond Elks Lodge. No one here? All right. We'll  
290 pass it over for a while. Next case, Mr. Blankinship.

291  
292 **A-027-07** **LIESFELD PROPERTIES, L.L.C** requests a variance  
293 from Section 24-95(b)(6) to build a single-family dwelling at 2113 Clarke Street  
294 (Parcel 781-745-4127), zoned R-4, One-family Residence District (Brookland).  
295 The lot width requirement and total lot area requirement are not met. The  
296 applicant has 5,031 square feet total lot area and 43 feet lot width, where the  
297 Code requires 6,000 square feet total lot area and 50 feet lot width. The applicant  
298 requests a variance of 969 square feet total lot area and 7 feet lot width.

299  
300 Mr. Nunnally - Is anyone else here interested in this case? If so, will  
301 you please stand and be sworn.

302  
303 Mr. Blankinship - Raise your right hand, please. Do you swear the  
304 testimony you're about to give is the truth and nothing but the truth so help you  
305 God?

306  
307 Mr. Liesfeld - I do.

308  
309 Mr. Nunnally - Please state your name for the record, sir, and tell us  
310 what you're requesting.  
311  
312 Mr. Liesfeld - My name is Lawrence Liesfeld and I'm owner of  
313 Liesfeld Properties, which owns 2113 Clarke Street. I purchased a house in  
314 1990 and an employee of my father, lived in the property. He got into some  
315 troubles so I let him live there. He died this past April. The house was in bad  
316 shape, so what I did, I came to County and talked to them about getting a  
317 building permit to build a new home. The plat that you all had on record—and, of  
318 course, I've never had the property surveyed—didn't have any measurements.  
319 What I did, I applied for a building permit and everything went through on the  
320 permit until I sent my surveyor out to survey the property and stake a house off.  
321 When we got ready to stake the house off for a footing, we found out that the lot  
322 was not but 45 to 48 feet. I'm not exactly sure what the size was. He said that it  
323 didn't meet the requirements, so what I did was I came to the County and applied  
324 for a variance, which they told me to do in Planning. So, I'm here.  
325  
326 Mr. Kirkland - So, you didn't know at the time that you demolished  
327 the home—  
328  
329 Mr. Liesfeld - No, I did not.  
330  
331 Mr. Kirkland - —that it didn't meet the requirements.  
332  
333 Mr. Liesfeld - No, I did not.  
334  
335 Ms. Dwyer - How long has the home been on the property, do you  
336 know?  
337  
338 Mr. Liesfeld - I think it was built in 1945.  
339  
340 Ms. Dwyer - Okay.  
341  
342 Ms. Harris - The report indicated that there's a lot to the west that  
343 is also less than 50 feet.  
344  
345 Mr. Liesfeld - That's correct.  
346  
347 Ms. Harris - Can we see it from this map?  
348  
349 Mr. Liesfeld - Yes. It's on the left side.  
350  
351 Ms. Harris - It's adjacent to your property?  
352  
353 Mr. Liesfeld - Yes ma'am.



354  
355 Mr. Blankinship - 2115.  
356  
357 Mr. Liesfeld - Yes ma'am. Evidently, the same builder built the  
358 same two houses, because both of them looked identical.  
359  
360 Mr. Blankinship - Oh, okay. You can see that that one has slightly less  
361 lot area because it has a well lot or something carved out of the rear.  
362  
363 Mr. Liesfeld - I really don't know about that.  
364  
365 Ms. Dwyer - What are you going to build on the lot? What are your  
366 plans?  
367  
368 Mr. Liesfeld - I'm going to build another house on the property.  
369  
370 Ms. Dwyer - The staff report says it will be compatible, but we  
371 don't have any elevations.  
372  
373 Mr. Liesfeld - Basically, it's going to be similar to the same house  
374 except a new version of it. It's going to be the same size as the house that I had.  
375 The house was in bad shape.  
376  
377 Mr. Nunnally - How many square feet?  
378  
379 Mr. Liesfeld - The house is going to be 26 by 44. So, if you have a  
380 calculator, 26 by 44.  
381  
382 Ms. Dwyer - So, the house will meet all the setback requirements.  
383  
384 Mr. Liesfeld - Sure.  
385  
386 Ms. Dwyer - That would be the R-4, but the—  
387  
388 Mr. Kirkland - Just the width.  
389  
390 Ms. Dwyer - Excuse me?  
391  
392 Mr. Kirkland - Just the width doesn't make it.  
393  
394 Ms. Dwyer - The lot width, yeah, but the house he's going to put  
395 on there is going to meet setback requirements.  
396  
397 Mr. Blankinship - It's 1,144 square feet, if anyone's curious.  
398  
399 Mr. Kirkland - You're going to sell this home, sir?

400  
401 Mr. Liesfeld - Either sell it, or keep it and lease it, one or the other. I  
402 might let one of my employees live there.

403  
404 Mr. Nunnally - Any other questions from the Board? I'll ask again, is  
405 anyone here in opposition to this case? Hearing none, that completes the case.  
406 Thank you for coming, sir.

407  
408 Mr. Liesfeld - Thank you, sir.

409  
410 Mr. Kirkland - I move we approve it.

411  
412 Mr. Nunnally - Motion by Mr. Kirkland it be approved.

413  
414 Mr. Kirkland - The effect of the zoning ordinance on this property  
415 under consideration, it's affected by an exceptional narrowness and the dwelling  
416 itself will meet all setback requirements. This is just basically a violation of the  
417 width.

418  
419 Ms. Dwyer - I would just add to that that at the time this lot was  
420 created, it was in compliance with the Code. That takes care of any  
421 Cherrystone-related opposition to this particular case. I think that it would  
422 substantially deprive the owner of any reasonable use of the property if we chose  
423 not to grant the variance. I think under Cochran, that particular requirement is  
424 satisfied. I second the motion.

425  
426 Mr. Kirkland - Thank you.

427  
428 Mr. Nunnally - Motion by Mr. Kirkland, seconded by Ms. Dwyer it be  
429 approved. All in favor say aye. All opposed say no. The ayes have it; the motion  
430 carries. It's been approved.

431  
432 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
433 Ms. Dwyer, the Board **approved** application **A-027-07**, Liesfeld Properties,  
434 LLC,'s request for a variance from Section 24-95(b)(6) to build a single-family  
435 dwelling at 2113 Clarke Street (Parcel 781-745-4127), zoned R-4, One-family  
436 Residence District (Brookland). The lot width requirement and total lot area  
437 requirement are not met.

438  
439 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
440 Negative: 0  
441 Absent: Wright 1

442  
443 Mr. Nunnally - Next case, Mr. Blankinship.

444  
445 **UP-012-07** **EASTERN HENRICO RURITAN CLUB** requests a  
446 temporary conditional use permit pursuant to Section 24-116(c)(1) to operate a

447 turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768), zoned A-1,  
448 Agricultural District (Varina).  
449  
450 Mr. Nunnally - Anyone else here interested in this case? If so, will  
451 you please stand and be sworn.  
452  
453 Mr. Blankinship - Raise your right hand, sir. Do you swear the  
454 testimony you're about to give is the truth and nothing but the truth so help you  
455 God?  
456  
457 Mr. Stewart - Yes sir.  
458  
459 Mr. Blankinship - Thank you.  
460  
461 Mr. Nunnally - Please state your name for the record, sir, and tell us  
462 what you're requesting.  
463  
464 Mr. Stewart - Stanley Stewart.  
465  
466 Mr. Nunnally - All right, Mr. Stewart.  
467  
468 Mr. Stewart - We are requesting the renewal of our turkey shoot  
469 permit, which we've had for years.  
470  
471 Mr. Nunnally - No change whatsoever?  
472  
473 Mr. Stewart - No change for it whatever.  
474  
475 Mr. Nunnally - You've read the conditions?  
476  
477 Mr. Stewart - Sir?  
478  
479 Mr. Nunnally - I say you've read your conditions?  
480  
481 Mr. Stewart - Yes.  
482  
483 Mr. Nunnally - And you're in agreement with them?  
484  
485 Mr. Stewart - Yes sir.  
486  
487 Mr. Nunnally - How long have you all been doing this down there?  
488  
489 Mr. Stewart - I've been doing it for 40 years.  
490  
491 Mr. Nunnally - You don't look that old.  
492

493 Mr. Stewart - I can't help it.  
494  
495 Mr. Nunnally - All right. You haven't had—  
496  
497 Ms. Dwyer - Can you—  
498  
499 Mr. Nunnally - Excuse me.  
500  
501 Ms. Dwyer - I'm sorry; I thought you were finished.  
502  
503 Mr. Nunnally - You haven't had any problems with that, have you,  
504 Mr. Blankinship?  
505  
506 Mr. Blankinship - No sir. None that I'm aware of.  
507  
508 Ms. Dwyer - Could we put the aerial photograph on the screen,  
509 please? I just want to be sure which direction the shooting will be headed here.  
510 Will it be from the ball field toward the buildings in the rear? That's the one.  
511 That's the one, yeah.  
512  
513 Mr. Stewart - There's nothing close by.  
514  
515 Ms. Dwyer - Right. So, where will the people with the guns be  
516 standing and in which direction will they be shooting?  
517  
518 Mr. Stewart - The people who are not shooting will be inside of our  
519 building.  
520  
521 Ms. Dwyer - Right.  
522  
523 Mr. Stewart - It faces the County property to the north.  
524  
525 Ms. Dwyer - Where will the people be standing who are shooting?  
526  
527 Mr. Stewart - I can't hear you.  
528  
529 Ms. Dwyer - Where will the people be standing, the ones who are  
530 shooting? Where will they be standing on the—We have a picture up here on the  
531 screen.  
532  
533 Mr. Stewart - They'll be standing about 30 feet back of the target, if  
534 that tells you what you want to know.  
535  
536 Ms. Dwyer - Where will the targets be?  
537  
538 Mr. Stewart - The targets will be facing to the north of the building.

539  
540 Ms. Dwyer - Okay.  
541  
542 Ms. Harris - Mr. Stewart, do you all use shotguns?  
543  
544 Mr. Stewart - Yes ma'am.  
545  
546 Ms. Harris - Okay. What gauge shotgun do you use?  
547  
548 Mr. Stewart - 12 and 16.  
549  
550 Ms. Dwyer - I notice, Ms. Harris, in the other case we had, there  
551 was a specification of the gauge of the shotgun and the type of shot, but there  
552 isn't in this case. There was also the specification for berms and bails of hay  
553 behind the targets. Is there any reason why that was excluded from this case,  
554 but included in the other one?  
555  
556 Mr. Blankinship - That's just the way the two cases have been handled  
557 over the years. No ma'am, I don't know specifically why that is how it's done.  
558 I'm sure there's a historical reason for it.  
559  
560 Ms. Dwyer - Do we need to have anything that specifies that, do  
561 you think?  
562  
563 Mr. Stewart - I can't hear you.  
564  
565 Ms. Dwyer - What do you have behind the targets? Do you have  
566 hay bails or berms or something?  
567  
568 Mr. Stewart - Behind the targets?  
569  
570 Ms. Dwyer - Yes.  
571  
572 Mr. Stewart - We have a pole with the targets on it and the shooters  
573 are 30 yards back of that, shooting towards the targets.  
574  
575 Ms. Dwyer - Okay. Is there anything behind the target to intercept  
576 any shot that might miss the target?  
577  
578 Mr. Stewart - It's open ground. It's an open area.  
579  
580 Ms. Dwyer - Okay.  
581  
582 Mr. Nunnally - Nobody's back in that area.  
583

