

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM
4 AND HUNGARY SPRING ROADS, ON THURSDAY AUGUST 23, 2018 AT 9:00
5 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-
6 DISPATCH AUGUST 6, 2018 AND AUGUST 13, 2018.

7
8
Members Present: Helen E. Harris, Acting Chair
Gentry Bell
Walter L. Johnson, Jr.
James W. Reid

Member Absent: Terone B. Green

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

9
10
11 Mrs. Harris - Good morning and welcome to the August 23, 2018
12 meeting of the Henrico County Board of Zoning Appeals. Will all who are able to
13 stand please join us in the Pledge of Allegiance.

14
15 Thank you. Now I'll ask Mr. Ben Blankinship, our Board secretary, if he will read
16 the rules for today's meeting.

17
18 Mr. Blankinship - Good morning, Madam Chair, members of the Board,
19 ladies and gentlemen, the rules for this meeting are as follows: Acting as
20 secretary, I will announce each case. Then we will ask everyone who intends to
21 speak to that case to stand and be sworn in. Then a member of the staff will give
22 a brief introduction to the case, and then the applicant will present their
23 presentation. After the applicant has spoken, anyone else who wishes to speak
24 in support or opposition will be invited to do so. After everyone's had a chance to
25 speak, the applicant, and only the applicant, will have an opportunity for rebuttal.

26
27 After the Board has completed each public hearing, they will proceed to the
28 public hearing on the next item of the agenda. They will render all of their
29 decisions at the end of the meeting. So if you want to hear their decision on a
30 specific case, you can either stay until the end of the meeting, or you can check
31 the Planning Department website—we usually get it updated within about an
32 hour of when the meeting ends—or you can call the Planning Department this
33 afternoon.

81 placement of the proposed structure in the front yard requires the approval of a
82 conditional use permit.

83
84 As previously mentioned, the property is located on a curved street and has
85 approximately 450 feet of street frontage. The applicant would like to construct a
86 22-foot-by-25-foot woodworking workshop 40 feet distant from the front property
87 line. The structure would be 32 feet distant from the home on the northeast side
88 of the residence. Because of the wooded nature of the lot, the placement of the
89 well and septic systems, the property location is the most advantageous spot for
90 the building. It takes advantage of the existing driveway, keeps it near the
91 residence, eliminates the need to clear additional trees, and avoids conflicts with
92 the well and septic systems.

93
94 The applicant intends to keep and maintain the existing tree buffer along the front
95 of the lot for screening purposes, and the structure will match the design and
96 finish of the home. Staff's primary concern with the proposal is its impact on the
97 streetscape and on the neighborhood. The A-1 District requires a fifty-foot front
98 yard setback. As proposed, the workshop will encroach ten feet into the front
99 yard setback leaving forty feet between the building and the front property line.
100 Here's a view of the proposed structure. If the Board approves the request, staff
101 recommends the building be reduced in size and relocated to maintain the fifty-
102 foot setback requirement.

103
104 In conclusion, the proposed improvements are consistent with the zoning and
105 Comprehensive Plan designations of the property. Although the proposed
106 building will be located in the front yard, the large size of the property, the
107 distance between homes, and the existing vegetation will limit its potential impact
108 on the streetscape and the neighborhood. Because the proposed improvements
109 have been designed to match the existing home and the front tree buffer will be
110 retained, staff does not anticipate any substantial detrimental impacts. Based on
111 the facts of this case, staff recommends approval subject to conditions.

112
113 This concludes my presentation. I'll be happy to answer any questions.

114
115 Ms. Harris - Thank you. Are there any questions from Board
116 members? Mr. Madrigal, what is the front yard setback on this property? It seems
117 real close to the street—I drove by—in comparison to the other homes in that
118 neighborhood on that block.

119
120 Mr. Madrigal - The minimum is fifty feet for the A-1 District. When I
121 measured the driveway to the front of the garage, that was roughly sixty-five feet.
122 The home projects a little bit more. So it does meet the required setback.

123
124 Mr. Bell - In reducing the size of the garage, did you have any
125 suggestions as to what size? When I looked at it, it varied but not a whole lot.

126

127 Mr. Madrigal - Right now the proposal is to have a 22-foot-wide-by-
128 25-foot-deep structure. Basically, in talking to the Health Department, the septic
129 system would be behind this structure. The closest that you could come to that
130 would be ten feet. So right now I figure he's about sixteen feet away from the
131 septic field. So push it back those additional feet, narrow up the width of the
132 garage so he achieves the fifty feet. So he's looking maybe reducing this down in
133 size to maybe eighteen feet. But in discussing it with the applicant, he could push
134 the building a little bit further north on the lot to keep the width and still maintain
135 all the setback requirements.

136
137 Mr. Blankinship - Mr. Bell, the challenge there is that we don't have a
138 survey or a really accurate drawing of the existing improvements. So we're kind
139 of setting the goals of stay away from the septic field, stay away from the street,
140 and then we'll let the applicant work out what he can fit in there.

141
142 Mr. Bell - Thank you.

143
144 Mr. Madrigal - Yes sir.

145
146 Mr. Johnson - You were mentioning that the septic tank is sixteen
147 feet. On the plat you said about fourteen feet?

148
149 Mr. Madrigal - Right.

150
151 Mr. Johnson - And so if they move it back four feet, they would at
152 least have a working range of ten feet. With that they could have a structure of
153 what, 16 feet by 25 feet?

154
155 Mr. Madrigal - Talking to the applicant out there, he just bought the
156 property, so he really wasn't sure. He had somebody out there to kind of show
157 him where it was at. He retook some measurements. So I think he had a little bit
158 more than was showing on the drawing. And then because of the way the lines
159 are laid out and the radius on the lot at the front property line, he could basically
160 push that structure a little bit farther back to achieve all his setback requirements.
161 And he's willing to do that.

162
163 Mr. Johnson - Okay.

164
165 Ms. Harris - Are there any other questions of Mr. Madrigal? Thank
166 you.

167
168 Mr. Madrigal - Thank you.

169
170 Ms. Harris - Would the applicant come forward, please, and state
171 your request.

172

173 Mr. Gurley - Hi. My name is William Gurley. My last name is
174 spelled G-u-r-l-e-y. I just retired this year. I'm seventy years old. I moved from
175 Arlington, Virginia, because I couldn't afford to live up there. And so my wife has
176 a daughter who is five minutes away. She really liked this house. Now I also like
177 the house; however, I did not know at the time that I bought it that I was going to
178 have to apply for a zoning variance.

179
180 What I want you to understand is that because of the way this house was put on
181 the property, it is too close to the property line for me to build on one side of it.
182 Right in the middle behind the house is the well and there is a line running there.
183 The well is about forty-five feet away from the house, and then there's a line
184 running up to the house. Of course I cannot build—I would not build on top of any
185 waterline. I also have a sewer line that runs right down from the middle of the
186 house back to a tank behind the house. So I cannot build there. And of course I
187 cannot build on the right-hand side because I have a septic system there.

188
189 If I can't put it here, I'm only left with a choice of—I would have to build a
190 driveway all the way around the septic system. I would then have to clear the
191 trees and the woods behind the septic system. And essentially it doubles or
192 almost triples my cost to have a workshop. I'm better off just trying to build—use
193 the garage as a workshop if I can't get approval for something in the front side.

194
195 I understand the Planning dimensions recommendation that I have it fifty feet
196 away from the road and that I do not have it too close to the septic system, no
197 more than ten feet. And I'm willing to do that. I'm willing to make the width of the
198 shop smaller in order to accommodate that, as well as I'm willing to push the
199 building further away from the house in order to accomplish that.

200
201 That basically entails what my situation is and why I'm here to request that I be
202 allowed to build it up front. Otherwise, I'd probably have to walk a hundred feet
203 and then make this 200-foot driveway all the way around the septic system in
204 order to get there.

205
206 Ms. Harris - Mr. Gurley, have you seen the conditions regarding
207 this request?

208
209 Mr. Gurley - Yes I have. I am more than willing to comply with all
210 of them.

211
212 Ms. Harris - Mr. Blankinship, do you think we need to make the
213 width of the building a condition?

214
215 Mr. Blankinship - I don't think so because, as I said, Ms. Harris, we
216 don't really know exactly where everything is. It needs to be field-verified, I think.
217 I think by saying that it's only the improvements shown on the plot plan we

218 wouldn't allow it to be anything greater than what he's shown. And so I think it
219 would be better to verify that in the field.

220
221 Ms. Harris - Okay. Any other questions?

222
223 Mr. Blankinship - The only other thing I'd add is that he does point out
224 correctly that putting the building where it would be allowed by right would be
225 more expensive and more troublesome for him. It would also, I believe, have a
226 much greater impact on the neighbors.

227
228 Ms. Harris - Questions?

229
230 Mr. Johnson - I think you're willingness to make some adjustments
231 is good. And also if you can do those measurements, if it's further than fourteen
232 feet or sixteen feet, then it's beneficial for you. And I would suggest once they do
233 the measurements and then we stay within that fifty-foot radius, I think that would
234 be good.

235
236 Mr. Gurley - I'm more than willing to do that.

237
238 Ms. Harris - Okay.

239
240 Mr. Gurley - I'd also like to state that the building itself—as long as
241 there are leaves on the trees, it cannot be seen from the street. You literally
242 would have to stop and look up the driveway in order to see it. And so it has a
243 very, very, very low impact as far as the neighbors go. To me this is one of the
244 real advantages of putting it out front. It comes close to the house, it cannot be
245 seen from the street until all the leaves fall off the trees, and then you're barely
246 going to see it.

247
248 Ms. Harris - Thank you. We saw that in the report. Are there any
249 more questions from Board members? Thank you, Mr. Gurley.

250
251 Mr. Gurley - You're welcome.

252
253 Ms. Harris - Is there anyone in opposition to this request? If not, I
254 think we're ready for the next case.