584 Mr. Stewart - Nobody's allowed back there except the workers  
585 putting up the targets and pulling them.  
586  
587 Mr. Nunnally - I mean at the time of the shooting, though,  
588 nobody's—  
589  
590 Mr. Stewart - Nobody.  
591  
592 Ms. Harris - How close is the nearest subdivision to where you all  
593 will be shooting? I know they have developed quite a bit around there, across  
594 the street, across Dabbs House Road there. Is that called Carter's?  
595  
596 Mr. Nunnally - Carter Woods or something.  
597  
598 Ms. Harris - Yes, Carter Woods, and then the other areas that  
599 have been developed. Do you know how close the nearest subdivision is?  
600  
601 Mr. Stewart - It's nowhere close to it.  
602  
603 Mr. Blankinship - I'm thinking 750 feet, just looking at the map here.  
604 Five hundred feet to the west and 750 to the southeast to Carter Woods.  
605  
606 Ms. Dwyer - Mr. Gidley, could you show me on the map? Do you  
607 have a pointer so that you can show where the targets are and where the  
608 shooters are on this aerial map? I'm still not clear on that.  
609  
610 Mr. Gidley - [Off mic.] I'm not real clear, either, Ms. Dwyer.  
611  
612 Mr. Blankinship - All right. Could you put the cursor on the building  
613 there? Yes. Now, just to the north.  
614  
615 Ms. Dwyer - All right.  
616  
617 Mr. Blankinship - Just to the north of there. I believe the firing line is  
618 just to the north on the north side of the building. The target line is back there by  
619 the tree line right there.  
620  
621 Ms. Dwyer - Okay.  
622  
623 Mr. Blankinship - Is that correct?  
624  
625 Mr. Stewart - That's about right.  
626  
627 Mr. Kirkland - So, the trees break the shot. Sir, the trees would stop  
628 the shot if they escape through the targets.  
629

630 Mr. Stewart - The shot would never get to the trees.  
631  
632 Ms. Dwyer - Okay.  
633  
634 Mr. Kirkland - Okay.  
635  
636 Mr. Nunnally - All right. Any other questions from the Board?  
637  
638 Ms. Harris - Okay. I want to follow-up his statement. He said the  
639 shots would never get to the trees. Is that because of the concrete barrier?  
640  
641 Mr. Stewart - Because of the distance. The shot will only go but so  
642 far and the rest of it is just open spaces.  
643  
644 Mr. Nunnally - Any other questions? I'll ask is anybody here in  
645 opposition. Hearing none, that concludes the case. Thank you for coming, Mr.  
646 Stewart.  
647  
648 Mr. Stewart - Thank you.  
649  
650 Mr. Kirkland - I move that we approve it, but I want some discussion  
651 because I want to place something behind where they shoot.  
652  
653 Ms. Dwyer - The problem with that is our applicant didn't agree to  
654 that. We didn't raise that.  
655  
656 Mr. Kirkland - I couldn't understand that. I asked why doesn't the  
657 shot go to the trees and he said the trees are too far away. Yet, I'm looking at  
658 this aerial photo and it looks like the trees are right on the line where the targets  
659 are. I would at least like it placed behind the area hay bales. I know bringing in  
660 soil in that area would be pretty costly, but at least hay bales or something  
661 behind the targets to meet the requirements that the County has set forth in the  
662 other case.  
663  
664 Ms. Dwyer - Use permits require if we impose conditions for a use  
665 permit, I believe the applicant has to agree.  
666  
667 Mr. Kirkland - And he's zipped already.  
668  
669 Mr. Blankinship - Well, we can strongly recommend it.  
670  
671 Ms. Harris - Or we can defer the case.  
672  
673 Mr. Kirkland - When did they want to start here? September?  
674  
675 Ms. Harris - Was it September?

676  
677 Ms. Dwyer - October through December.  
678  
679 Mr. Kirkland - Then we can. Let's defer it. I withdraw my motion to  
680 approve and I make a motion to defer it.  
681  
682 Ms. Dwyer - Defer.  
683  
684 Ms. Harris - Second.  
685  
686 Mr. Nunnally - Motion by Mr. Kirkland, seconded by Ms. Harris it be  
687 deferred. All in favor say aye. All opposed say no. The ayes have it; the motion  
688 carries. It's been deferred.  
689  
690 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
691 Ms. Harris, the Board **deferred** application **UP-012-07**, Eastern Henrico Ruritan  
692 Club's request for a temporary conditional use permit pursuant to Section 24-  
693 116(c)(1) to operate a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-  
694 4768), zoned A-1, Agricultural District (Varina).  
695  
696 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
697 Negative: 0  
698 Absent: Wright 1  
699  
700 Mr. Kirkland - Mr. Blankinship, when they call and ask you, you'll  
701 make them aware of this.  
702  
703 Mr. Blankinship - I certainly will.  
704  
705 Ms. Dwyer - So, we just essentially want to make this case to  
706 conform to the Elks Lodge.  
707  
708 Mr. Kirkland - Maybe we should set up a system now. These keep  
709 coming back and the other one seems to be a state-of-the-art. We should bring  
710 the other ones in line.  
711  
712 Ms. Dwyer - Well, food for thought, too, in the meantime is the Elks  
713 Lodge case also specifies 12-gauge shotguns, #8 shot. I don't know if we want  
714 to do that here as well. If we do, we should let the applicant know.  
715  
716 Mr. Kirkland - Sure.  
717  
718 Ms. Dwyer - Do we?  
719  
720 Mr. Kirkland - What did he say he used, 12 and 16? Is that correct?  
721



722 Mr. Blankinship - Sixteen, of course, is a lower gauge.  
723  
724 Mr. Kirkland - Sure.  
725  
726 Ms. Dwyer - No higher than—  
727  
728 Mr. Blankinship - Smaller shell.  
729  
730 Mr. Kirkland - It's a lot smaller shell. We're getting to, what, the old  
731 4 10 here.  
732  
733 Mr. Blankinship - I don't know that much about shot size or what low  
734 power that equates to.  
735  
736 Mr. Kirkland - Did he say 10-gauge or 16-gauge?  
737  
738 Mr. Blankinship - I thought he said 12 and 16. We can check it in the  
739 minutes.  
740  
741 Mr. Nunnally - He did say 12 and 16?  
742  
743 Ms. Harris - I wrote it down.  
744  
745 Mr. Nunnally - I thought it was 12 and 10.  
746  
747 Mr. Blankinship - I will communicate that to the applicant.  
748  
749 Mr. Kirkland - Sure. That we would be discussing the change of shot  
750 and the gauge.  
751  
752 Ms. Dwyer - The applicant might have a suggestion as to shot size  
753 and gauge.  
754  
755 Ms. Harris - He said 12 and 16.  
756  
757 Mr. Nunnally - Okay, good.  
758  
759 Mr. Kirkland - I assume he's using the different shot because there's  
760 no barrier back there and he's trying to keep the pattern down.  
761  
762 Mr. Blankinship - And they're not trying to harm anything; they're just  
763 trying to punch holes in paper.  
764  
765 Mr. Kirkland - Right.  
766  
767 Ms. Dwyer - Okay.

768  
769 Mr. Nunnally - Mr. Blankinship.  
770  
771 **UP-013-07** **PARKER-ORLEANS HOMEBUILDERS** requests a  
772 temporary conditional use permit pursuant to Section 24-116(c)(1) to install a  
773 temporary modular sales office at 5205 Twin Hickory Road (Preston Square  
774 Townhouses) (Parcel 747-774-6121), zoned RTHC, Residential Townhouse  
775 District (Conditional) (Three Chopt).  
776  
777 Mr. Nunnally - Anyone else here interested in this case? If so,  
778 please stand and be sworn.  
779  
780 Mr. Blankinship - Raise your right hands, please. Do you swear the  
781 testimony you're about to give is the truth and nothing but the truth so help you  
782 God?  
783  
784 Mr. Watson - I do.  
785  
786 Mr. Blankinship - Thank you.  
787  
788 Mr. Nunnally - Please state your name for the record, sir, and tell us  
789 what you're requesting.  
790  
791 Mr. Watson - I'm James Watson. I'm representing Parker-Orleans  
792 and I'm here to discuss—  
793  
794 Mr. Nunnally - Sir, get up closer to that.  
795  
796 Mr. Watson - I'm James Watson. I'm representing Parker-Orleans  
797 and William Scotsman, who is leasing the sales office to them.  
798  
799 Mr. Nunnally - All right.  
800  
801 Ms. Dwyer - Tell us what you're interested in.  
802  
803 Mr. Watson - This is probably the fourth or fifth sales office like this  
804 that we've put in for Parker-Orleans around Henrico County. We request that we  
805 be allowed to do that.  
806  
807 Ms. Harris - Mr. Watson, do you have other trailers such as this  
808 around the County?  
809  
810 Mr. Watson - In the County, we had two that we just removed.  
811 They were temporary for one year. One was at Hunton Ridge Park, I believe it's  
812 called, and the other one was at Thomas Mill subdivision. This unit will be exactly  
813 like those units, same size and same exterior. They're all well landscaped

814 outside. We presented landscaping plans ahead of time for those to be  
815 approved. It's something that we're doing all around the Richmond area.  
816  
817 Ms. Harris - I notice the report said that your sides will be of  
818 durable construction.  
819  
820 Mr. Watson - That's right.  
821  
822 Ms. Harris - Okay. What type of medium?  
823  
824 Mr. Watson - Siding?  
825  
826 Ms. Harris - Yes. Siding.  
827  
828 Mr. Watson - The siding on these units will be T1 11 wood. Are you  
829 familiar with that?  
830  
831 Ms. Harris - Is it a panel?  
832  
833 Mr. Watson - Yes.  
834  
835 Ms. Harris - A vertical panel?  
836  
837 Mr. Watson - That's right.  
838  
839 Ms. Harris - Okay.  
840  
841 Mr. Watson - They're an off-white color with a green piece across  
842 the top.  
843  
844 Mr. Kirkland - Mr. Watson, have you read the conditions for this  
845 case?  
846  
847 Mr. Watson - Yes I have.  
848  
849 Mr. Kirkland - You are connecting to the public sewer, is that  
850 correct?  
851  
852 Mr. Watson - They're using a holding tank on this. We've used  
853 holding tanks on the ones prior to this also.  
854  
855 Mr. Kirkland - Okay.  
856  
857 Mr. Watson - And it will be under the unit and it will be screened so  
858 that it won't be visible from anywhere else.  
859

860 Mr. Nunnally - All right. Any other questions from the Board? All  
861 right, young lady, are you for it or against it?  
862  
863 Ms. McCormick - My name is Elaine McCormick. I live at 5208  
864 Lemoore Drive, which is the third house in that borders the property.  
865  
866 Mr. Nunnally - Are you for this case or are you against it?  
867  
868 Ms. McCormick - It depends on what's going on.  
869  
870 Mr. Nunnally - Okay.  
871  
872 Ms. McCormick - We just found out that Parker—The homeowners all  
873 were under the assumption that Mr. Farmer was developing the property, and he  
874 had abandoned it for the past year plus, which the County has been aware.  
875 Then we received this notice saying that Parker-Orleans was now taking over.  
876 We're happy that someone will be taking over, but we need to make sure that the  
877 plans will be the same. We understand that the home plans are different from  
878 what Mr. Farmer had presented to us. We had certain agreements with Mr.  
879 Farmer about a buffer and about how many units would be going up. Like I said,  
880 this is first time we've heard that there is another developer. We just need to  
881 know what's going on, basically.  
882  
883 Ms. Dwyer - Were your agreements part of the zoning case?  
884  
885 Ms. McCormick - From what I understand.  
886  
887 Ms. Dwyer - So, if your agreements were part of a proffer to an  
888 earlier zoning case, then that wouldn't change.  
889  
890 Ms. McCormick - So even though the plans of the homes are different?  
891 Like, we don't know if it's still going to be brick or if it's going to be—  
892  
893 Ms. Dwyer - That depends. That's actually a Planning  
894 Commission and Board of Supervisor's issue, so you would need to research  
895 that and determine whether or not the agreements that you entered into with the  
896 previous owner were part of the proffers of the rezoning case.  
897  
898 Ms. McCormick - Okay.  
899  
900 Ms. Dwyer - You're going to get all that information from the  
901 Planning Department. Our jurisdiction today is limited to the sales trailer.  
902  
903 Ms. McCormick - Okay.  
904

905 Ms. Dwyer - That's the only thing that we can really address today,  
906 because all that other and the development standards are Planning Commission  
907 and Board of Supervisors.

908  
909 Ms. McCormick - Okay. Well, then my final question would be he did  
910 mention about landscaping. The property right now is basically made up of five-  
911 foot tall weeds. Do they plan on getting rid of that and making it somewhat  
912 presentable or is it just going to be the area around the trailer that will be  
913 landscaped?

914  
915 Ms. Dwyer - Okay.

916  
917 Mr. Watson - Do you want me to address that?

918  
919 Ms. Dwyer - Please.

920  
921 Mr. Watson - There is a buffer that will not be disturbed. As far as  
922 the shrubbery landscaping immediately around the trailer, I think Mr.  
923 Blankinship's familiar with the shrubbery that's been used in the past, and we  
924 submit plans the type of each shrub, the height of each shrub, the gallon size.  
925 These particular units, I think, are very attractive as far as sales offices go in  
926 comparison to a lot of others I've seen by other manufacturers around the  
927 metropolitan area.

928  
929 Ms. Harris - Mr. Watson, do you normally clear off that entire area  
930 before you place the trailer? We, too, can see the weeds from the aerial photo.

931  
932 Mr. Watson - The immediate area where the trailer will be, will be  
933 cleared. As far as away from it, it'll be—I'll use the word "beautified." If there are  
934 weeds, something will be done with those, maybe grass in some places. Some  
935 shrubbery will be out away from the unit. They want to make it as attractive as  
936 possible because they want customers, they want buyers.

937  
938 Ms. Dwyer - When do you expect to begin construction on the  
939 townhouses?

940  
941 Mr. Watson - I would say within one month. It will only be there—  
942 The temporary use is for a year, but it probably will not be there more than nine  
943 months or so. Normally, their procedure is, whether they are building homes or  
944 townhouses, when they've got several homes to a point, then they use one of  
945 those as a model and take out the sales office.

946  
947 Ms. Dwyer - You expect construction to begin in a month?

948  
949 Mr. Watson - Yes.

950

951 Ms. Dwyer - Just for Ms. McCormick's information, Mr. Gidley has  
952 handed me the file for the zoning case and there are a number of proffers. You  
953 might want to speak to him after our meeting or during the break or at some other  
954 time to take a look at those.  
955  
956 Ms. McCormick - Great.  
957  
958 Mr. O'Kelly - Mr. Watson?  
959  
960 Mr. Watson - Yes sir.  
961  
962 Mr. O'Kelly - Parker-Orleans has purchased this property from Mr.  
963 Farmer?  
964  
965 Mr. Watson - The property is owned by Preston Square, LLC. I  
966 would imagine it's Parker-Orleans. It's no longer Mr. Farmer, to my knowledge.  
967  
968 Mr. O'Kelly - The plan of development that was approved by the  
969 Planning Commission was issued to Mr. Farmer.  
970  
971 Mr. Watson - Then maybe it's Mr. Farmer [unintelligible]. The name  
972 that I have on record, I believe, is Preston Square, LLC, which I think is  
973 something that was just set up, a corporation that was set up for that particular  
974 development.  
975  
976 Mr. O'Kelly - Do you all plan to build the same unit that Mr. Farmer  
977 had planned to build?  
978  
979 Mr. Watson - Yes, sir, exactly.  
980  
981 Mr. O'Kelly - Okay.  
982  
983 Ms. Harris - Ms. McCormick, do you remember if there were 28  
984 homes, 28 two-story homes with about 2100 square feet?  
985  
986 Ms. McCormick - Yes. He originally asked for 30 and then we got him  
987 down to 28. Then the number that would be bordering Lemoore Drive was  
988 lowered. As far as stories, I'm not sure if it was two or three stories. But about  
989 2100 square feet sounds correct.  
990  
991 Ms. Harris - That's what in our report.  
992  
993 Ms. McCormick - Okay.  
994

995 Mr. Nunnally - All right. Any other questions from the Board? I'll ask  
996 if anyone here is in opposition to this case? Hearing none, that completes the  
997 case. Thank you for coming, sir.  
998  
999 Mr. O'Kelly - Mr. Chairman? I would suggest that we defer this  
1000 case, if you don't mind. I would like staff to look into more about the ownership of  
1001 the property and who's going to develop it. We've had other complaints besides  
1002 the young lady that was here today about the condition of the property. This was  
1003 a surprise to me that perhaps the ownership has changed.  
1004  
1005 Ms. Dwyer - Are they obligated to notify us of ownership changes?  
1006 I mean, have they failed to comply with the requirement of—  
1007  
1008 Mr. O'Kelly - No, but they are making application for another permit  
1009 of some sort. Perhaps this is an opportunity to find out more about what's going  
1010 on.  
1011  
1012 Mr. Kirkland - They would be getting a building permit for the trailer,  
1013 wouldn't they.  
1014  
1015 Mr. O'Kelly - Yes, it would require a building permit.  
1016  
1017 Ms. Dwyer - So staff believes they need more time to evaluate  
1018 some of the issues that have arisen?  
1019  
1020 Mr. O'Kelly - I would recommend that. Like I said, we've had other  
1021 complaints about the condition of the property.  
1022  
1023 Ms. Dwyer - Okay. Well, I move that we defer this case on  
1024 recommendation of the staff. Staff believes that there are some outstanding  
1025 issues that need to be addressed before we move further to permit any other  
1026 structures or any building on this property.  
1027  
1028 Ms. Harris - Second the motion.  
1029  
1030 Mr. Nunnally - Motion by Ms. Dwyer, seconded by Ms. Harris it be  
1031 deferred. All in favor say aye. All opposed say no. The ayes have it; the motion  
1032 carries. It's been deferred. To next month, right?  
1033  
1034 Ms. Dwyer - Until September.  
1035  
1036 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by  
1037 Ms. Harris, the Board **deferred** application **UP-013-07**, Parker-Orleans  
1038 Homebuilder's request for a temporary conditional use permit pursuant to Section  
1039 24-116(c)(1) to install a temporary modular sales office at 5205 Twin Hickory

1040 Road (Preston Square Townhouses) (Parcel 747-774-6121), zoned RTHC,  
1041 Residential Townhouse District (Conditional) (Three Chopt).

1042  
1043 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
1044 Negative: 0  
1045 Absent: Wright 1

1046  
1047 Mr. Nunnally - All right, Mr. Blankinship.

1048  
1049 **UP-014-07 ANTHONY OWEN** requests a conditional use permit  
1050 pursuant to Section 24-95(i)(4) to build an accessory structure in the side yard at  
1051 3535 Meadow Road (Parcel 848-715-5404), zoned A-1, Agricultural District  
1052 (Varina).

1053  
1054 Mr. Nunnally - Is anyone else here interested in this case? If so, will  
1055 you please stand and be sworn.

1056  
1057 Mr. Blankinship - Will you all raise your right hands, please? Do you  
1058 swear the testimony you're about to give is the truth and nothing but the truth so  
1059 help you God?

1060  
1061 Ms. Brutus - Yes.

1062  
1063 Mr. Nunnally - All right, ma'am. Please state your name and tell us  
1064 what you're requesting.

1065  
1066 Ms. Brutus - Stacy Brutus at 3535 Meadow Road, Sandston,  
1067 Virginia. We're basically requesting an accessory building on our side yard. The  
1068 reason why that location was chosen is that we have an RPA with the pond  
1069 behind, so nothing can be built behind our house. In addition to that, on the road  
1070 structure where that green is—I don't know what that green is. In front of the  
1071 structure along the road is a contingency septic field, and then farther down  
1072 closer to the railroad tracks is our septic field. So, there really isn't any other  
1073 location to place it.

1074  
1075 Ms. Harris - Ms. Brutus, who is Mr. Anthony Owen?

1076  
1077 Ms. Brutus - That's my fiancé.

1078  
1079 Ms. Harris - Okay.

1080  
1081 Ms. Brutus - We both reside there.

1082  
1083 Mr. Kirkland - Ms. Brutus, on the elevations that we were given with  
1084 the case, the right side elevation shows a 16 by 16 door. What exactly do you put  
1085 that big—



1086  
1087 Ms. Brutus - Eventually an RV, which an RV is, what—  
1088  
1089 Mr. Kirkland - Sure.  
1090  
1091 Ms. Brutus - —13-8 or somewhere around there. And then you  
1092 have to have clearance for a door and a motor.  
1093  
1094 Mr. Kirkland - Okay.  
1095  
1096 Ms. Brutus - That is it basically.  
1097  
1098 Mr. Kirkland - Okay. So, an RV would go inside of it.  
1099  
1100 Ms. Brutus - Exactly. And tractors and trailers and all.  
1101  
1102 Mr. Kirkland - Okay.  
1103  
1104 Ms. Brutus - Yes.  
1105  
1106 Ms. Dwyer - What is the height of the building to the ridge vent?  
1107  
1108 Ms. Brutus - To the ridge vent. Is that the part right up—  
1109  
1110 Ms. Dwyer - The very top. The highest peak.  
1111  
1112 Ms. Brutus - Well, my builder is here to help me on any of the  
1113 technical. That is on there, I believe.  
1114  
1115 Mr. Nunnally - Please get up to the mic, sir.  
1116  
1117 Mr. Avent - That's approximately 30 feet to the top of the ridge.  
1118 One of the things that was being worked with here with the Planning Department  
1119 [unintelligible] height limitation. The height limitation for the garage is between the  
1120 ridge and the eave, and that meets the County requirement.  
1121  
1122 Ms. Brutus - A midpoint. At this time. And there is talk that the  
1123 height requirement might be raised within Henrico County. We're trying to find  
1124 out. We had original plans with—The roof right now is like this. On our original  
1125 plans, the structure height was the same, but as you go down the building, the  
1126 sides, you had another roof that comes out. Instead of going all the way down, it  
1127 just went out like, you know, decorative. It was more like porch type roof.  
1128  
1129 Mr. Blankinship - Clerestory window.  
1130  
1131 Ms. Brutus - What is it?

1132  
1133 Mr. Blankinship - The architectural term for that. A clerestory window.  
1134  
1135 Ms. Brutus - Okay.  
1136  
1137 Mr. Blankinship - Would you state your name please, sir?  
1138  
1139 Mr. Avent - My name is Arthur Avent.  
1140  
1141 Mr. Blankinship - Thank you.  
1142  
1143 Mr. Avent - The previous had the two-story roof similar to what  
1144 you see right there, but the shed to the side was dropped down with the  
1145 clerestory windows in, as he indicated.  
1146  
1147 Ms. Brutus - By changing this, it meets the County's requirements  
1148 as is. But like I said, they might change it to be more like the surrounding  
1149 counties are far as height requirements.  
1150  
1151 Ms. Dwyer - Okay. I just want to make sure that the height limits  
1152 have been met.  
1153  
1154 Ms. Brutus - Yes.  
1155  
1156 Mr. Avent - Yes ma'am. We spent a great deal of time. I'm  
1157 representing the builder and the architect. He had spoken with the Planning  
1158 Department trying to achieve that exact thing.  
1159  
1160 Ms. Dwyer - That has not been overlooked, in other words.  
1161  
1162 Mr. Avent - No.  
1163  
1164 Ms. Harris - Is this considered a corner lot?  
1165  
1166 Ms. Brutus - We have almost 33 acres and the higher percentage  
1167 is under water or protected because of the wetlands.  
1168  
1169 Mr. Blankinship - It only fronts on one street, so it would not be a corner  
1170 lot by definition.  
1171  
1172 Ms. Harris - [Unintelligible] around to the railroad tracks.  
1173  
1174 Ms. Brutus - We have to the railroad tracks. We have no  
1175 neighbors on Meadow Road at all until—I don't know if you can see the aerial  
1176 view. There is a neighbor across the railroad tracks and then there's one way on  
1177 the other end of the property.