255
256 **[After the conclusion of the public hearings, the Board discussed the case**
257 **and made its decision. This portion of the transcript is included here for**
258 **convenience of reference.]**

259
260 Ms. Harris - What is the pleasure of the Board?

261
262 Mr. Johnson - Based on the condition that most of the site you can't
263 see from the road, and also because of the wooded areas, and also it

264 encroaches ten feet within the setback. If we make adjustments to the structure
265 to stay within fifty feet of the setback, I make a motion that we approve the
266 zoning for it.

267

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

269

270 Mr. Bell - Second.

271

272 Ms. Harris - It's been moved and properly seconded that we
273 approve CUP2018-00016. Is there any discussion on this motion? All in favor say
274 aye. Those opposed say no. There is no opposition; that motion passes.

275

276 After an advertised public hearing and on a motion by Mr. Johnson, seconded by
277 Mr. Bell, the Board **approved** application **CUP2018-00016, WILLIAM GURLEY**
278 requests a conditional use permit pursuant to Section 24-95(i)(4) of the County
279 Code to allow an accessory structure in the front yard at 8312 Caroline Vines
280 Way (ESTATES AT WILLIS CHURCH) (Parcel 851-684-6416) zoned Agricultural
281 District (A-1) (Varina). The Board approved this request subject to the following
282 conditions:

283

284 1. This conditional use permit applies only to the construction of an accessory
285 building in the front yard. All other applicable regulations of the County Code
286 shall remain in force.

287

288 2. Only the improvements shown on the plot plan and building design filed with
289 the application, as amended by these conditions, may be constructed pursuant to
290 this approval. Any additional improvements shall comply with the applicable
291 regulations of the County Code or as required by these conditions. Any
292 substantial changes or additions to the design or location of the improvements
293 shall require a new conditional use permit.

294

295 3. The new construction shall match the existing dwelling as nearly as practical in
296 design, finish materials, and color. The overhead door shall face the dwelling, not
297 the street.

298

299 4. The building shall be set back 50 feet from the right-of-way of Caroline Vines
300 Way and 10 feet from the septic drainfield.

301

302 5. Before beginning any clearing, grading, or other land disturbing activity, the
303 applicant shall obtain approval of an environmental compliance plan from the
304 Department of Public Works.

305

306 6. The trees between the building and the street shall be maintained.

307

308 7. All exterior lighting shall be shielded to direct light away from adjacent property
309 and streets.

310

311			
312	Affirmative:	Bell, Harris, Johnson, Reid	4
313	Negative:		0
314	Absent:	Green	1

315
316

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

319

320 **CUP2018-00023** **RICHMOND ELKS LODGE** requests a conditional
321 use permit pursuant to Section 24-116(d)(1) of the County Code to allow a turkey
322 shoot at 10022 Elks Pass Lane (Parcel 750-768-4929) zoned Agricultural District
323 (A-1) (Three Chopt).

324

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

329

330 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the
331 Board—or Madam Chair; excuse me. Before you is a request to allow the turkey
332 shoot competitions at an existing Elks lodge. The subject property is located at
333 the southeast corner of the intersection of Nuckols Road and Interstate 295. The
334 site is just under nine acres in size and is improved with a 6,000-square-foot
335 assembly hall and an 1,100-square-foot picnic shelter, all served by a gravel
336 parking area located at the front of the lot. Here on the aerial you can see the
337 lodge. And then back here is the picnic shelter, and then this is the parking area
338 here up front.

339

340 The lodge was approved and built in 1983 by way of a provisional use permit and
341 plan of development. It is surrounded by Light Industrial zoning with exception to
342 the south, which is zoned Office District. The closest residential district is over
343 1,500 feet distant from the firing line to the southwest of the property. It's down in
344 this direction.

345

346 The Elks Lodge has been hosting turkey shoots at this location for the last thirty-
347 one years. The purpose of this request is to renew their use permit which expired
348 this past March. The Elks lodge predates the Innsbrook office complex, which
349 was first established in 1994 and has since expanded. Additionally, adjacent
350 property to the north is used as a concert venue hosting the Innsbrook After
351 Hours concert series. That property is here. The concert pavilion is located
352 approximately 500 feet due north of the firing line on the adjacent lot.

353

354 The lodge's shooting range is located at the northwest corner of the property
355 behind the assembly hall and north of the picnic shelter. The shooting range is
356 approximately 100 feet wide by 100 feet deep. The firing line is located near the

357 picnic shelter, and the target line is parallel to and approximately 100 feet distant
358 from the rear property line. Participants shoot in a northeasterly direction towards
359 the target line which is followed by an earthen berm that is eight to ten feet in
360 height that serves as a backstop for birdshot. Additionally, there is a 100-foot-
361 deep wooden buffer behind the berm. Beyond the property line there is an
362 additional seventy feet of wooded buffer followed by a large open field that
363 serves as an overflow parking area for the concerns. Here's the berm, and here's
364 the wooded buffer, then the additional seventy feet, and then the open field here.

365
366 The subject property is zoned A-1 and is designated Urban Mixed Use on the
367 2026 Future Land Use Map. The lodge is consistent with both the zoning and
368 Comprehensive Plan designations for the property. The proposed turkey shoot is
369 also consistent with these designations provided there are no significant impacts
370 on neighboring properties.

371
372 The primary concern with the proposed use is public safety for both participants
373 of the turkey shoot and concert goers. More so when the turkey shoot coincides
374 with a concert or special event at the Innsbrook Pavilion. Turkey shoot
375 competitions are scheduled every weekend on Fridays and Saturdays between
376 September and March. The hours of operation are 6 to 10 p.m. on Fridays and 2
377 to 10 p.m. on Saturdays. The Elks Lodge is aware of the concern series and
378 avoids hosting shooting competitions that coincide with a scheduled concert for
379 safety reasons as well as to be a good neighbor.

380
381 They have voiced concern about the concert season being extended, which in
382 turn affects their ability to host these events and fundraise. Although attendance
383 limits and hours of operation were recently increased for the concert series, there
384 have been no reports or conflicts between the concert venue, the office buildings,
385 and the turkey shoot.

386
387 In order to limit potential conflicts between uses, maintain minimum safety
388 standards, and mitigate any detrimental impacts, staff has developed specific
389 conditions of approval for the Board's consideration. Additionally, staff
390 recommends that the Elks Lodge board and Innsbrook management continue
391 their working relationship to avoid any scheduling conflicts between the two
392 venues.

393
394 In conclusion, the proposed use is an accessory function of the Elks Lodge,
395 allowing them to fundraise for their charitable activities. The proposed use is
396 consistent with both the zoning and the Comprehensive Plan designations for the
397 property. So long as the events follow the established safety protocols and
398 adhere to the recommended conditions, the shooting competition should not
399 pose a substantial detriment to nearby property or public safety. Staff therefore
400 recommends approval subject to conditions.

401
402 This concludes my presentation. I'll be happy to answer your questions.

403
404 Ms. Harris - Mr. Madrigal, I see in your report that the closest
405 residential district is over 1,500 feet from the firing line and that the Innsbrook
406 Pavilion is approximately 500 feet to the north. What about 295? What about the
407 closeness to Interstate 295?
408
409 Mr. Madrigal - I believe that's to the north. So there's really no
410 impact to the freeway. Just the sheer distance. And then between the earthen
411 berm and the wooded buffers there's really no impact whatsoever.
412
413 Mr. Blankinship - That distance is about 800 feet.
414
415 Ms. Harris - Okay. Thank you. Any questions from Board
416 members?
417
418 Mr. Johnson - That shooting range, is it lower than the other
419 elevations?
420
421 Mr. Madrigal - It's pretty flat. So as you're shooting towards the
422 target—let's see. Here you can see it. So it's pretty flat. Here's the target line
423 there. And then you've got the earthen berm here, and then all this vegetation.
424 The other thing is they're shooting the smallest type of shells. It's a #8 shot. So
425 it's really tiny birdshot, so it doesn't really go that far. When it hits the earthen
426 berm it essentially stops. Any stray shot that might fly up a little higher basically
427 gets blocked by all that vegetation.
428
429 Mr. Johnson - Okay.
430
431 Mr. Johnson - I also notice that the concert's attendance has
432 increased a lot.
433
434 Mr. Madrigal - Yes.
435
436 Mr. Johnson - It increased from what, 6,500 to 8,500?
437
438 Mr. Madrigal - Yes sir. That was done a few years ago. The
439 attendance numbers were increased at the Innsbrook Pavilion in order to
440 accommodate their expanded concert series and a few other things that they're
441 doing out there.
442
443 Here is a good example. The firing range is here, and people are shooting in this
444 northeasterly direction. And the pavilion is basically here due north.
445
446 Mr. Johnson - Okay.
447

448 Ms. Harris - Are there any more questions? Thank you,
449 Mr. Madrigal.

450
451 Mr. Madrigal - Thank you.

452
453 Ms. Harris - Would the applicant now please come forward and
454 state your request.

455
456 Mr. Clifton - Okay. Steven Clifton. C-l-i-f-t-o-n. I'm the chairman of
457 the trustees for the Elks Lodge.

458
459 As reported, we've had this turkey shoot for many years. We are just asking for
460 our next two-year variance. We do not schedule any activities while they have
461 Innsbrook After Hours due to safety concerns. And you have more people there,
462 and they hear a shot, and then they—you know.

463
464 Mr. Blankinship - You wouldn't be able to hear the shooting over the
465 music either.

466
467 Mr. Clifton - Right. And the traffic is terrible getting in and out.

468
469 Mr. Blankinship - That's true too.

470
471 Mr. Clifton - Again, we're not asking for any changes. We just
472 want a continuance. We are good neighbors, and we certainly work with
473 Innsbrook After Hours. They're moneymaking, so they come first and we come
474 second.

475
476 Ms. Harris - Okay. Do you know the range of your firearms?

477
478 Mr. Clifton - The distance that the shot will travel?

479
480 Ms. Harris - Yes.

481
482 Mr. Clifton - I don't know. The shooting line to the target is ninety
483 feet. We use the smallest birdshot, so it basically fans out. But I don't know
484 statistically what the actual range is.

485
486 Ms. Harris - All right.

487
488 Mr. Clifton - It's not like a cartridge bullet or anything which travels
489 a mile.

490
491 Ms. Harris - Have you had any complaints in the years you've
492 been sponsoring this turkey shoot?
493

494 Mr. Clifton - No ma'am.
495
496 Ms. Harris - Okay.
497
498 Mr. Clifton - Not as long as I've been there for the last five years.
499
500 Ms. Harris - Thank you. Any questions from Board members?
501
502 Mr. Blankinship - I have two questions. What size crowd do you
503 typically draw?
504
505 Mr. Clifton - Eight to twenty-five people.
506
507 Mr. Blankinship - Eight to twenty-five.
508
509 Mr. Clifton - If we have less than eight, it's not worth it; we cancel.
510
511 Mr. Blankinship - And you mentioned the concert series and not
512 wanting to conflict with them. How do you communicate with them? Who do you
513 speak to?
514
515 Mr. Clifton - That's up to our secretary.
516
517 Mr. Blankinship - Oh, okay. Is that Ms. Willard?
518
519 Mr. Clifton - Yes.
520
521 Mr. Blankinship - Okay.
522
523 Mr. Clifton - She's been a member for thirty-some years probably.
524 She takes care of all that.
525
526 Ms. Harris - Does she regularly check with the Pavilion as far as
527 you know?
528
529 Mr. Clifton - Yes ma'am.
530
531 Ms. Harris - She does. Okay.
532
533 Mr. Clifton - They communicate all through the concert season.
534
535 Ms. Harris - I know last weekend you had Cool and the Gang,
536 right, at Innsbrook.
537
538 Mr. Clifton - I don't know.
539

540 Ms. Harris - Yes they were.
541
542 Mr. Clifton - So we basically have no problem with them; they
543 have no problem with us.
544
545 Ms. Harris - Great, great. Well I think that concludes your case.
546
547 Mr. Clifton - Okay, thank you.
548
549 Ms. Harris - Thank you. Is there any opposition to this request? If
550 not, that ends this case, and we move on.
551
552 **[After the conclusion of the public hearings, the Board discussed the case**
553 **and made its decision. This portion of the transcript is included here for**
554 **convenience of reference.]**
555
556 Ms. Harris - What is the pleasure of the Board regarding this
557 case?
558
559 Mr. Reid - I move that we approve CUP2018-00023 to allow the
560 Elks Club to continue with their shooting range at their location at 10022 Elks
561 Pass Lane.
562
563 Mr. Johnson - I second.
564
565 Ms. Harris - Okay. Can we have a reason for your motion?
566
567 Mr. Reid - It appears that it's been a successful operation for a
568 number of years, and I think they were requesting an extension of a permit that
569 they've had in past years.
570
571 Ms. Harris - It's been moved and properly seconded that we
572 approve this case. All in favor say aye. Those opposed say no. There is no
573 opposition; that motion passes.
574
575 After an advertised public hearing and on a motion by Mr. Reid, seconded by Mr.
576 Johnson, the Board **approved** application **CUP2018-00023, RICHMOND ELKS**
577 **LODGE** requests a conditional use permit pursuant to Section 24-116(d)(1) of the
578 County Code to allow a turkey shoot at 10022 Elks Pass Lane (Parcel 750-768-
579 4929) zoned Agricultural District (A-1) (Three Chopt). The Board approved this
580 request subject to the following conditions:
581
582 1. This conditional use permit applies only to the proposed turkey shoot. All other
583 applicable regulations of the County Code shall remain in force.
584

585 2. No alcoholic beverages may be consumed on the site during shooting. A sign
586 to this effect shall be conspicuously posted in the immediate vicinity of the
587 shooting area. No person under the influence of alcohol, as defined in Section
588 18.2-266 of the Code of Virginia, may be permitted in the shooting area.

589
590 3. The turkey shoot shall be limited to the following dates and times: Fridays,
591 6:00 pm to 10:00 pm, and Saturdays, 2:00 pm to 10:00 pm, from September
592 2018 through March 2019, and September 2019 through March 2020.

593
594 4. Restrooms shall be provided.

595
596 5. All trash shall be in closed containers with regular pickups, the containers shall
597 be properly screened, and the area shall be kept clean.

598
599 6. No firearm shall be discharged within 300 feet of any lot occupied by a
600 dwelling, or within 300 feet of any building other than buildings on the same
601 parcel, or across any road or street.

602
603 7. The turkey shoot shall only involve the use of shotguns no larger than 12
604 gauge and low powered (2-3/4") shells containing No. 8 shot.

605
606 8. The existing shot barrier shall be maintained to a minimum height of 6 feet, a
607 maximum of 10 feet behind the targets and extending 10 feet beyond each end
608 of the target line.

609
610 9. Sufficient off-street parking shall be provided for all cars visiting the premises.

611
612

613 Affirmative:	Bell, Harris, Johnson, Reid	4
614 Negative:		0
615 Absent:	Green	1

616
617

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

620
621 Mr. Blankinship - CUP2018-00025, Ryan Bradley.

622
623 **CUP2018-00025 RYAN BRADLEY** requests a conditional use permit
624 pursuant to Section 24-95(i)(4) of the County Code to allow a garage to remain in
625 the side yard at 205 Westham Parkway (WESTHAM) (Parcel 758-735-3797)
626 zoned One-Family Residence District (R-1) (Tuckahoe).

627
628 Mr. Blankinship - Would everyone who intends to speak to this case
629 please stand and be sworn in. Raise your right hands, please. Do you swear the

630 testimony you're about to give is the truth, the whole truth, and nothing but the
631 truth so help you God? Thank you. Mr. Gidley?

632

633 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Madam
634 Chair, members of the Board.

635

636 The subject property is located off of Westham Parkway and contains an existing
637 dwelling along with a detached garage. A detached garage is required by the
638 Zoning Ordinance to be located in the rear yard, which this is. The applicants,
639 however, are proposing to add on to the home in the form of a veranda on the
640 rear of the home. Doing so, however, would place the existing detached garage
641 partially in the side yard, as you can see here. This is the garage and the
642 proposed veranda. The rear plane of the home would become the rear yard, so
643 part of this garage would encroach into the side yard. So in order to move
644 forward with her building permit application, the applicant is requesting a
645 conditional use permit to allow the garage to be partially in the side yard.

646

647 This is a view of the home from the street. The property is zoned R-1, One-
648 Family Residence District, and designed SR-1, Suburban Residential 1, on the
649 land use plan. Both a dwelling and a detached garage accessory to a dwelling
650 are consistent with those designations.

651

652 As for any detrimental impact, a detached garage typically is required to be
653 located in the rear yard to help maintain property values. In this case, however,
654 the garage is not having anything done to it, and it will remain physically in its
655 same position as it's always been. It's just because of the addition onto the rear
656 of home that technically it will be located in the side yard. As a result, staff sees
657 no detrimental impact if this case were approved.

658

659 So to conclude, the applicants would like to add a veranda onto the rear of their
660 home. This would result in the garage being partially in the side yard. Because
661 the garage itself will not change nor will its position change, staff sees no
662 detrimental impact and can recommend approval of this request subject to the
663 condition in your staff report.

664

665 This concludes my presentation, and I'll be happy to answer any questions you
666 may have. Thank you.

667

668 Ms. Harris - Okay. Thank you, Mr. Gidley. Are we going to
669 mention in this particular case about the construction of the exterior? I noticed
670 that the garage is brick, right, is it not?

671

672 Mr. Gidley - The garage is what?

673

674 Ms. Harris - Brick, made of brick construction.

675

676 Mr. Gidley - Yes ma'am.
677
678 Ms. Harris - And the house is brick. I was looking at the plans. I
679 could not tell exactly how much would be brick. But I noticed in none of the
680 conditions we say that it would match.
681
682 Mr. Gidley - I don't think we have the plans up here other than the
683 existing. Again, this is a veranda, so it's more of a roof structure. So in this case,
684 I don't really think it's going to be too applicable in that there's not going to be a
685 walled enclosure actually. But if you like, the applicant can certainly address that.
686
687 Ms. Harris - Right. I think on this plan where it shows the rear
688 elevation, the slab plan and the side elevation, I think I see some brick there. So I
689 was just concerned would it be brick and vinyl or just what.
690
691 Mr. Gidley - The chimney that you see there is brick, obviously, in
692 the existing. And then there will be some columns. And it looks like the base of
693 the column is going to be stone.
694
695 Ms. Harris - Okay. Thank you. Are there other questions from
696 Board members?
697
698 Mr. Bell - Mr. Gidley, do you know have there ever been any
699 complaints from neighbors about the closeness of the garage to the property next
700 door? I noticed it's very close to it.
701
702 Mr. Gidley - Yes sir. That's a good question, actually. There have
703 not been any complaints that I'm aware of. The normal setback for a detached
704 structure is three feet, so that's a good pickup, again, on your part. The applicant
705 actually did get a variance for the location of the garage a number of years ago.
706 So they are in compliance.
707
708 Mr. Bell - That's been there since the house was built. That
709 garage has been there since the house was built years ago.
710
711 Mr. Gidley - I don't have a date on the variance, but I know it's
712 been decades that it's been there.
713
714 Ms. Harris - Excuse us. We cannot hear you until you come to the
715 mic. And we will give the applicant time to speak. Mr. Gidley, do you want to
716 defer that question to the applicant?
717
718 Mr. Gidley - If he has a specific date then that's fine. I know it's
719 been there for decades.
720

721 Ms. Harris - All right, let's wait. Any more questions from Board
722 members? Thank you so very much.

723
724 Mr. Gidley - Thank you.

725
726 Ms. Harris - Now the applicant, we need you to come forward and
727 state your request.