1178  
1179 Ms. Dwyer - It was hard for me to read—  
1180  
1181 Ms. Brutus - To the one house across the railroad tracks, it's up in  
1182 the upper top corner. The other one you can't even see on here. It's way on the  
1183 other side of the pond on Meadow Road. I'm sorry.  
1184  
1185 Ms. Dwyer - This is going to be fairly visible from the road.  
1186  
1187 Ms. Brutus - Not really. We have a tree line that we are  
1188 maintaining. We'll be clearing from the structure 15 feet from the front of trees so  
1189 that no trees fall on it. It's basically going to sit right in that blank spot there. The  
1190 only opening is on our gate right there.  
1191  
1192 Ms. Dwyer - Mmm-hmm.  
1193  
1194 Ms. Brutus - The tree with the—You can see that white sign on it  
1195 that says, "No Trespassing." That tree will—Right where he's pointing, those  
1196 trees will go and then very few from that point on.  
1197  
1198 Ms. Dwyer - How far will it be from the road? Some of your  
1199 dimensions were hard for me to read on here, so I might have to ask you to  
1200 clarify.  
1201  
1202 Mr. Avent - In excess of 70 feet from the road.  
1203  
1204 Ms. Dwyer - In excess of 70 feet.  
1205  
1206 Mr. Avent - Yes ma'am.  
1207  
1208 Ms. Dwyer - Okay. The siding—  
1209  
1210 Ms. Brutus - Is exactly like our current existing house.  
1211  
1212 Ms. Dwyer - Okay.  
1213  
1214 Ms. Brutus - Yes.  
1215  
1216 Ms. Dwyer - Which side of the building will face the road?  
1217  
1218 Ms. Brutus - That would be the front. We'll have the doors and the  
1219 windows.  
1220  
1221 Ms. Dwyer - What's labeled, "Front Elevation," will face Meadow.  
1222

1223 Ms. Brutus - Yes, front elevation. Like I said, the front elevation  
1224 will be the one that would change if the County changes their height regulation.  
1225 It's just a technicality in how they measure the midpoint of a roof and that's  
1226 basically it.  
1227  
1228 Mr. Nunnally - Any other questions for the applicant at this time? All  
1229 right. Any opposition? Will you have a seat, ma'am? We'll call you back for  
1230 rebuttal in a few minutes.  
1231  
1232 Ms. Brutus - Okay.  
1233  
1234 Ms. Bradley - Hi. My name's Linda Bradley. I live across from the  
1235 Winter's and Ms. Burgess. Is that right? Owens, yes. I've never met them.  
1236 They've been there for several years and we've never met. I'm not actually  
1237 opposed to it; I have a couple questions. You said that the outside structure is  
1238 going to look like your house.  
1239  
1240 Ms. Brutus - Exactly.  
1241  
1242 Ms. Bradley - And that's fine. This is going to sound really—Is there  
1243 any shooting going to be involved in this? We've called the police several times  
1244 because of all the gunfire. I'm not trying to cause problems. That has calmed  
1245 down a lot, a whole lot. As long as that structure is just for garage—  
1246  
1247 Ms. Brutus - Yes.  
1248  
1249 Ms. Bradley - —to store vehicles. But I will continue to call the  
1250 police if the shooting, rifle shooting keeps going on near my house.  
1251  
1252 Ms. Brutus - That's fine.  
1253  
1254 Ms. Dwyer - Ms—  
1255  
1256 Ms. Bradley - Bradley.  
1257  
1258 Ms. Dwyer - Could you stand up and respond on the mic to the  
1259 questions, please. Thank you.  
1260  
1261 Ms. Brutus - The building has nothing to do with shooting. I'm not  
1262 saying that I will discontinue shooting. We do have a shooting range on our  
1263 property. It's zoned agriculture. It's kosher. My friend is with the police  
1264 department and we know that we're within the laws of our shooting. But the  
1265 building structure has nothing to do with shooting.  
1266  
1267 Ms. Dwyer - And the materials, you said, will match the house.  
1268

1269 Ms. Brutus - Exactly. I don't even have to pick anything out.  
1270  
1271 Ms. Bradley - I agree that has calmed down, but I think at 5 in the  
1272 morning, that's a little excessive.  
1273  
1274 Ms. Brutus - We have problems with beavers and the only way to  
1275 get rid of beavers is to shoot them. The game wildlife, everybody knows, so  
1276 we're fine. If a beaver is out there at 5 in the morning, we will shoot it.  
1277  
1278 Mr. Blankinship - I appreciate both you recognizing that that's not the  
1279 issue before the Board this morning.  
1280  
1281 Ms. Harris - Ms. Brutus, though it's not the—Did you say Brutus or  
1282 Brutes?  
1283  
1284 Ms. Brutus - It's Brutus like Popeye and Brutus.  
1285  
1286 Ms. Harris - This does not pertain to the case, either, but I had a  
1287 beaver, too. I had to put a wire around the trees that he was cutting down.  
1288  
1289 Ms. Brutus - It's awful. We're talking [unintelligible].  
1290  
1291 Ms. Harris - But I can shoot [unintelligible].  
1292  
1293 Ms. Brutus - Well, you basically have to. I was just in Varina two  
1294 days ago in a meeting on pond management and they recommend, the State of  
1295 Virginia recommends that you shoot them. You trap them, you can't release them  
1296 anywhere because nobody else wants your problem.  
1297  
1298 Mr. Blankinship - Right.  
1299  
1300 Ms. Brutus - They're overpopulating and they have no predators.  
1301 None. Except for man.  
1302  
1303 Ms. Dwyer - Have you read the conditions that have been  
1304 enclosed as part—  
1305  
1306 Ms. Brutus - Yes I have. The only concern I have is in Condition 1,  
1307 and that would be—The way I read the condition is that it would have to be the  
1308 exact plan that you have before you. If the law changes, if Henrico County  
1309 changes the roof regulation before it's finished, we'd like to go back to the  
1310 existing plan or have the option to go back to the existing plan. The footprint is  
1311 the same size. The height of the building is not any different; it's just a matter of  
1312 how the roofline is aesthetically.  
1313  
1314 Mr. Kirkland - Mr. Blankinship?

1315  
1316 Ms. Dwyer - Would that be a substantial change?  
1317  
1318 Mr. Kirkland - That would be a substantial change.  
1319  
1320 Mr. Blankinship - I wish we had those plans with us today.  
1321  
1322 Ms. Brutus - I do.  
1323  
1324 Mr. Blankinship - Oh good. All right. Well, if the Board would like to  
1325 approve the two, or consider the two alternative plans, then—  
1326  
1327 Mr. Kirkland - Can I approve something that's illegal right now?  
1328  
1329 Mr. Blankinship - You'd be approving that contingent on if there were a  
1330 change in the Code, then—  
1331  
1332 Ms. Dwyer - They would have the option.  
1333  
1334 Mr. Blankinship - —the alternative plan would be approved.  
1335  
1336 Mr. Kirkland - Okay, we could do that.  
1337  
1338 Ms. Brutus - I'm not going to build something illegal.  
1339  
1340 Mr. Blankinship - I just don't want to waste everyone's time bringing it  
1341 back before you.  
1342  
1343 Ms. Dwyer - Could we see those on the board maybe?  
1344  
1345 Mr. Blankinship - Fred, can you?  
1346  
1347 Ms. Brutus - If you pull up the other house plan and go to the  
1348 footprint, which is looking at the concrete foundation.  
1349  
1350 Ms. Dwyer - So, the difference instead of having one side of what's  
1351 now a gable roof go all the way—  
1352  
1353 Ms. Brutus - That's it right there exactly. Then the only other  
1354 difference would be on the plans, on this plan that shows the footprint. I don't  
1355 know if you can flip to that.  
1356  
1357 Ms. Dwyer - Would there be a change in the footprint?  
1358  
1359 Ms. Brutus - Yes. We have an indentation of four feet. It would be  
1360 a pure rectangle, where the other one has like a little tooth.

1361  
1362 Ms. Dwyer - I see.  
1363  
1364 Ms. Brutus - Do you see what I'm talking about? It would be just  
1365 square—or not square, but rectangle.  
1366  
1367 Ms. Dwyer - I'm guessing you drew that part of the building in just  
1368 to give some interest to that side of the building.  
1369  
1370 Ms. Brutus - That's the only reason why, so we would gain back  
1371 the, basically, eight feet that we lost just because of aesthetic purposes.  
1372  
1373 Ms. Dwyer - Because this breaks up that solid wall and solid  
1374 roofline that you would otherwise have.  
1375  
1376 Ms. Brutus - Exactly. The one that you have before you kinda  
1377 gives it an entryway, if you will, where the other one with the roofline would give  
1378 the entryway.  
1379  
1380 Ms. Dwyer - So, what plan is that? How do we identify that plan?  
1381  
1382 Mr. Kirkland - You call this Exhibit 2?  
1383  
1384 Mr. Blankinship - Okay.  
1385  
1386 Ms. Brutus - Actually, I'll just go up there after the meeting to see if  
1387 they have heard anything.  
1388  
1389 Ms. Dwyer - What we're considering is approving both plans, and  
1390 this Exhibit 2 plan is approved contingent upon all of the features of that plan  
1391 being within the County Code at the time you seek the building permit.  
1392  
1393 Ms. Brutus - Exactly.  
1394  
1395 Ms. Dwyer - Okay.  
1396  
1397 Mr. Nunnally - All right. Any other questions from the staff or the  
1398 Board? Hearing none, that completes the case. Thank you for coming.  
1399  
1400 Ms. Brutus - Thank you. I appreciate it.  
1401  
1402 Ms. Harris - I move that we approve this conditional use permit. I  
1403 feel that this additional structure will not adversely affect the health, safety, or  
1404 welfare of the neighbors. We did want to, however, look at the two choices of the  
1405 elevation of the garage, did we not?  
1406

1407 Mr. Kirkland - Yes. Option 2, which was showed us, if the County  
1408 Ordinance changes.  
1409  
1410 Ms. Dwyer - I have some language I can propose.  
1411  
1412 Mr. Kirkland - Read it in.  
1413  
1414 Ms. Dwyer - See what you all think. Plans labeled as Exhibit 2, as  
1415 presented to the Board, are approved contingent upon their compliance with all  
1416 County standards and the County Code at the time of the building permit request.  
1417  
1418 Mr. Kirkland - That's good.  
1419  
1420 Ms. Harris - Yes.  
1421  
1422 Ms. Dwyer - That would be an additional Condition 3.  
1423  
1424 Mr. Nunnally - All right.  
1425  
1426 Ms. Harris - So move.  
1427  
1428 Ms. Dwyer - Plans labeled Exhibit 2, as presented.  
1429  
1430 Mr. Nunnally - Ms. Dwyer, did you second it?  
1431  
1432 Ms. Dwyer - Yes. Well, I will. Second.  
1433  
1434 Mr. Nunnally - Motion by Ms. Harris, seconded by Ms. Dwyer. All in  
1435 favor say aye. All opposed say no. The ayes have it; the motion carries. It's  
1436 been approved with the conditions.  
1437  
1438 After an advertised public hearing and on a motion by Ms. Harris, seconded by  
1439 Ms. Dwyer, the Board **approved** application **UP-014-07**, Anthony Owen's  
1440 request for a conditional use permit pursuant to Section 24-95(i)(4) to build an  
1441 accessory structure in the side yard at 3535 Meadow Road (Parcel 848-715-  
1442 5404), zoned A-1, Agricultural District (Varina).  
1443  
1444 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
1445 Negative: 0  
1446 Absent: Wright 1  
1447  
1448 Mr. O'Kelly - Mr. Chairman?  
1449  
1450 Mr. Nunnally - Yes sir.  
1451



1452 Mr. O’Kelly - Just to let you all know the status of the ordinance  
1453 amendment, I believe that it’s scheduled to go to the Planning Commission at  
1454 their first meeting in September. Assuming that they make a favorable  
1455 recommendation to the Board, then the Board will take it under advisement at  
1456 their first meeting in October.

1457  
1458 Ms. Harris - This is the ordinance pertaining to?  
1459

1460 Mr. O’Kelly - The height of accessory structures.  
1461

1462 Ms. Harris - Okay. I was hoping that you would say the use of the  
1463 public road frontage.  
1464

1465 Mr. O’Kelly - No, we’re still studying that issue.  
1466

1467 Mr. Nunnally - All right. The next one has been deferred.  
1468

1469 Mr. Blankinship - UP-015-07, Ron Brunette, has been deferred. [See  
1470 page 2.]  
1471

1472 **A-028-07 ANNE MARIE DUNN** requests a variance from  
1473 Sections 24-95(c)(4) and 24-95(b)(6) to build a one family dwelling at 2314 Kent  
1474 Street (Park View) (Parcel 779-746-9120), zoned R-4, One-family Residence  
1475 District (~~Varina~~ Brookland). The front yard setback and lot width requirement are  
1476 not met. The applicant has 45 feet lot width, 25 feet front yard setback and 8 feet  
1477 side yard setback, where the Code requires 50 feet lot width, 35 feet front yard  
1478 setback and 10 feet side yard setback. The applicant requests a variance of 5  
1479 feet lot width, 10 feet front yard setback and 2 feet side yard setback.  
1480

1481 Mr. Nunnally - Anybody else interested in this case? If so, please  
1482 stand and be sworn.  
1483

1484 Mr. Blankinship - Raise your right hands, please. Do you swear the  
1485 testimony you’re about to give is the truth and nothing but the truth so help you  
1486 God?  
1487

1488 Ms. Dunn - Yes.  
1489

1490 Mr. Nunnally - Please state your name for the record, ma’am, and  
1491 tell us what you’re requesting.  
1492

1493 Ms. Dunn - My name is Anne Marie Dunn. I’m requesting a  
1494 variance so that we can construct a single-family dwelling on 2314 Kent Street.  
1495 My family has owned that property for about 65 years and has been paying taxes  
1496 on that lot separately for that whole period of time. The lot really has no value if  
1497 we cannot sell it in order to build a dwelling on it. My brother and I own the land

1498 and we also own a house next door. We've looked around the Lakeside area and  
1499 there are approximately 12 other properties that were built on lots less than 50  
1500 feet in width within eight blocks. There is also 15-foot of additional land on our  
1501 property that is a deeded right-of-way and the family has maintained that also for  
1502 the last 65 years. The house that is proposed to be built there is about 1300  
1503 square feet.  
1504  
1505 Ms. Dwyer - Ms. Dunn, explain to me what you just said about the  
1506 right-of-way.  
1507  
1508 Ms. Dunn - According to the builder that's working with us, there's  
1509 a 15-foot additional land deed right-of-way around the property.  
1510  
1511 Ms. Dwyer - Along Edgemore Street?  
1512  
1513 Ms. Dunn - I think it runs around that.  
1514  
1515 Mr. Blankinship - An easement, perhaps? A utility easement or  
1516 something?  
1517  
1518 Ms. Dunn - The corner lot with an easement.  
1519  
1520 Ms. Dwyer - An easement is different from a right-of-way.  
1521  
1522 Mr. Blankinship - It doesn't show on the plat.  
1523  
1524 Ms. Dwyer - Do you have a plat or something that shows it, shows  
1525 the easement?  
1526  
1527 Mr. Blankinship - Oh. There's 15 feet from the right-of-way line to the  
1528 edge of pavement. Is that what you're addressing? Oh, okay, yes.  
1529  
1530 Mr. Nunnally - Mr. Blankinship, this is in Brookland, isn't it?  
1531  
1532 Mr. Blankinship - Yes. That's what I was looking up here. I don't know  
1533 why that says Varina on the agenda. I know I changed it in our database at least  
1534 once. One of those frustrating things; I apologize. This is in the Brookland  
1535 Magisterial District.  
1536  
1537 Mr. Kirkland - Make the statement you just said about from the  
1538 "edge of pavement" again.  
1539  
1540 Mr. Blankinship - It's 15 feet, more or less, from the edge of pavement  
1541 to the right-of-way line. That probably shows best on the aerial photograph, Mr.  
1542 Gidley. Oh, actually it shows there, but.  
1543

1544 Ms. Dwyer - That's true in a lot of places where they haven't built  
1545 the road out to the edge [unintelligible] maximum right-of-way.  
1546  
1547 Mr. Blankinship - It's certainly not an excessive amount of extra right-of-  
1548 way there.  
1549  
1550 Ms. Dwyer - I just wanted to be clear on that.  
1551  
1552 Mr. Kirkland - Ms. Dunn, I rode by the site and it looks like the  
1553 dwelling next door, that you own also, has been using half of the rear of the  
1554 property for like yard that's fenced in. Of course, all that would be removed,  
1555 correct?  
1556  
1557 Ms. Dunn - Yes it would.  
1558  
1559 Mr. Kirkland - Did you read the total staff reports about some items  
1560 that—  
1561  
1562 Ms. Dunn - I just read the report that was sent to me.  
1563  
1564 Mr. Kirkland - On page 2 of 3, #2?  
1565  
1566 Ms. Dunn - Right.  
1567  
1568 Mr. Kirkland - The staff was wondering why you couldn't reduce two  
1569 feet in width to meet the side yard setback?  
1570  
1571 Ms. Dunn - That would be done.  
1572  
1573 Mr. Kirkland - You can do that?  
1574  
1575 Ms. Dunn - Yes.  
1576  
1577 Mr. Kirkland - So, if I made that a condition of the case, you would  
1578 have no problem with that.  
1579  
1580 Ms. Dunn - That's correct.  
1581  
1582 Ms. Dwyer - What about the front-yard setback, which you list at  
1583 25 feet and the Code requires 35 feet?  
1584  
1585 Mr. Stover - My name is Jeff Stover. Our original [unintelligible]  
1586 was just for the front of the other house, is 25 feet or less. We have plenty of  
1587 rear-yard setback. We can take it to 35 feet without any problem.  
1588  
1589 Ms. Dwyer - Okay.

1590  
1591 Mr. Kirkland - So, you can meet the setback requirement front and  
1592 side, right?  
1593  
1594 Mr. Stover - Yes.  
1595  
1596 Mr. Kirkland - Okay.  
1597  
1598 Ms. Dwyer - So, then, the only variance is for lot width.  
1599  
1600 Ms. Harris - That would be another condition we would add?  
1601  
1602 Mr. Blankinship - Actually, it would just be a change. Well, we would  
1603 change it in the condition because it lists minimum lot width, minimum side yard,  
1604 and minimum front yard. From a parliamentary point-of-view, I would suggest  
1605 that you simply divide the question. Approve the one variance and deny the  
1606 other two.  
1607  
1608 Ms. Dwyer - Approve the variance for lot width and deny the one  
1609 for side yard and front yard setbacks.  
1610  
1611 Mr. Blankinship - Yes ma'am.  
1612  
1613 Ms. Dwyer - Okay. So then in the conditions, it would just be  
1614 deleting those references.  
1615  
1616 Mr. Blankinship - And that will read, "This variance applies only to the  
1617 minimum lot width for one dwelling only. All other applicable regulations of the  
1618 County Code shall remain in force."  
1619  
1620 Mr. Kirkland - That sounds good.  
1621  
1622 Mr. Nunnally - All right. Any other questions from the Board? I'll ask  
1623 again, is anyone here in opposition to this request? Hearing none, that  
1624 completes the case. We'll let you know something later on. Thank you for  
1625 coming.  
1626  
1627 Mr. Kirkland - I move we approve it. We decided—Mr. Blankinship,  
1628 would we deny the variance for the lot size? Is that what you said?  
1629  
1630 Mr. Blankinship - The lot width is the one that I would recommend you  
1631 approve and the two setback variances be denied.  
1632  
1633 Mr. Kirkland - Okay. That's because the applicant has agreed to  
1634 meet setback requirements.  
1635

1636 Ms. Dwyer - So in the conditions, we would strike the minimum  
1637 side-yard setback and the minimum front-yard setback.  
1638

1639 Mr. Kirkland - That's correct. The reason being that the lot—The  
1640 ordinance interferes with any beneficial uses and, again, it has exceptional  
1641 narrowness. Since the applicant will meet all of the setback requirements, I have  
1642 no problem with it. I move we approve it.  
1643

1644 Ms. Dwyer - I second it. I also would like to add again that when  
1645 the lot was created, it was a buildable lot, so that avoids any Cherrystone  
1646 opposition. To deny the right to build on this property would effectively deprive  
1647 the owner of all reasonable use of the property.  
1648

1649 Mr. Gidley - [Off mic.] Mr. Chairman, the plot plan shows the old,  
1650 proposed setbacks, rather than the correct setbacks. That will need to be  
1651 changed to reflect the fact that they will meet the setbacks rather than what is  
1652 shown on the plot plan.  
1653

1654 Ms. Dwyer - Right. That's a good point, Mr. Gidley. We don't want  
1655 anyone making mistakes because someone presents their plot plan to the  
1656 County for approval and because we've approved it with the dimensions added.  
1657 So, we don't approve—Why don't we just not approve the plan?  
1658

1659 Mr. Kirkland - Not approve the plot plan and then say—  
1660

1661 Mr. Blankinship - So just strike Condition 2?  
1662

1663 Ms. Dwyer - Well. Well, we have a conflict between what we've  
1664 decided to approve and what's on the plot plan.  
1665

1666 Mr. Blankinship - They submitted an architectural plan.  
1667

1668 Ms. Harris - So, in Condition 2, could we just delete the first  
1669 sentence?  
1670

1671 Mr. Blankinship - Do you want to bind them to the architecturals, but not  
1672 to the plot plan?  
1673

1674 Ms. Dwyer - Yes.  
1675

1676 Mr. Blankinship - Okay.  
1677

1678 Ms. Harris - Will they have to submit more plans, then?  
1679

1680 Mr. Blankinship - What we can do is add a second sentence here.  
1681

1682 Mr. Gidley - [Off mic.] The architecturalals will be [unintelligible].  
1683  
1684 Mr. Kirkland - He'll narrow the house up two feet. Remember he  
1685 said he would agree to that. Now I need to make that a condition of the case,  
1686 that the house will be two foot narrower.  
1687  
1688 Ms. Dwyer - Mr. Blankinship's coming up with some language  
1689 here.  
1690  
1691 Mr. Kirkland - Good.  
1692  
1693 Ms. Dwyer - I think he's just saying the plot plan will be amended.  
1694  
1695 Mr. Blankinship - The plot plan and the architectural drawings shall be  
1696 amended to show compliance with the required setbacks. How about that?  
1697  
1698 Ms. Dwyer - Sounds good.  
1699  
1700 Mr. Blankinship - I've added a second sentence to Condition 2.  
1701  
1702 Mr. Nunnally - [Unintelligible] Mr. Kirkland?  
1703  
1704 Mr. Kirkland - That's fine with me, sir.  
1705  
1706 Mr. Nunnally - All right. Motion by Mr. Kirkland, seconded by Ms.  
1707 Dwyer with the change to Condition 2. All in favor say aye. All opposed say no.  
1708 The ayes have it; the motion carries. It's been approved.  
1709  
1710 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
1711 Ms. Dwyer, the Board **approved** application **A-028-07**, Anne Marie Dunn's  
1712 request for a variance from Sections 24-95(c)(4) and 24-95(b)(6) to build a one  
1713 family dwelling at 2314 Kent Street (Park View) (Parcel 779-746-9120), zoned  
1714 R-4, One-family Residence District (Varina Brookland). The front yard setback  
1715 and lot width requirement are not met.  
1716  
1717 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
1718 Negative: 0  
1719 Absent: Wright 1  
1720  
1721 Mr. Blankinship - Mr. Chairman, we passed by one case. Would you  
1722 like me to call it again?  
1723  
1724 Mr. Nunnally - Yes sir, please.  
1725  
1726 **UP-011-07** **RICHMOND ELKS LODGE** requests a temporary  
1727 conditional use permit pursuant to Section 24-116(c)(1) to operate a turkey shoot