728
729 Mr. Bradley - Good morning. We—the house was originally built—

730
731 Ms. Harris - Excuse me, sir. We need your name and how to spell
732 your last name.

733
734 Mr. Bradley - Ryan Bradley. Last name is B-r-a-d-l-e-y.

735
736 Ms. Harris - Thank you.

737
738 Mr. Bradley - To address some of the questions, the house was
739 originally built in '52. The garage was built later. There's actually a little extension
740 on the garage. I purchased the house about a year ago. I saw in the files where
741 they had gone through the process to get a variance to add the shed off the
742 back, if you see the little shed. That was added by a variance. But I think they
743 were built at separate times. Again, I just acquired the property last year. The
744 original owner had built it in '52, had done a couple of additions—the garage and
745 a little addition on the back—through the years that they lived there. So that's
746 about all I know on that component.

747
748 It is going to be a lean-to with four columns. We took down nine pine trees in the
749 back, and we had three of them sent to a mill. So I've got lumber that's been
750 engineered and an engineer's report provided. So we're going to use the pines
751 from the trees for the columns and the rafters. But the base of these columns are
752 going to be stone, which is going to match not the brick on the house, but you
753 can see right there those. It's going to match those. Exactly what's there, we're
754 going to do four columns on the back to support the roof.

755
756 Ms. Harris - Thank you, Mr. Bradley. Any questions for
757 Mr. Bradley?

758
759 Mr. Blankinship - Madam Chair, I'll just add the date of the variance
760 was 1991.

761
762 Ms. Harris - 1991, okay. Thank you so very much.

763
764 Mr. Bradley - Thank you.

765

766 Ms. Harris - Is there anyone who would speak to this application?
767 Or who would oppose this application? If not, we can move on to the next case.

768
769 **[After the conclusion of the public hearings, the Board discussed the case**
770 **and made its decision. This portion of the transcript is included here for**
771 **convenience of reference.]**

772
773 Mr. Reid - I move that we approve CUP2018-00025 to allow a
774 garage to remain in the side yard at 205 Westham Parkway on property owned
775 by the Bradleys. The garage has been there since the home was built. There
776 have been no complaints from the neighbors.

777
778 Ms. Harris - Is there a second?

779
780 Mr. Bell - I second the motion.

781
782 Ms. Harris - Any additional comments?

783
784 Mr. Bell - Other than the fact that the garage in and of itself is
785 not going to be changed.

786
787 Ms. Harris - Okay. And we know with conditional use permits we
788 do deal with whether or not it adversely affects the health, safety or welfare of the
789 neighborhood. And it appears it does not. So all in favor say aye. Those opposed
790 say no. There is no opposition; that motion passes.

791
792 After an advertised public hearing and on a motion by Mr. Reid, seconded by
793 Mr. Bell, the Board **approved** application **CUP2018-00025, RYAN BRADLEY**
794 requests a conditional use permit pursuant to Section 24-95(i)(4) of the County
795 Code to allow a garage to remain in the side yard at 205 Westham Parkway
796 (WESTHAM) (Parcel 758-735-3797) zoned One-Family Residence District (R-1)
797 (Tuckahoe). The Board approved this request subject to the following condition:

798
799 1. This conditional use permit applies only to the location of the existing detached
800 garage in the side yard. All other applicable regulations of the County Code shall
801 remain in force. Any substantial changes or additions to the design or location of
802 the garage shall require a new conditional use permit.

803
804
805 Affirmative: Bell, Harris, Johnson, Reid 4
806 Negative: 0
807 Absent: Green 1

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809
810 **[At this point, the transcript continues with the public hearing on the next**
811 **case.]**

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Mr. Blankinship - CUP2018-00026, Richmond Beth-El Cemetery.

CUP2018-00026 RICHMOND BETH-EL CEMETERY requests a conditional use permit pursuant to Section 24-52(h) of the County Code to expand an existing cemetery at 100 Oronoco Avenue (Parcel 791-739-8265) zoned Agricultural District (A-1) (Fairfield).

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

Mr. Madrigal - Thank you, Mr. Secretary. Madam Chair, members of the Board. Before you is a request to expand an existing cemetery.

The Richmond Beth-El Cemetery was established in 1936. Forest Lawn Cemetery was established in 1948. And just for reference, this is the Beth-El Cemetery here outlined, and then Forest Lawn basically surrounds it over here on the east, north, and west. The two cemeteries have coexisted side by side for seventy years.

Forest Lawn is over 200 acres in size, and approximately half of it is developed. The remaining undeveloped portion is primarily wooded land. Beth-El Cemetery was originally 2 acres in size. In 1950, it was expanded to just over 4 acres in area and then twice more to its current size of 7.4 acres. The applicants would like to further increase the size of this cemetery to 9.8 acres and obtain approval to use the expansion area as part of the cemetery. So that expansion area is basically going to square this off.

Since 1960, a cemetery has been a conditional use in the A-1 District, so expansion of a cemetery requires the approval of a conditional use permit. The submitted plan shows a new 300-foot private road connecting the existing Beth-El Cemetery Road to Myrtle Grove Road, which is within Forest Lawn, and approximately 1,000 feet of new sidewalk. The plan also indicates a second phase, which includes a private cul-de-sac road, which is approximately 280 feet long, and an additional 400 feet of sidewalk.

The property is zoned A-1 and is designated Semi-Public on the 2026 Future Land Use Map. The cemetery use of the property is consistent with both designations. As previously mentioned, the Beth-El Cemetery has been in operation since 1936, and the land identified for the expansion has been designated for cemetery use since 1948. The only change is that the additional land will be part of the Beth-El Cemetery rather than the Forest Lawn property. The portions of the property nearest Chatham Place subdivision on the southwest are already developed and will not change as a result of this request.

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The entry gates and driveways on Oronoco Avenue will also remain the same. Furthermore, the proposed use of the property will not change. Thus staff is not aware of any detrimental impact that will result from the approval of this request.

In conclusion, the Richmond Beth-El Cemetery has been in operation since 1936, and the subject property has been designated for cemetery use since 1948. Transferring 2.4 acres of land from one cemetery to an adjacent cemetery is consistent with the Zoning Ordinance and Comprehensive Plan and will not have any detrimental impacts on nearby property. Based on these facts, staff recommends approval subject to conditions. I'll be happy to any questions you have.

Ms. Harris - Has the staff received any comments from Forest Lawn?

Mr. Madrigal - Not that I'm aware of.

Mr. Blankinship - They're a party to the application.

Ms. Harris - Thank you. Are there questions from Board members?

Mr. Bell - I think I heard you say that the entry to the new addition is going to be the same as the others?

Mr. Madrigal - Yes sir. If you look here on the aerial map, you can see Oronoco Drive here. And there are two entrances. Nothing will change there. The expansion will occur back here. And then you can see the proposed site plan for the proposed improvements.

Mr. Bell - Thank you.

Mr. Johnson - You said there will be no new structures? No buildings or anything are going to be built?

Mr. Madrigal - Not that I'm aware of. Let's see.

Mr. Blankinship - It's not shown on the plan.

Mr. Madrigal - It's not shown. Basically, that cul-de-sac area. And then all this is new sidewalk. Here's that expanded road that's going to be going to the internal road, Myrtle Grove Road in Forest Lawn. There is an existing structure here. Let's see. I thought I had a picture of it, but I guess I don't. That structure is over to the right. This is a view of the existing Beth-El Cemetery looking southward. It's really a nice cemetery. Kept up very well.

904
905 Ms. Harris - They have a chapel there, right? There is a chapel.
906
907 Mr. Blankinship - That's what he was looking for a photograph of.
908
909 Ms. Harris - I think I saw it on the plan.
910
911 Mr. Blankinship - Yes.
912
913 Ms. Harris - Not a physical picture but the—. I drove by there. I
914 use Forest Lawn Cemetery. But I had no idea that this cemetery was adjacent to
915 Forest Lawn.
916
917 Mr. Madrigal - Yes, it's hard to tell.
918
919 Ms. Harris - Then I was looking for the street that you mentioned,
920 Maple—
921
922 Mr. Blankinship - Myrtle Grove.
923
924 Ms. Harris - Myrtle Grove. And the plan said a new street was
925 going to be constructed. So it was an interesting visit. And I'm glad that Forest
926 Lawn is a part of this agreement. Okay. Any more questions of Mr. Madrigal?
927 Thank you so very much.
928
929 Mr. Madrigal - Thank you.
930
931 Ms. Harris - We need the applicant now to come forward and state
932 your request.
933
934 Mr. Hawkins - Good morning, Madam Chair and members of the
935 Board. I'm Dean Hawkins, landscape architect, representing Richmond Beth-El
936 Cemetery. My last name is spelled H-a-w-k-i-n-s.
937
938 The staff report, as normal, is always very complete and very thorough, very
939 concise. The presentation that was just made was very accurate.
940
941 I did want to clarify or just make sure that we do understand when I see a map
942 like this. The area of the land that's encircled in yellow is the current ownership of
943 Richmond Beth-El. Richmond Beth-El has a option to purchase two additional
944 parcels, and the other map may show that better.
945
946 Mr. Blankinship - Yes. Flip to the second map, Miguel.
947
948 Mr. Hawkins - I just want to be sure that we are talking about the
949 entire intent.

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Mr. Blankinship - Site map. It's more clear.

Mr. Hawkins - Yes. That part that's crosshatched is to be acquired in two phases. The first phase that's next to Myrtle Grove or Alma Avenue—Myrtle Grove Road also known as—that middle parcel there, that is to be closed upon by the end of this month. The upper parcel is still under the same option agreement, a separate but additional option agreement. And that will be closed upon maybe within five years. So there is plenty of capacity there for the current needs, and that's just their timeframe from a fiduciary standpoint of how to acquire the property.