1728 at 10022 Elk Pass Lane (Parcel 750-768-4929), zoned A-1, Agricultural District  
1729 (Three Chopt).  
1730  
1731 Mr. Nunnally - Is anyone else here interested in this case? If so,  
1732 please stand and be sworn.  
1733  
1734 Mr. Blankinship - Raise your right hand, please. Do you swear the  
1735 testimony you're about to give is the truth and nothing but the truth so help you  
1736 God?  
1737  
1738 Ms. Willard - I do.  
1739  
1740 Mr. Nunnally - Please state your name for the record, ma'am, and  
1741 tell us what you're requesting.  
1742  
1743 Ms. Willard - Faye Willard. I'm secretary for the Richmond Elks  
1744 Lodge.  
1745  
1746 Mr. Nunnally - All right. Now tell us what you want.  
1747  
1748 Ms. Willard - I'm just here representing the Elks Lodge to say that  
1749 this is our 20<sup>th</sup> year operating the turkey shoot. We have the berm in place.  
1750 We've met all the requirements in the past and we've had no problems with the  
1751 police or anything else regarding the turkey shoot.  
1752  
1753 Mr. Nunnally - How long has this been going on?  
1754  
1755 Ms. Willard - This is our 20<sup>th</sup> year.  
1756  
1757 Mr. Nunnally - Twenty? We haven't had any complaints, Mr.  
1758 Blankinship?  
1759  
1760 Mr. Blankinship - No sir, not that I'm aware of.  
1761  
1762 Mr. Nunnally - Have you read the conditions, ma'am?  
1763  
1764 Ms. Willard - We have.  
1765  
1766 Mr. Nunnally - Are you in agreement with them?  
1767  
1768 Ms. Willard - Yes.  
1769  
1770 Ms. Harris - What structure, if any, is on 10040, the adjacent  
1771 property? Is there any structure there? Did Richmond Elks Lodge erect that  
1772 berm or was it there, left by the developer or something?  
1773

1774 Ms. Willard - We built it.  
1775  
1776 Ms. Dwyer - How far is the firing line from the target?  
1777  
1778 Ms. Willard - I think it's 25 or 30 feet.  
1779  
1780 Ms. Dwyer - Okay. Do you have barriers behind the targets?  
1781  
1782 Ms. Willard - We have a 10-foot high berm.  
1783  
1784 Ms. Dwyer - In your view, is that berm necessary to intercept shot  
1785 that may be—  
1786  
1787 Ms. Willard - In my view, no, but in Henrico County's view it was  
1788 necessary, so it's always been there. We put it up a long time ago.  
1789  
1790 Mr. Kirkland - Twenty years ago, huh.  
1791  
1792 Ms. Willard - Yes.  
1793  
1794 Ms. Dwyer - In addition to that, you have a six-foot shot barrier of  
1795 straw and hay bales, according to the conditions.  
1796  
1797 Ms. Willard - No, we don't have the straw.  
1798  
1799 Ms. Dwyer - Okay. You might want to look at the conditions, then,  
1800 because that's part of the condition that's required. And if we approve it, that  
1801 would be required.  
1802  
1803 Ms. Willard - Okay.  
1804  
1805 Ms. Dwyer - If that's not something you want, you're welcome to  
1806 state that right now.  
1807  
1808 Mr. Kirkland - It says, "Straw, hay bales, or mounded dirt."  
1809  
1810 Mr. Blankinship - I believe the berm that is in place—  
1811  
1812 Mr. Kirkland - Takes the place of the straw bales.  
1813  
1814 Ms. Dwyer - Okay.  
1815  
1816 Mr. Kirkland - You get three choices. I prefer the mound of dirt.  
1817



1818 Mr. Blankinship - Again, we've just carried that along for years. We  
1819 probably could have struck the "straw and hay bales" reference and just said that  
1820 they have to maintain the existing mound.

1821  
1822 Ms. Dwyer - Well, we'll leave it. They might change their mind and  
1823 this gives them more options.

1824  
1825 Mr. Nunnally - Any other questions from the Board? Anyone here in  
1826 opposition to this request? Hearing none, that completes the case. Thank you  
1827 for coming, ma'am.

1828  
1829 Ms. Willard - Thank you.

1830  
1831 Mr. Kirkland - I move we approve it. I believe the proposed  
1832 [unintelligible] will not affect the health, safety, or welfare of persons residing or  
1833 working in the area. That's my reason for approving it.

1834  
1835 Mr. Nunnally - Motion by Mr. Kirkland it be approved and he gave his  
1836 reason. Do I have a second?

1837  
1838 Ms. Dwyer - Second.

1839  
1840 Mr. Nunnally - Second by Ms. Dwyer. All in favor say aye. All  
1841 opposed say no. The ayes have it; the motion carries. It's been approved.

1842  
1843 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
1844 Ms. Dwyer, the Board **approved** application **UP-011-07**, Richmond Elks Lodge's  
1845 request for a temporary conditional use permit pursuant to Section 24-116(c)(1)  
1846 to operate a turkey shoot at 10022 Elk Pass Lane (Parcel 750-768-4929), zoned  
1847 A-1, Agricultural District (Three Chopt).

1848  
1849 Affirmative: Harris, Kirkland, Nunnally, Dwyer 4  
1850 Negative: 0  
1851 Absent: Wright 1

1852  
1853 Mr. Kirkland - Let's approve the minutes and then I'd like to bring  
1854 something up after the minutes.

1855  
1856 Mr. Blankinship - We also have the election of officers.

1857  
1858 Mr. Kirkland - We can wait on that. We're not going anywhere.

1859  
1860 Ms. Harris - I don't have any corrections to the minutes. I don't  
1861 know if anyone else did.

1862

1863 Mr. Kirkland - I looked and I didn't see anything. I make a motion  
1864 we approve the minutes.  
1865  
1866 Ms. Harris - Second the motion.  
1867  
1868 Mr. Nunnally - Motion by Mr. Kirkland, seconded by Ms. Harris the  
1869 minutes be approved. All in favor say aye. All opposed say no. The ayes have it;  
1870 the motion carries. The minutes have been approved.  
1871  
1872 Mr. O'Kelly - Mr. Chairman, could I ask about UP-15-07? I'm sorry  
1873 I was late for the meeting.  
1874  
1875 Mr. Kirkland - It was deferred.  
1876  
1877 Mr. O'Kelly - Was it deferred or withdrawn?  
1878  
1879 Ms. Dwyer - Deferred.  
1880  
1881 Mr. Blankinship - We discussed that. Their letter said they'd like to  
1882 withdraw it at this time.  
1883  
1884 Mr. O'Kelly - Right.  
1885  
1886 Mr. Blankinship - And then suggested they may want to reapply. I  
1887 suggested to the Board that they treat it as a deferral rather than a withdrawal.  
1888  
1889 Ms. Dwyer - In the meantime, staff is supposed to contact them  
1890 and clarify their intent, [unintelligible] ambiguous in their letter.  
1891  
1892 Mr. Kirkland - If they come back and don't show again next month—  
1893  
1894 Mr. Blankinship - It'll be a withdrawal.  
1895  
1896 Mr. Kirkland - That way they can still come back.  
1897  
1898 Mr. Blankinship - Right.  
1899  
1900 Mr. O'Kelly - Thank you very much.  
1901  
1902 Mr. Nunnally - I think Mr. Kirkland has a little something he wants to  
1903 discuss with us.  
1904  
1905 Mr. Kirkland - Mr. Chairman, and fellow Board members, in April we  
1906 approved a case for Ms. Natasha I. Evans at 10364 Courtney Road. Mr.  
1907 Blankinship, correct me during my talk here, but what happened is we approved  
1908 a modular home and we were furnished a plot plan with the case showing the

1909 modular home was 196.5 feet back from the street for the property line. The  
1910 same day we had the case, we were given a second set of house plans that  
1911 showed a larger dwelling, 40 foot by 70, versus 50 by 40. We approved this with  
1912 the case and elevations showing land level. Although elevations sometimes are  
1913 a little off, it showed the land pretty level. After reviewing the site on Thursday—I  
1914 went by there—the modular home is built, two halves were assembled, and it is  
1915 not 196.5 feet back from the road. It is closer and because of the slope of the  
1916 land, the dwelling’s front porch sits approximately eight feet off of the ground.  
1917 The back end of the house is dug into the ground. I notified Mr. Blankinship on  
1918 the phone Thursday evening, left him a message, and then saw him Friday.  
1919 Myself, Fred Overmann, Susan Blackburn, and Paul Gidley were in this meeting.  
1920 What the applicant did is instead of taking the plot plan that we approved, took a  
1921 sketch—or Oakwood Homes or Ms. Natasha I. Evans took a sketch—to the  
1922 Building Permit Department showing the dwelling 75 feet from the property line.  
1923 The building permit—

1924

1925 Mr. Nunnally - It should have been 196 feet?

1926

1927 Mr. Kirkland - It should have been 196 feet. The Permit Center  
1928 knew we had approved a variance for lot width but had no idea what other plans  
1929 were with the case. They approved the building permit. The dwelling was in  
1930 place. Mr. Blankinship and I worked and he tried to get Building Inspections to  
1931 stop progress on the dwelling, because only the two halves were bolted together  
1932 at the time, sitting up on cinderblocks. That failed. The people on the site,  
1933 Oakwood Homes or the contractor, went gung ho and finished it. They worked  
1934 yesterday putting the rest of the vinyl siding on. The dwelling is now sitting  
1935 finished except for the brick foundation. I don’t know what the distance is, but it  
1936 is not 196 feet.

1937

1938 Mr. Blankinship - It is approximately 84 feet.

1939

1940 Mr. Kirkland - Eighty-four feet. If it had been placed in the proper  
1941 position, the home would have been level, a lot more level. Level and not as  
1942 obtrusive to the surrounding dwellings. That was one of the reasons I approved  
1943 the case, because it was back 196 feet from the road, and because of the depth,  
1944 it would be up in the woods or in a wooded area and protected. As I talked to Mr.  
1945 Blankinship yesterday, they had strongly told the builder to stop work until  
1946 something is resolved. Nothing is in writing, I assume, so if the builder goes on  
1947 and lays the brick today or tomorrow, it’s done. I want this to come back. I have  
1948 talked to Mr. Tokarz and he was going to talk to Mr. Blankinship, and I think it has  
1949 gone up the food chain a little higher; he’s probably talked to some other people.  
1950 I want this to come back and I want the dwelling put at 196 feet from the road.

1951

1952 Ms. Dwyer - There is nothing stopping them from completing this  
1953 house at this point. Is that what you are saying?

1954

1955 Mr. Kirkland - That is correct. Mr. Blankinship, am I wrong?  
1956  
1957 Mr. Blankinship - By the time I spoke to them Friday afternoon, they  
1958 said that not only had the three actual modules been put together, bolted  
1959 together and bolted to the foundation, but that they had connected the electricity  
1960 and even the heat pump system had been installed and connected. It was fairly  
1961 far along by that time.  
1962  
1963 Ms. Dwyer - There is no foundation at this point. When I drove by  
1964 last night, it was still—  
1965  
1966 Mr. O’Kelly - It’s sitting on cinderblock piers. I talked to the builder  
1967 on Tuesday and asked him to stop work.  
1968  
1969 Mr. Kirkland - Thank you, Dave.  
1970  
1971 Ms. Dwyer - Did they?  
1972  
1973 Mr. O’Kelly - I think they are very concerned about what may  
1974 happen, and I would be surprised if they continue to work on the building. We  
1975 are ready to officially have a stop-work order issued. As far as bringing it back to  
1976 the BZA, that is probably what will occur, but a final decision has not been made.  
1977 We are still waiting for some advice from the County Attorney.  
1978  
1979 Ms. Dwyer - That would be my next—It’s on piers now, as I looked  
1980 at it last night.  
1981  
1982 Mr. O’Kelly - Twenty-some concrete piers.  
1983  
1984 Ms. Dwyer - Very odd looking. Are they planning to build the  
1985 foundation under the house as it exists now?  
1986  
1987 Mr. O’Kelly - The building permit calls for a skirting wall. We are  
1988 not sure what the material is. We believe it to be brick, but we are not positive.  
1989  
1990 Ms. Dwyer - So, the piers that it is sitting on now, that’s the actual  
1991 foundation support, nothing else needs to be done to meet Code, to support the  
1992 house?  
1993  
1994 Mr. O’Kelly - The builder estimates that it would cost them  
1995 approximately \$40,000 to move the house.  
1996  
1997 Ms. Dwyer - To move it to its other location. Do we know who  
1998 submitted the plans that were not approved by us, the plans that showed the  
1999 house closer to the road for the building permit?  
2000

2001 Mr. O'Kelly - The builder submitted those plans.  
2002  
2003 Ms. Dwyer - And this plot plan was not submitted. Something  
2004 else, some hand drawing? Is that—  
2005  
2006 Mr. O'Kelly - Yes, that's correct.  
2007  
2008 Mr. Kirkland - Mr. Blankinship, do you have a copy of that drawing  
2009 that you can showed me Friday?  
2010  
2011 Mr. O'Kelly - I have it.  
2012  
2013 Mr. Blankinship - Oh, okay.  
2014  
2015 Mr. Kirkland - They spent the money for a professional survey for  
2016 this. Why wasn't it passed up the food chain?  
2017  
2018 Mr. O'Kelly - I would also mention that the contractor has also  
2019 requested an interview with the County Attorney and that took place on Tuesday.  
2020  
2021 Ms. Dwyer - So, we don't know what the result of that was?  
2022  
2023 Mr. O'Kelly - That's something we're still waiting to hear about.  
2024  
2025 Mr. Kirkland - Well, as far as I am concerned, they didn't meet the  
2026 plans submitted with the case.  
2027  
2028 Mr. Nunnally - [Unintelligible] 196 feet from—  
2029  
2030 Mr. Kirkland - And they're 84. So, to me, this is a substantial  
2031 change or addition that may require a new variance.  
2032  
2033 Ms. Dwyer - That's true, but without any advice from the County  
2034 Attorney, it seems to me that it is out of our hands at this point. It's an  
2035 enforcement issue.  
2036  
2037 Mr. Kirkland - Here's the drawing they submitted, versus what we  
2038 saw. I believe someone didn't want to cut any trees and moved it back further,  
2039 and move it back like it should have been, and made an easy way out. Mr.  
2040 Blankinship saw it.  
2041  
2042 Ms. Dwyer - Again, I agree with you. They obviously haven't  
2043 complied with the plans that we approved, but I'm not sure what we can do at this  
2044 point. It seems to me it is up to the County to enforce what we approved. I don't  
2045 know what the County Attorney's position is.  
2046

2047 Mr. Kirkland - Is Mr. Tokarz or anyone available? Did they give you  
2048 a statement, Ben?  
2049  
2050 Mr. Blankinship - Mr. Gidley was just trying to reach Mr. Tokarz on the  
2051 phone.  
2052  
2053 Mr. Gidley - [Off mic.] He's in a meeting right now [unintelligible].  
2054 He wasn't able to [unintelligible].  
2055  
2056 Mr. O'Kelly - I can say that the County Attorney's preliminary  
2057 advice to staff, and I agree with that, is that this needs to come back to the BZA  
2058 for reconsideration.  
2059  
2060 Ms. Dwyer - How does that—Procedurally, how does that happen?  
2061  
2062 Mr. O'Kelly - They need to file an application. Today is the filing  
2063 deadline, but the staff will work with them and if they are willing to file an  
2064 application on getting it back before the BZA. It may not be filed today, but we  
2065 will work with them.  
2066  
2067 Mr. Kirkland - So, if you issue a stop-work order today, that would  
2068 automatically bring it back to the BZA?  
2069  
2070 Ms. Dwyer - No. I think you're saying they would have to—  
2071  
2072 Mr. O'Kelly - They have to file a—  
2073  
2074 Ms. Dwyer - That puts the ball in their court.  
2075  
2076 Mr. Kirkland - Right.  
2077  
2078 Ms. Dwyer - The County enforces what we have approved.  
2079  
2080 Mr. Kirkland - Right. But that's inevitable it would come back to us,  
2081 once a stop work order is issued.  
2082  
2083 Ms. Dwyer - I don't think we can bring a case back before us.  
2084  
2085 Mr. O'Kelly - The conditions with the case, such as standard  
2086 conditions, any substantial changes or additions may require a new variance.  
2087 That was Condition #2.  
2088  
2089 Ms. Dwyer - So the position is that if the County stops work on this  
2090 and won't approve, won't give an occupancy permit, won't approve any further  
2091 building, puts the stop-work order, then the ball's in their court to come to us to  
2092 get another variance to approve, requesting us to approve what they want now.

2093  
2094 Mr. Kirkland - But do you have to issue a stop-work order for this to  
2095 be resolved, or can they keep building? It's to their worst interest to build, but the  
2096 only way they would really officially stop, is if you stop them, on paper. And then  
2097 you all can sit down and talk about it.  
2098  
2099 Mr. O'Kelly - Well, hopefully, an official stop-work order in writing  
2100 could be issued today or tomorrow.  
2101  
2102 Mr. Kirkland - And then that would stop it and they'd do something.  
2103  
2104 Mr. O'Kelly - What the contractor has told staff is that the current  
2105 property owners need to move out of their existing home by the end of August. If  
2106 they could finish this house in seven days—So, delaying it until September is a  
2107 real hardship for them, but so be it.  
2108  
2109 Ms. Dwyer - It is a self-imposed hardship.  
2110  
2111 Mr. Kirkland - And on the other side of that, if you don't stop them,  
2112 they can put the brick work up in seven days and be sitting in it, and living in it,  
2113 when they come back to us, eventually. This thing is—You saw it, Mr. O'Kelly.  
2114 You saw how high it sits up.  
2115  
2116 Mr. O'Kelly - I've got pictures here.  
2117  
2118 Mr. Nunnally - If you put it that close to the road—  
2119  
2120 Ms. Dwyer - It is in—  
2121  
2122 Mr. Nunnally - It'll cost him \$40,000, but what is it going to do to the  
2123 other people's houses?  
2124  
2125 Mr. Kirkland - Well, right across the street is a brand new home, and  
2126 they are building three more homes across the street from that. You saw the  
2127 subdivision that is next door to it. It's kind of like too close and it needs to be  
2128 pushed back.  
2129  
2130 Ms. Dwyer - It is in line with the two houses on either side of it,  
2131 right now.  
2132  
2133 Mr. Kirkland - Right.  
2134  
2135 Ms. Dwyer - One is slightly behind it and one is slightly in front,  
2136 and this one is kind of in the middle, in the terms of distance from the roadway.  
2137 So, in that sense, it works, but the point is, that's not what we approved.  
2138

2139 Mr. Kirkland - Right. Exactly. Mr. Nunnally, this is the front of it.  
2140 These are the pictures I gave you, Ben. Right here. This is the front. That's  
2141 eight feet. I just wanted to bring it to your attention. And as Ms. Dwyer pointed  
2142 out a couple of times today, we are going to have to start—Everything we do in  
2143 these cases, we are going to have to make a notation of it, because if we don't,  
2144 people are going to do this to us every time. I always thought when it said, "any  
2145 substantial changes," it required you to come back for a new variance. We've  
2146 done that ever since I have been on the Board, used all of the plans that were  
2147 stamped with official numbers and everything on them as our guide. But I  
2148 assume now that's not true, or either we've got to start defining even more.

2149  
2150 Ms. Dwyer - This is a matter of process. These people presented  
2151 kind of a hand-drawn plot plan and the Building Permit section doesn't look  
2152 beyond that, or look at—

2153  
2154 Mr. Blankinship - Well, there's always some judgment involved. It may  
2155 be a very minor change or it may be what is obviously a major change. Here, it  
2156 was a lot width variance, and what was presented had the same lot width, and  
2157 they did double check the building plans. The condition actually reads, literally,  
2158 "The improvements shown on the plan." So, they checked to make sure it was  
2159 the same improvements that were proposed before you. If it had been a different  
2160 building design, I think they would have come and asked me about it. If they had  
2161 asked me about this, I would have said, no, wait, I think they need to see that  
2162 again, because it is 196 feet to 87 or 84. If it had gone from 196 feet to 180 feet,  
2163 we probably would have signed off on it.

2164  
2165 Mr. Kirkland - Correct.

2166  
2167 Mr. Blankinship - You can see the two pitfalls. We don't want to tie it  
2168 down so narrowly that no one can change anything and we end up filling our  
2169 agenda with re-hearings every month. But on the other hand, we do need to  
2170 know as specifically as you can tell us which issues are the critical issues for you,  
2171 on any given case, so that that gets into the conditions and gets into the approval  
2172 letter, because that is the first thing that they check. That's the first thing the  
2173 Permit Center staff will check is the approval letter to see what the conditions  
2174 are. If it is red-flagged there, it will be looked at.

2175  
2176 Ms. Dwyer - So, for example, in this case, we might have said not  
2177 only improvements but improvements as shown on the plot plan.

2178  
2179 Mr. Blankinship - The location of the improvements as shown on the  
2180 plot plan

2181  
2182 Ms. Dwyer - That was a fairly simple plot plan, but we could have a  
2183 more complicated one, and you wouldn't want to have to name in the verbiage  
2184 every single thing on the plot plan that's important.



2185  
2186 Mr. Blankinship - Right.  
2187  
2188 Ms. Dwyer - But maybe it is useful to say including as shown on  
2189 the plot plan dated X. That would alert the Permit Center to say we'd better look  
2190 at that particular plan and make sure everything is in compliance.  
2191  
2192 Mr. O'Kelly - I think it would be more appropriate to put it in the  
2193 form of a condition.  
2194  
2195 Ms. Dwyer - That's what I mean.  
2196  
2197 Mr. O'Kelly - All right. Okay.  
2198  
2199 Ms. Dwyer - The condition now, as Ben was saying, says  
2200 improvements. So to clarify, "improvements as shown on the plot plan dated X."  
2201 Then it's clear that, "as shown on," would include distance and other features.  
2202  
2203 Mr. Kirkland - I also stated in the minutes that I approved it. The  
2204 reason being this lot where the structure is located, and I meant it's vice versa, is  
2205 located far enough back. I knew that what I was approving showed a dwelling  
2206 that was far enough back. I think the applicant tried to take a short cut; I'll be  
2207 honest with you. Like Mr. Blankinship said, if it had been a 180 feet or 185 feet, I  
2208 wouldn't have had any problem with it. This is really less than half.  
2209  
2210 Mr. Nunnally - He should be 196 feet and he's gone 84 feet.  
2211  
2212 Mr. Kirkland - Yes, that's correct. I'm learning more and more about  
2213 the County. The Permit Center does not get everything we do over here. They  
2214 just get, like Mr. Blankinship said, what we approve the variance for. They don't  
2215 get our case showing plans or elevations or anything.  
2216  
2217 Mr. Blankinship - They will come and pull that—  
2218  
2219 Mr. Kirkland - Right.  
2220  
2221 Mr. Blankinship - —and look for red flags, if something jumps out at  
2222 them.  
2223  
2224 Mr. Kirkland - Right.  
2225  
2226 Mr. Blankinship - They frequently come to me and say, "This is what  
2227 the BZA approved. This is what the applicant presented. Should we approve this  
2228 or not?" They'll move the windows around or the driveway will be on the other  
2229 side of the yard or something. I'll look at those and make a judgment call. And