We are proposing to add the road from Myrtle Grove Road over to the existing pavement of the road internal to the cemetery. And that does help a lot. Because when you come up on the site, even though the cemetery has two existing entrances onto Oronoco Avenue, a lot of people use Myrtle Grove. Currently, there's a kind of earthen road that runs generally in this area that we're proposing with the new road. And this just—you might be able to see it. It shows there just above that notch, yes. And so cemetery service vehicles sometimes use that. It's a good way to circulate traffic through the area when you have a large entourage to be parked in an area.

So we're going to formalize the earthen road to make another connection over to Myrtle Grove Road. We do not own Myrtle Grove Road; that's a private road owned by Forest Lawn. But we are obtaining the right to access that under a separate agreement. So everything should be in good shape by the time we're finished with all this paperwork.

With that, I really don't have anything else to add. I think the presentation of staff was good, the report is good. This conditional use simply allows us to expand what we've always been doing there since the late '30s and to file a site plan for actual construction of facilities.

So with that I'll answer any questions.

Ms. Harris - So you have no plans to erect any buildings?

Mr. Hawkins - No. The chapel that you see there is all that will be placed here. There is no mausoleum proposed. There may be some—if we go back to my site plan then I can explain something about the sidewalk network there. You see I have several nodes throughout this cemetery, circular nodes. And also there's a node there in the middle of the future cul-de-sac at the very top of the plan. Those areas will be what I call focal points. They could be statuary, they could be columbaria, a memorial plaque, receptacles, things like that. It's just a way to get people to walk through the cemetery from place to place. Crosswalks are going to be put in the roads so that there will be safety of

996 maybe a hump in those private roads for traffic to always be slowing down when
997 they run there and allow people to cross that vast grass area. So I think it'll add a
998 lot of interest to the area with some landscaping that we propose, as well as
999 these paved sidewalks and access points.

1000

1001 Ms. Harris - Thank you so very much. Any questions?

1002

1003 Mr. Bell - Are you in agreement with the conditions of approval
1004 stated in—

1005

1006 Mr. Hawkins - Yes I am. Those are normal conditions that we always
1007 comply with.

1008

1009 Ms. Harris - Other questions? Mr. Hawkins, when will this project
1010 be completed?

1011

1012 Mr. Hawkins - They would plan to—let me see where we are. In
1013 August? By the time I get the site plans approved, I imagine that actual
1014 construction may not begin until next spring because of the time it takes to get
1015 plans approved and the weather, etc., etc. And I always tell my clients—and it's
1016 especially rough on them if they've never done this before—that it may take me
1017 longer to get our site plans approved than it would for you to build the project.
1018 That's no slight on staff or I hope not on me. That's just the way it is. It takes time
1019 to know what to do as much as anything. So given the schedule we're on, I think
1020 it'll be certainly next spring.

1021

1022 Ms. Harris - Okay. Are there other questions from Board
1023 members? Thank you so very much.

1024

1025 Mr. Hawkins - You're welcome.

1026

1027 Ms. Harris - Okay. Is there any opposition to this request? If not,
1028 we'll move on to the next case.

1029

1030 **[After the conclusion of the public hearings, the Board discussed the case**
1031 **and made its decision. This portion of the transcript is included here for**
1032 **convenience of reference.]**

1033

1034 Ms. Harris - As the magistrate from the Fairfield District, I move
1035 that we approve this conditional use permit. I feel that it does not adversely affect
1036 the neighborhood or the health and safety of the community. And in view of the
1037 fact that it's a cemetery that has been kept in good repair and they are working in
1038 conjunction with the neighboring business, my motion is that we approve the
1039 case. Is there a second?

1040

1041 Mr. Johnson - I second.

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Ms. Harris - Okay. It's been moved and properly seconded that we approve this case. Any discussion on this motion? All in favor say aye. Those opposed say no. There is no opposition; that motion passes.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Johnson, the Board **approved** application **CUP2018-00026, RICHMOND BETH-EL CEMETERY** requests a conditional use permit pursuant to Section 24-52(h) of the County Code to expand an existing cemetery at 100 Oronoco Avenue (Parcel 791-739-8265) zoned Agricultural District (A-1) (Fairfield). The Board approved this request subject to the following conditions:

1. Only the improvements shown on "Site Development Plans for Richmond Beth-El Cemetery" prepared by Dean E. Hawkins, ASLA and dated April 4, 2018, may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.
2. Before beginning any clearing, grading, or other land disturbing activity, the applicant shall obtain approval of an environmental compliance plan from the Department of Public Works.
3. Any lighting shall be shielded to direct light away from adjacent property and streets.

Affirmative:	Bell, Harris, Johnson, Reid	4
Negative:		0
Absent:	Green	1

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

Mr. Blankinship - That concludes the conditional use permit portion of the agenda. We'll now hear three variances. And the first—let me apologize in advance for mispronouncing the name. VAR2018-00013, Nora Detriquet.

VAR2018-00013 NORA DE TRIQUET requests a variance from Section 24-95(l)(7) of the County Code to allow a fence to remain at 1606 Ridgehaven Road (Ridgehaven) (Parcel 754-745-8060), zoned One-family Residence District (R-3) (Three Chopt). The fence height requirement is not met. The applicant has 8 feet fence height where the Code allows a maximum fence height of 7 feet. The applicant requests a variance of 1 foot fence height.

1088 Mr. Blankinship - Would everyone who intends to speak to this case
1089 please stand and be sworn in. Raise your right hands, please. Do you swear the
1090 testimony you're about to give is the truth, the whole truth, and nothing but the
1091 truth so help you God? Thank you. Mr. Gidley?

1092
1093 Mr. Gidley - Thank you, Mr. Secretary. Good morning, members of
1094 the Board.

1095
1096 The subject property is located in the Ridgehaven subdivision, which as you can
1097 see here is between Three Chopt Road to the east and Parham Road to the
1098 west. This is an established residential neighborhood despite some of the
1099 pressures it faces from surrounding uses. These uses include medical offices just
1100 down the road from the property, the Ridge Shopping Center to the south, and to
1101 the north offices, along with Parham Road to the west.

1102
1103 This is a view of the property from the street. It contains an existing home
1104 constructed in 1956. The applicant purchased the property last year and shortly
1105 thereafter converted the front yard to a gravel parking area and had a contractor
1106 install a fence in the side and rear yards. The fence, however, is eight feet tall,
1107 which is in excess of the maximum height limit of seven feet allowed under the
1108 Zoning Ordinance. You can see the fence here and here. This is a close-up view
1109 of the fence right here on the subject property.

1110
1111 After the fence was installed, the Community Maintenance Division did receive a
1112 complaint regarding its height. A Notice of Violation was subsequently issued, at
1113 which time the applicant applied for a variance.

1114
1115 In evaluating a variance request there are two main tests, one of which has to be
1116 met by the applicant in order for a variance to be granted. The first one concerns
1117 whether the property is unreasonably restricted or not. In this case, it contains an
1118 existing home on the property which provides a reasonable use. Unlike, say, a
1119 property with no public street frontage which would have no use absent a
1120 variance, this already has a home on it and so there's a reasonable use there
1121 and the property's not unreasonably restricted.

1122
1123 The second possible test, is there a hardship on the property relating to it or to its
1124 improvements that were there at the time of the effective date of the ordinance.
1125 The ordinance for the seven-foot fence height took effect in 1986. The fence was
1126 only built last year. And because of that, the applicant cannot claim a hardship
1127 due a physical condition of the property at the time of the effective date of the
1128 ordinance because the ordinance predates the fence by roughly thirty years.

1129
1130 So neither of these two tests is met. And as result, staff recommended denial of
1131 these case. I would, for the record, go ahead and mention the five subtests. If
1132 one of the two main requirements were met, then we could move on to the five
1133 subtests, and all five would have to be met under state code for a variance to be

1134 granted. In this case, not only are all five not met, most of them, in staff's view,
1135 are not met.

1136

1137 I would point out a few. The first one is was the property acquired in good faith
1138 and any hardship not created by the applicant. The purpose of this is to keep an
1139 applicant from building something in violation of the Zoning Ordinance and then
1140 turning around and simply saying they want a variance to legalize it. Basically
1141 that's what happened here. On the application, the applicant admitted she
1142 created the hardship. She wrote "yes" on the application. So the hardship is self-
1143 created.

1144

1145 In this case, a contractor evidently put up the fence, but ultimately the property
1146 owner is responsible for what occurs on the property and is responsible for
1147 seeing that it complies with code.

1148

1149 Another thing to consider is detrimental impact. A fence can be a nice addition,
1150 but if you build one that's too tall, it can limit air and light. And if you're a
1151 neighbor, it can give the feeling of being too encroached. After the staff report
1152 went out, I received three calls from property owners in the neighborhood who
1153 had concerns about the variance. One concern I heard was the front yard being
1154 graveled in and the fence being up to eight feet tall does tend to give this more of
1155 a commercial look. People in the neighborhood are concerned about trying to
1156 maintain their neighborhood given all the commercial uses around it. Finally,
1157 receiving a complaint shortly after the fence goes up can be taken as evidence
1158 that at least one homeowner felt the fence was detrimental because of its height.

1159

1160 The last item I would mention is there is a question about is the relief available
1161 through another option. When it comes to fences and yards, the Board of
1162 Supervisors has given the Planning Commission permission to approve
1163 alternative fence heights in certain cases, where you can go above the
1164 requirements of the Zoning Ordinance. In this case, however, that's not an option
1165 because you have a residential rear yard abutting another residential rear yard.
1166 Where you have one residence abutting another, the Board of Supervisors has
1167 been very firm that seven feet is the maximum height. So even the Planning
1168 Commission under an alternative fence height is not allowed to go above the
1169 seven feet there.

1170

1171 In conclusion, the applicant's property is not unreasonably restricted by the
1172 Zoning Ordinance. It contains an existing dwelling. There is not a hardship
1173 relating to the property at the time of the effective date of the ordinance. And
1174 neither of those first two requirements is met. And finally, a number of the
1175 subtests—all five of which must be met for a variance to be approved—most of
1176 them in fact are not met. As a result, staff recommends denial of this request.

1177

1178 That concludes my presentation. If you have any questions, I'll be happy to
1179 answer them.

1180
1181 Ms. Harris - Mr. Gidley, is there an ordinance that deals with the
1182 gravel front yard?
1183
1184 Mr. Gidley - Not under the Zoning Ordinance, no ma'am.
1185
1186 Ms. Harris - Okay. Are there questions from Board members?
1187 Thank you so very much.
1188
1189 Mr. Gidley - Thank you, ma'am.
1190
1191 Ms. Harris - We need the applicant to come forward, and state
1192 your name, and spell your last name.
1193
1194 Ms. Detriquet - Good morning everyone. My name is Nora Detriquet,
1195 and I live in 1606 Ridgehaven Road. Well when I bought the house—
1196
1197 Ms. Harris - Ms. Detriquet, we need you to spell your last name,
1198 please.
1199
1200 Ms. Detriquet - D as in David, e as in Edward, t as in Tom, r-i-q-u-e-t.
1201
1202 Ms. Harris - Thank you.
1203
1204 Ms. Detriquet - I bought the house, I thought it's going to be a fixer-
1205 upper house. And that's how much I could afford. I trusted several builders. I
1206 already went through five builders. The first one took my money. The second one
1207 took money. The third one took my money, and the fourth one took my money.
1208 And they all took advantage of me because I have no experience about general
1209 contracting. So I ask Mr. Lee Bennett if he could help me to finish the house. So
1210 everything—, they took advantage of me because not only am I a woman, I'm
1211 also not from here. I have no experience in general contracting, so I rely on their
1212 advice. I had a fence contractor to have a privacy fence because my deck was
1213 five feet higher than the ground. I had no idea that there is a requirement or I'm
1214 violating the code of an eight-foot fence. The fence guys should know better not
1215 to build an eight—he should advise me not to put an eight foot because of it's
1216 against the code. I'm not from here; I'm from Suffolk, and I really had no idea
1217 about building a house or any kind of construction.
1218
1219 So I'm asking you by cutting the fence, not only is it going to look like an eyesore
1220 for the neighborhood, and also I think it will cut down the integrity of the fence.
1221 And there are about two guys that came over and took pictures about the fence.
1222 And I already explained to them what's going to happen if they cut one foot of my
1223 fence. And not to mention there's going to be an additional expense for me,
1224 which no one wants to do it because it is easier to build a fence rather than—
1225

1226 Ms. Harris - Okay, do you need a minute? We'll give you a minute
1227 to regroup.

1228
1229 Ms. Detriquet - And everyone I ask it cost me more money. And no
1230 one even touched it. So I went back to the fence guy that build my house and he
1231 said it's not their liability to cut the fence. The way I look at it, he didn't give me
1232 good advice. The fence should be seven foot. And now not only am I having
1233 difficulty finding someone to fix it, it's going to cost me more money. I already
1234 have borrowed money just to even finish the house. And I would like—so please
1235 give me a chance just to keep it the way it was before.

1236
1237 Ms. Harris - Thank you. Are there questions of the applicant?
1238 Okay. Thank you. We're going to listen now to people who are in favor of this
1239 request and people who are opposed. Is there anyone who is in favor of this
1240 request? Okay. Those who are opposed, we do need you to come to the mic and
1241 identify yourself. Give us the spelling of your last name. But we're going to ask
1242 you not to repeat anything that has already been said. If a person makes a point,
1243 we document that point, and you don't need to repeat it. So anyone who wants to
1244 speak in opposition, we need you to come to the podium.

1245
1246 Mr. Compton - My name is Richard Compton. C-o-m-p-t-o-n. My
1247 property backs up kind of to the right of that. Throughout the time of them being
1248 there—I'm at 1611. They built that fence first. They graveled the front yard and
1249 the back yard. The back yard is a parking lot. I've been woke up at 1:30 in the
1250 morning because they have an outside surround system. I went around the next
1251 day, and some man answered the door. He said, "I'm sorry; I must have left my
1252 outside sound system on. Won't happen again." But it has happened again. They
1253 have company meetings there two or three times a week. The front yard, the
1254 back yard is full of cars. The side street full of cars.

1255
1256 I assumed I was buying a one-family single home when I bought my house. And
1257 nobody lives in that house. No family lives there. When I went up and knocked on
1258 the door and talked to the man about the music, the house doesn't even look like
1259 a house on the inside. They got a room off to the back with a separate door.
1260 People come out of the house into that room. It's a business.

1261
1262 I think another thing is that fence right there can't be to the front of the house. It
1263 should stop at the back of the house.

1264
1265 Mr. Blankinship - It's limited to three feet, six inches in the front of the
1266 house.

1267
1268 Mr. Compton - That's connected right to the front of the house. And
1269 it's an eyesore from my property.

1270

1271 Ms. Harris - Okay, Mr. Compton, thank you. Is there anyone else
1272 who wishes to speak to this?

1273
1274 Mr. Kelsaw - My name is Rick Kelsaw. K-e-l-s-a-w. I live at 1611
1275 Renmark in the Ridgehaven subdivision, which is two blocks over from that. I've
1276 been there since 1993. My aunt purchased the house. I moved from Short Pump.

1277
1278 I just noticed that in that subdivision this actually looks like a business because of
1279 the makeup of the front yard. If you look at it, it's just totally seems out of place.
1280 But there's no ordinance, no anything to control that. But like Rick said, so far as
1281 to the amount of cars, the things that are there, it just looks like a business
1282 operating, and sometimes late at night. It's just out of place. My son went to—
1283 there's Ridge, Tuckahoe Middle, Douglas Freeman down the street. Right across
1284 the street from it, it just looks like a business and operates as a business, from
1285 what I'm seeing. And like he says, sometimes there are 30, 35, 40 cars out there
1286 at night.

1287
1288 Mr. Blankinship - Do you have any comments about the fence, sir?

1289
1290 Mr. Kelsaw - The fence looks out of place. In fact, my neighbors—
1291 we're in the process of possibly putting up a fence. Do I get to put up an eight-
1292 foot fence?

1293
1294 Mr. Blankinship - No.

1295
1296 Mr. Kelsaw - Which is my question with it. If they can have it, why
1297 can't I have it?

1298
1299 Ms. Harris - Okay. Are there questions of Mr. Kelsaw? Thank you.
1300 Is there anyone else who wishes to speak to this case?

1301
1302 Mr. Wood - My name is Francis Wood, W-o-o-d, and I live in the
1303 Ridgehaven community. I don't call it a subdivision or development because of
1304 the fact is it's been home to me since 2000.

1305
1306 My biggest concern is that eight-foot fence. There's a code for a reason. In the
1307 event of a residential fire, they need the clearance to get those hoses over the
1308 walls to the next residence if it spreads. We have trees in the neighborhood. A lot
1309 of them are pines, they burn easy. Honestly, the front of the building is a stark
1310 contrast to our community. It looks garish. That's all I can say. Thank you.

1311
1312 Ms. Harris - Okay, thank you. Any questions? Thank you so very
1313 much.

1314
1315 Mr. Wood - You're welcome.

1316

1317 Ms. Compton - Hi, my name is Cheryl Compton. C-o-m-p-t-o-n. I live
1318 at 1611 Dana Drive. I actually took a picture with in iPad. I don't know if I can use
1319 the picture where you can see the fence from my backyard. But my deck sits up
1320 high. So I think I'm the only one in the neighborhood who can see what's really
1321 going on over here.

1322
1323 We never got a notice saying this was happening today. I just had someone in
1324 the neighborhood that got a notice that contacted us. But we were told—

1325
1326 Ms. Harris - Excuse me. Ms. Compton, you didn't see the sign out
1327 there about a public hearing?

1328
1329 Ms. Compton - Yes, but some people got a notice in the mail while
1330 others didn't.

1331
1332 Ms. Harris - Adjacent, adjacent.

1333
1334 Mr. Blankinship - We mail notices to those whose property is
1335 immediately adjacent, and the word tends to spread.

1336
1337 Ms. Compton - Okay. Well I was told that she wanted the fence eight
1338 foot because of her children out to play. But there are no children. She's the only
1339 female. I mean there are just men after men after men and cars rolling in and out.
1340 The fence—like Sunday night, Monday night, there were cars rolling in the back,
1341 and then she was out there padlocking the gate. It makes no sense. I mean if you
1342 want to see the picture I have from my view on my iPad of what the fence looks
1343 like from my view, it's an eyesore.

1344
1345 Ms. Harris - Are there any questions of Ms. Compton? Thank you
1346 so very much. Anyone else?

1347
1348 Mr. Blankinship - Only if you have something new to add, please.

1349
1350 Ms. Butler - I'm Bonnie Butler. B-u-t-l-e-r, the last name. I own the
1351 house at 1605 Dana Drive, which is right behind the fence. The fence is an
1352 eyesore to my property. I have it up for rent, and I've had several people
1353 complain that the fence is such an eyesore, it's too tall, and it smacks you in the
1354 face when you're in the yard. All you see is this board. As well as the fence is not
1355 backed—I have a chain link fence behind my house. And the fence has a space
1356 between it. And now everything is growing up in that space between the two
1357 fences. And it's an eyesore.

1358
1359 Ms. Harris - Any questions of Ms. Butler? Thank you so very much
1360 for coming. Is there anyone else who wishes to speak to this case? Okay. Now
1361 we get a rebuttal. Ms. Detriquet, would you care to address any of these
1362 concerns? If so—

1363

1364 Mr. Blankinship - You don't have to.

1365

1366 Ms. Harris - You don't have to, but if you do, please step to the
1367 mic. No you do not? Okay. I think that ends our public hearing on this particular
1368 case. We'll move on to the next case. And as Mr. Blankinship said at the
1369 beginning of the meeting, we will vote on this case in about two more cases. If
1370 you want to hang around, that's fine.