2230 once or twice I've brought plans to you informally and said would you approve  
2231 this, is this a substantial change, do you want to see this.  
2232  
2233 Mr. Kirkland - Correct.  
2234  
2235 Mr. Blankinship - This was one where perhaps they moved a little faster  
2236 than they should have. I don't know.  
2237  
2238 Mr. O'Kelly - The other thing is, the plot plan that was in the case  
2239 was for a different house.  
2240  
2241 Mr. Blankinship - Yes. When they changed the building plans, they did  
2242 not change the plot plans.  
2243  
2244 Mr. O'Kelly - Right.  
2245  
2246 Mr. Kirkland - Right. And Mr. Blankinship specified that in the  
2247 minutes, saying that this is only a change. At the very onset of the case, Mr.  
2248 Blankinship says, "It's just a change in the house plan."  
2249  
2250 Mr. Blankinship - Right.  
2251  
2252 Mr. Kirkland - That's all he said. You didn't say anything—It's not  
2253 directly relevant, because the lot width isn't going to change, such and such,  
2254 such and such. So, it was noted that it was just a change for that and not the plot  
2255 plan. So, I assume, Mr. O'Kelly, that the powers to be are making a decision and  
2256 we'll be notified of that decision when it's made. I'd like to know, personally.  
2257 That probably will not make the docket for next month if they don't do it today.  
2258 Correct?  
2259  
2260 Mr. O'Kelly - I think we can work with the contractor.  
2261  
2262 Mr. Kirkland - Okay.  
2263  
2264 Mr. Blankinship - Since we're aware that the case may come forward,  
2265 we can go ahead and proceed as if it is. It's easier to pull it off than to throw it on  
2266 at the last minute.  
2267  
2268 Mr. Kirkland - Okay.  
2269  
2270 Mr. Nunnally - But we're not sure that they're not working on it right  
2271 now, are we?  
2272  
2273 Ms. Dwyer - No, we're not. They could be.  
2274

2275 Mr. O'Kelly - My conversations with the contactor, she's not  
2276 sleeping or eating right now. She's not sleeping or eating right now.  
2277  
2278 Ms. Dwyer - And they probably don't want to invest any more time  
2279 and materials in it.  
2280  
2281 Mr. Kirkland - They've got a lot of bricks out there. They could be  
2282 laying a lot of bricks. Quite a steep retaining wall or a curtain wall, as you called  
2283 it. Well, I thought I would make—  
2284  
2285 Mr. O'Kelly - Also, I'd like to mention that there are no inspections  
2286 being done by Building Inspections. They're on hold.  
2287  
2288 Mr. Kirkland - Good.  
2289  
2290 Mr. Nunnally - All right.  
2291  
2292 Mr. Kirkland - I appreciate all of your help, Mr. O'Kelly, Mr.  
2293 Blankinship. I appreciate your help. I just wanted to make this aware to all of the  
2294 Board members.  
2295  
2296 Ms. Harris - Do you have that case number?  
2297  
2298 Mr. Kirkland - It's A13, A-013-07.  
2299  
2300 Ms. Harris - Thank you.  
2301  
2302 Ms. Dwyer - I think something we can consider is just being more  
2303 precise in our conditions when we have—  
2304  
2305 Mr. Kirkland - Well, this has never occurred before.  
2306  
2307 Ms. Dwyer - Right.  
2308  
2309 Mr. Kirkland - And I have been on here nine or ten years. This has  
2310 never occurred before.  
2311  
2312 Ms. Dwyer - It can't hurt, though.  
2313  
2314 Mr. Kirkland - It sure can't. You can't have too many descriptions  
2315 and conditions. All right, that's all I had.  
2316  
2317 Mr. Nunnally - I've never seen one that's that much different,  
2318 differential in there, from 196 feet—  
2319

2320 Mr. Kirkland - You might have to start watching the grade of the  
2321 land, too.  
2322  
2323 Mr. Nunnally - All right.  
2324  
2325 Mr. Kirkland - That's it. That's all I have to say.  
2326  
2327 Mr. Nunnally - Okay, Mr. Blankinship, let's turn it over to you, then.  
2328  
2329 Mr. Blankinship - All right. As temporary Chair, I'll entertain motions for  
2330 nominations for the office of Chairman.  
2331  
2332 Mr. Nunnally - I nominate Mr. Kirkland for Chairman.  
2333  
2334 Ms. Dwyer - Second.  
2335  
2336 Mr. Blankinship - Okay. Mr. Kirkland has been nominated and  
2337 seconded. Are there any other nominations? I'll entertain a motion to close  
2338 nominations.  
2339  
2340 Ms. Harris - I so move.  
2341  
2342 Mr. Blankinship - All right. Is there any opposition to closing the  
2343 nomination? All right. Congratulations, Mr. Kirkland. You have been elected by  
2344 acclamation.  
2345  
2346 Mr. Kirkland - Thank you very much.  
2347  
2348 Mr. Blankinship - The Chair will entertain nominations for the office of  
2349 Vice Chairman.  
2350  
2351 Mr. Kirkland - I make a motion we approve Mrs. Dwyer for Vice  
2352 Chairman.  
2353  
2354 Ms. Harris - I seconded it.  
2355  
2356 Mr. Blankinship - Okay. Are there any further nominations? The Chair  
2357 will entertain a motion to close the nomination.  
2358  
2359 Mr. Kirkland - So moved.  
2360  
2361 Mr. Blankinship - Congratulations, Mrs. Dwyer, you have elected by  
2362 acclamation.  
2363  
2364 Mr. Kirkland - Next month I'll be sick you can sit in for me.  
2365

2366 Ms. Dwyer - Does that mean I need to change chairs?  
2367  
2368 Mr. Kirkland - Yes, you'll move closer to the center.  
2369  
2370 Mr. Blankinship - I have one last item and I'm sorry that Mr. Wright's not  
2371 here for it. I know that you all have been following the Greenleaf appeal. I was  
2372 not able to attend the hearing and I have not mentioned to Mr. O'Kelly previous  
2373 to this very moment that I'd like to hear what happened at the hearing. One of  
2374 the interesting items that went on in the briefs for that case was an argument  
2375 over the Cherrystone issue and exactly what the Cherrystone case means.  
2376 That's something that I know this Board has been kicking back and forth and has  
2377 had a lot of questions about. So, I photocopied for you, out of the three briefs, the  
2378 petitioner's memorandum, the response to that, and then the petitioner's rebuttal  
2379 to the response, just those sections having to do with the Cherrystone question.  
2380 If you'd like the whole memorandums, I'd be happy to copy those for you, but  
2381 they're a little bit on the tedious side.  
2382  
2383 Mr. Kirkland - This is the one on Glenside, right?  
2384  
2385 Mr. Blankinship - Yes.  
2386  
2387 Mr. Kirkland - That's what I thought.  
2388  
2389 Ms. Dwyer - Has there been a ruling?  
2390  
2391 Mr. Blankinship - No ruling yet.  
2392  
2393 Mr. Kirkland - So, they just filed the briefs and where do we go from  
2394 here?  
2395  
2396 Mr. O'Kelly - I did attend the hearing, along with the Director of  
2397 Planning. It was about two hours.  
2398  
2399 Ms. Dwyer - I didn't know about it.  
2400  
2401 Mr. Kirkland - I didn't either.  
2402  
2403 Ms. Harris - When was it?  
2404  
2405 Mr. O'Kelly - August 16<sup>th</sup>.  
2406  
2407 Ms. Harris - Oh, they just had it.  
2408  
2409 Ms. Dwyer - What did you think?  
2410

2411 Mr. O'Kelly - Both attorneys did a very good job presenting the  
2412 case. The Greenleaf attorney's main argument was that the BZA did not  
2413 consider a variance, they considered a change to a condition. It might be hard to  
2414 overcome because it was a good argument. But Judge Tidey is taking it under  
2415 advisement.  
2416  
2417 Mr. Kirkland - What was the other side's argument, that we were  
2418 just flat wrong?  
2419  
2420 Mr. O'Kelly - Cherrystone and Cochran. That it was a variance that  
2421 the BZA granted.  
2422  
2423 Ms. Harris - When is a ruling expected?  
2424  
2425 Mr. O'Kelly - We don't know. Could be any day.  
2426  
2427 Mr. Kirkland - You all will contact us when you get something. It's  
2428 only taken them about, what, eight months to get this far.  
2429  
2430 Mr. Nunnally - Ben, I forgot to tell you that Mr. Wright called me  
2431 yesterday and said he wouldn't be here because he had to take his wife to the  
2432 hospital.  
2433  
2434 Mr. Blankinship - Oh, I'm sorry to hear that.  
2435  
2436 Mr. Nunnally - She had a knee replacement and it's not doing well so  
2437 they had to take her in to re-break it. Had to be there 5:30 this morning.  
2438  
2439 Ms. Dwyer - I had just an announcement. I don't know if you all  
2440 get these newsletters from the Citizens Planning Education Association.  
2441  
2442 Ms. Harris - Yes.  
2443  
2444 Ms. Dwyer - There is a Land Use and Zoning Conference October  
2445 7 to 9 in Charlottesville, and then a graduate seminar for BZA members in  
2446 November.  
2447  
2448 Mr. Kirkland - I'd like to go to the one in November.  
2449  
2450 Ms. Dwyer - That's usually really targeted to the stuff we do.  
2451  
2452 Mr. Kirkland - The General Assembly outline they give is really  
2453 good.  
2454  
2455 Ms. Dwyer - Yeah, it is.  
2456

2457 Mr. Kirkland - It is really good.  
2458  
2459 Ms. Harris - What date is that?  
2460  
2461 Ms. Dwyer - November 29<sup>th</sup>. Don't they have a separate one in the  
2462 spring where they go over General Assembly—  
2463  
2464 Mr. Kirkland - They change when they do things.  
2465  
2466 Ms. Dwyer - That one's usually—  
2467  
2468 Mr. Kirkland - I've always done the one in the fall. Normally, the first  
2469 session is the General Assembly rulings from the past assemblies, and then what  
2470 they propose for the new year coming in, some ideas.  
2471  
2472 Ms. Dwyer - There's a deadline for registration. I've got the  
2473 information here, if anybody wants to look at it.  
2474  
2475 Ms. Harris - I have mine at home. Do we want to go, all three of  
2476 us?  
2477  
2478 Mr. Kirkland - I can't go. There are some other events I have to  
2479 attend.  
2480  
2481 Ms. Dwyer - Are you going to be busy?  
2482  
2483 Mr. Kirkland - Oh, just a tad.  
2484  
2485 Ms. Dwyer - Okay.  
2486  
2487 Mr. Kirkland - If there's nothing else, I'll make a motion we—  
2488  
2489 Mr. Nunnally - I would just like to say one thing. I don't know many  
2490 of you all know Moe McKinney, but he's in bad shape, from my understanding.  
2491 We ought to keep him in our prayers because it's a mighty serious thing. I'd like  
2492 to thank you all, too, for supporting me the last two years. I know that was a hard  
2493 job.  
2494  
2495 Mr. Kirkland - I make a motion we adjourn.  
2496  
2497 Ms. Harris - Second.  
2498  
2499 Mr. Nunnally - Motion by Mr Kirkland, seconded by Ms. Harris. All in  
2500 favor say aye. All opposed say no. The motion carries; we're adjourned.  
2501

2502 There being no further business, the Board adjourned until the **September 27,**  
2503 **2007** meeting at 9:00 a.m.

2504

2505

2506

2507

2508

James W. Nunnally  
Chairman

2509

2510

2511

2512

2513

2514

2515

2516

Benjamin Blankinship, AICP  
Secretary

2517

2518