1371

1372 **[After the conclusion of the public hearings, the Board discussed the case**
1373 **and made its decision. This portion of the transcript is included here for**
1374 **convenience of reference.]**

1375

1376 Ms. Harris - What is the pleasure of the Board?

1377

1378 Mr. Johnson - Looking at the recommendation, I'll move to deny the
1379 request.

1380

1381 Ms. Harris - Okay. Is there a reason you care to state?

1382

1383 Mr. Johnson - After the regulations have been made, the applicant
1384 got the property later. With that we already had a regulation.

1385

1386 Ms. Harris - Okay. Is there a second to this motion?

1387

1388 Mr. Reid - Second.

1389

1390 Ms. Harris - Okay. It has been moved and properly seconded that
1391 we deny this case. Is there any discussion on the motion?

1392

1393 Mr. Bell - I would like to discuss the fact that was brought up by
1394 the individual that the location of part of the fence is in an area where we don't
1395 even have the ability to approve that area; the Board of Supervisors does. It does
1396 not fit the variance criteria, and certain areas of the fencing, the way it was put
1397 up. Other sections, there is a possibility that we could have. Because of that,
1398 that's one reason that we cannot approve it.

1399

1400 Secondly, when you have a structure such as this and so much concern about
1401 the operation of the establishment or the appearance in terms of having a
1402 business in a residential area, we have considered that strongly as well.
1403 Therefore, that's my discussion.

1404

1405 Ms. Harris - I think we need to be sympathetic to both sides. It's a
1406 good fence, but it's in violation, and it's overwhelming to the community. And it
1407 seems to be having a negative effect. Now I listened to the neighbors express
1408 concerns about other things that are going on at the residence. We truly are not

1409 the board that you would take that to. There's an avenue where you can take
1410 your complaints about things that are going on in a house that make you think it
1411 basically is a business. All we're here to do is to decide if this fence violation can
1412 be approved or not. I just needed to insert that.

1413

1414 Any more discussion on this motion? Okay. All in favor of denying this request
1415 say aye. Those opposed say no. There is no opposition; that motion passes and
1416 this application has been denied.

1417

1418 After an advertised public hearing and on a motion by Mr. Johnson seconded by
1419 Mr. Reid, the Board **denied** application **VAR2018-00013, NORA DE TRIQUET**
1420 requests a variance from Section 24-95(l)(7) of the County Code to allow a fence
1421 to remain at 1606 Ridgehaven Road (Ridgehaven) (Parcel 754-745-8060), zoned
1422 One-family Residence District (R-3) (Three Chopt). The fence height requirement
1423 is not met.

1424

1425

1426 Affirmative: Bell, Harris, Johnson, Reid 4

1427 Negative: 0

1428 Absent: Green 1

1429

1430

1431 **[At this point, the transcript continues with the public hearing on the next**
1432 **case.]**

1433

1434 Mr. Blankinship - VAR2018-00014, Donell Prentiss.

1435

1436 **VAR2018-00014 DONELL PRENTISS** requests a variance from
1437 Section 24-9 of the County Code to build a one-family dwelling at 8497 Strath
1438 Road (Parcel 817-683-5202) zoned Agricultural District (A-1) (Varina). The public
1439 street frontage requirement is not met. The applicant proposes 0 feet public
1440 street frontage, where the Code requires 50 feet public street frontage. The
1441 applicant requests a variance of 50 feet public street frontage.

1442

1443 Mr. Blankinship - Would everyone who intends to speak to this case
1444 please stand and be sworn in. Raise your right hands, please. Do you swear the
1445 testimony you're about to give is the truth, the whole truth, and nothing but the
1446 truth so help you God? Mr. Madrigal?

1447

1448 Mr. Madrigal - Mr. Secretary, thank you. Madam Chair, members of
1449 the Board.

1450

1451 Before you is a request to build a one-family dwelling on a one-acre lot with no
1452 public street frontage. The subject property is 150 feet wide by 290 feet deep.
1453 Prior to 1985 it was part of a 4.2-acre parcel with frontage on Strath Road. That
1454 same year it was divided into four lots, only one of which had frontage on Strath

1455 Road. The other three lots are served by a private gravel driveway. The subject
1456 property is in the middle of the three lots approximately 650 feet distant from
1457 Strath Road.
1458

1459 The applicant received the lot by gift deed in 1985. In 1998, the Board approved
1460 a variance to build a one-family dwelling on the lot, but that variance expired from
1461 lack of follow-through. A dwelling was built on the adjacent lot to the east by way
1462 of variance approved in 1989. The remaining lot to the west is unimproved. A
1463 ten-foot-wide private gravel drive serves the property, and it's parallel to a private
1464 road known as Old Coleman Road, which serves two homes built subject to
1465 variances. It also provides access to an undeveloped lot. Although these access
1466 routes are a few feet apart, the private drive serving the subject lot is separate
1467 from Old Coleman Road.
1468

1469 The subject lot is approximately a third wooded and two-thirds cleared and
1470 slopes gently from back to front in a westerly direction. A septic system was
1471 approved in 1998 along with a variance from that year. A new health permit for
1472 the well and septic will be necessary if this variance gets approved.
1473

1474 With respect to the threshold question, the subject lot was divided in 1985, and
1475 the applicant has owned it for thirty-three years. The Board approved a variance
1476 to build a dwelling in 1998, and there have been no material changes to the
1477 circumstances since then. Other than the lack of public street frontage, the lot is
1478 suitable for a one-family dwelling. There is no other reasonable use for the
1479 property. Although the lot was created after the adoption of the public street
1480 frontage requirement, it was customary at that time for the Board to grant
1481 variances. Three of the six lots adjoining this one have been improved pursuant
1482 to variances. It would be unreasonable to prohibit the only practical use for this
1483 lot.
1484

1485 Relative to the five subtests, item number one. When the property was
1486 subdivided, it was customary for the Board to grant variances from the public
1487 street frontage requirement provided the property was suitable for a dwelling.
1488 The applicant acquired the lot in 1985 and received a variance in 1998. Also, the
1489 Virginia Supreme Court has determined that it is not a violation of good faith for a
1490 property owner to acquire property knowing that a variance is required for its
1491 development.
1492

1493 Item number two, substantial detriment. The prevailing land use pattern of the
1494 surrounding area is one-family dwellings on lots of one to three acres in size.
1495 There are fourteen such dwellings within 400 feet of the subject property, six of
1496 which lack public street frontage. Granting the variance request would continue
1497 this pattern of development in the area and should not have a substantial
1498 detrimental impact on surrounding property.
1499

1500 Item number three, the request is of a general or recurring nature. There are
1501 many landlocked parcels in the county, particularly in the East End. The Board
1502 considered six requests for variances from the public street frontage requirement
1503 last year and has already considered four this year. The Board of Supervisors
1504 amended the Subdivision Ordinance in 2011 to address family subdivisions on
1505 private drives. At that time, the Board of Supervisors chose not to change the
1506 rules for existing lots but to allow the Board of Zoning Appeals to consider
1507 variances on a case-by-case basis. Therefore, while the situation is of a general
1508 and recurring nature, it will not be addressed by an amendment to the ordinance.

1509

1510 And then items four and five are addressed as outlined in the staff report.

1511

1512 In conclusion, the property is well suited for a dwelling other than the lack of
1513 public street frontage, and there is no other reasonable use for the property. The
1514 proposed dwelling will be consistent with the existing development pattern in the
1515 surrounding area and will not have a substantial detrimental impact. A similar
1516 variance was approved in 1998, and there have been no material changes in the
1517 circumstances since that time. Based on the facts of the case, staff recommends
1518 approval subject to conditions.

1519

1520 That concludes my presentation. I'll be happy to answer your questions.

1521

1522 Ms. Harris - Any questions from Board members? Thank you so
1523 very much, Mr. Madrigal.

1524

1525 Mr. Madrigal - Thank you.

1526

1527 Ms. Harris - The applicant will need to come to the mic. Give us
1528 your name; spell your last name, please.

1529

1530 Mr. Prentiss - Good morning. My name is Donell Prentiss, Sr. And
1531 my last name is P-r-e-n-t-i-s-s. I'm here this morning for my variance on the
1532 property at 8497. My sister is with me, and she lives at 8499.

1533

1534 I thought I had something to add, but everything was taken care of. So that
1535 concludes what I have to say.

1536

1537 Ms. Harris - Mr. Prentiss, did you get a copy of the conditions?

1538

1539 Mr. Prentiss - Yes ma'am.

1540

1541 Ms. Harris - You did. And are those conditions okay with you?

1542

1543 Mr. Prentiss - Yes ma'am.

1544

1545 Ms. Harris - Okay. Are there questions from Board members?

1546
1547 Mr. Johnson - You've looked through the conditions.
1548
1549 Mr. Prentiss - Yes sir.
1550
1551 Mr. Johnson - And they're all right. Okay.
1552
1553 Ms. Harris - We don't have a copy of the plans. Do you have plans
1554 with you that you intend to build?
1555
1556 Mr. Blankinship - House plans?
1557
1558 Ms. Harris - House plans.
1559
1560 Mr. Prentiss - Gooding Construction has those plans. He hasn't
1561 given them to me yet. But I have one as far as the perk and the survey. That's
1562 about it. And I wish to build a house on that property.
1563
1564 Ms. Harris - It's going to be three-bedroom home?
1565
1566 Mr. Prentiss - Yes ma'am.
1567
1568 Ms. Harris - Okay. Mr. Blankinship?
1569
1570 Mr. Blankinship - You mentioned the perk. Did you have a new perk
1571 test done or are you talking about—
1572
1573 Mr. Prentiss - A new perk test.
1574
1575 Mr. Blankinship - You have had a new one done.
1576
1577 Mr. Prentiss - Yes sir.
1578
1579 Ms. Harris - Any questions?
1580
1581 Mr. Johnson - And your contractor's aware of all the regulations.
1582
1583 Mr. Prentiss - Yes sir.
1584
1585 Ms. Harris - Okay. Thank you.
1586
1587 Mr. Johnson - When are you anticipating getting the plans?
1588
1589 Mr. Prentiss - He had told me last week to give him about a week to
1590 do the plans on it. I guess if I get approved then I can go forward with it.
1591

1592 Ms. Harris - Okay. Thank you so very much.

1593

1594 Mr. Prentiss - Thank you all too.

1595

1596 Ms. Harris - Is there anyone who wishes to speak to this
1597 application? Any opposition to the application? Okay, I believe that takes care of
1598 this case. Mr. Blankinship, next case.

1599

1600 **[After the conclusion of the public hearings, the Board discussed the case**
1601 **and made its decision. This portion of the transcript is included here for**
1602 **convenience of reference.]**

1603

1604 Ms. Harris - What is the pleasure of the Board?

1605

1606 Mr. Johnson - I make a motion that we approve this variance. He's
1607 been there twenty-three years. They had a variance on it. The other neighbors
1608 have gotten a variance as well for their property. And also being in the middle, it
1609 will be detrimental to him if the others have it and he doesn't get it then it would
1610 unfairly impact him.

1611

1612 Ms. Harris - Okay. Is there a second to this motion?

1613

1614 Mr. Reid - Second.

1615

1616 Ms. Harris - Okay. It's been moved and properly seconded that we
1617 approve this variance request. Is there any discussion on the motion? All in favor
1618 say aye. Those opposed say no. There is no opposition; that motion passes.

1619

1620 After an advertised public hearing and on a motion by Mr. Johnson, seconded by
1621 Mr. Reid, the Board **approved** application **VAR2018-00014, DONELL**
1622 **PRENTISS** requests a variance from Section 24-9 of the County Code to build a
1623 one-family dwelling at 8497 Strath Road (Parcel 817-683-5202) zoned
1624 Agricultural District (A-1) (Varina). The public street frontage requirement is not
1625 met. The Board approved this request subject to the following conditions:

1626

1627 1. This variance applies only to the public street frontage requirement for one
1628 dwelling only. All other applicable regulations of the County Code shall remain in
1629 force.

1630

1631 2. Approval of this request does not imply that a building permit will be issued.
1632 Building permit approval is contingent on Health Department requirements,
1633 including, but not limited to, soil evaluation for a septic drainfield and reserve
1634 area, and approval of a well location.

1635

1636 3. Clearing, grading, or other land disturbing activity shall not begin until the
1637 applicant has submitted, and the Department of Public Works has approved, an
1638 environmental compliance plan.

1639 4. The applicant shall present proof with the building permit application that a
1640 legal access to the property has been obtained. The driveway from Strath Road
1641 to the site shall be improved with a durable asphalt or compacted gravel surface
1642 at least 10 feet wide with 12 feet of horizontal clearance and 14 feet of overhead
1643 clearance to provide access for police, fire, emergency medical services, and
1644 other vehicles. The owners of the property, and their heirs or assigns, shall
1645 accept responsibility for maintaining access to the property.

1646
1647
1648 Affirmative: Bell, Harris, Johnson, Reid 4
1649 Negative: 0
1650 Absent: Green 1

1651
1652

1653 **[At this point, the transcript continues with the public hearing on the next**
1654 **case.]**

1655
1656 Mr. Blankinship - The last case on this morning's agenda is VAR2018-
1657 00015, Lisa Rossi.

1658
1659 **VAR2018-00015** **LISA ROSSI** requests a variance from Section 24-
1660 95(c)(1) of the County Code to build an addition at 6106 Morningside Drive
1661 (WESTWOOD TERRACE) (Parcel 768-740-8908) zoned One-Family Residence
1662 District (R-3) (Brookland). The least side yard setback and total side yard setback
1663 are not met. The applicant proposes 6 feet least side yard setback and 15 feet
1664 sum of side yard setbacks, where the Code requires 7.5 feet least side yard
1665 setback and 22.5 feet sum of side yard setbacks. The applicant requests a
1666 variance of 1.5 feet least side yard setback and 7.5 feet sum of side yard
1667 setbacks.

1668
1669 Mr. Blankinship - Would everyone who intends to speak to this case
1670 please stand and be sworn in. Raise your right hands, please. Do you swear the
1671 testimony you're about to give is the truth, the whole truth, and nothing but the
1672 truth so help you God? Thank you. Mr. Gidley?

1673
1674 Mr. Gidley - Thank you, Mr. Secretary, members of the Board. The
1675 subject property is located in the Westwood Terrace subdivision and contains an
1676 existing dwelling built in 1952. There's a picture of the dwelling right here.

1677
1678 At the time of the home's construction, real estate records showed a jalousie
1679 porch on the southern side of the property right here. The real estate records
1680 noted it was twelve feet in width from side to side. This would have met the
1681 required 7.5-foot setback based upon the survey submitted with the application.
1682 In addition, at the time, the Zoning Ordinance allowed covered by unenclosed
1683 porches to encroach into this setback up to ten feet. So as a result, the sum of
1684 the two side yard setbacks was also met at the time of the home's construction.

1685
1686 Sometime after 1997, this porch on the southern side of the home was
1687 remodeled and enclosed. Once it was enclosed, it no longer met the sum of the
1688 two side yard setback requirements. The applicant recently applied for a building
1689 permit to expand the southern portion of the home upward an additional floor and
1690 back almost even with the home. You can see that a little better here. This is the
1691 existing portion here. She would add a second floor onto the home, and it would
1692 come back almost even to the rear plane of the home.

1693
1694 The survey submitted with it right here shows it located 6.61 feet off the side
1695 property line rather than the required 7-1/2 feet. If you look at current real estate
1696 records, instead of 12 feet, they list the side portion of the home now at 13 feet in
1697 width side to side. So it appears that during the renovation of this porch when it
1698 was enclosed that perhaps it was extended out an additional foot and thus the
1699 side yard setback violation.

1700
1701 So when she came in for a building permit, there's a tiny area basically, the depth
1702 of the proposed addition by .89 of a foot that is required side yard. And that
1703 would be taken up by the new addition, and because of that, the building permit
1704 could not be approved. So the applicant has applied for a variance to allow the
1705 addition to go forward.

1706
1707 These are the proposed elevations. The southern view is what's relevant. You
1708 can see here again she's just going to bring it back even with the existing home
1709 and add a second floor right up above here. This is a view from the rear.

1710
1711 In evaluating this request, one option for a variance is does the Zoning
1712 Ordinance unreasonably restrict the use of the property in question. The property
1713 contains an existing one-family dwelling that was built in 1952. It's not clear who
1714 enclosed the porch or how the minimum side yard setback came into being. But
1715 again, we think when it was renovated it was probably extended by an additional
1716 foot. We don't know that for certain.

1717
1718 The Board could consider it unreasonably restrictive to deny the applicant's
1719 request to construct an addition that would come no closer to the side property
1720 line than the current structure, especially since the sum of the two side yard
1721 setbacks would remain the same as they are currently.

1722
1723 If the Board believes this first test is met, then you can move on to the five
1724 subtests, which under state law, all five subtests must be met for a variance to be
1725 granted. In this case, staff believes the five subtests are met.

1726
1727 The first one, the property was acquired in good faith. We have no evidence that
1728 the applicant caused the violation in question. It appears that when the porch
1729 when renovated, during that process it came within the 0.89 feet of the side yard
1730 setback.

1731

1732 As far as detrimental impact on nearby property, the property owner most likely
1733 to be impacted is the one to the right here. And this property owner has written a
1734 letter of support for the applicant's variance, which would indicate that this
1735 property owner does not consider the proposed additional detrimental.

1736

1737 Subtest three concerns whether or not a Zoning Ordinance amendment is a
1738 better way to address this issue. And in this case, the circumstances are rather
1739 unique to this property. It's not a recurring situation. It's not something that's
1740 easily addressed through a code amendment. So this is an example of
1741 something that should come to the Board of Zoning Appeals to be renewed.

1742

1743 Subtest four, this is not a use variance. The simple reason is a home is a
1744 permitted use in the R-3 zoning district.

1745

1746 And finally five, relief is not available through a special exception or modification.

1747

1748 So in conclusion, typically if you have a residence on a property, that provides a
1749 reasonable use and a variance that expands into the setbacks is not appropriate.
1750 In this case, however, the applicant will build no closer to the property line than
1751 the existing home. Given this, along with the uncertainty over how or when this
1752 portion of the home was expanded just under a foot into the side yard setback,
1753 it's arguably unreasonable to deny a request to build an addition that would be no
1754 closer to the side property line. In addition, all five subtests do appear to be met.
1755 As a result, staff can recommend approval of this case subject to the conditions
1756 in your staff report.

1757

1758 This concludes my presentation. I'll be happy to answer any questions you may
1759 have.

1760

1761 Ms. Harris - Thank you. Are there any questions of Mr. Gidley?
1762 Thank you.

1763

1764 Mr. Gidley - Thank you, Madam Chair.

1765

1766 Ms. Harris - We need the applicant to come forth now and state
1767 their request.

1768

1769 Mr. Tluchak - Good morning, ladies and gentlemen of the Board.
1770 I'm Sean Tluchak. T-I-U-C-H-A-K. I have the fortune to be husband and co-owner
1771 with Ms. Rossi, and sometimes the unfortunate position to be her lawyer. She
1772 has asked me to speak today. She's a Henrico school teacher and speaks very
1773 well, but thought maybe I could present it in a better light.

1774

1775 The reason we're here today to do that addition is there are no other options to
1776 build onto the home. The left side is the electrical box and the electrical wires that

1777 cross our yard. In the middle is the exit for the basement, so you can't cover that
1778 up. And then you have the kitchen.

1779
1780 We are only asking to build on and match the existing foundation. There have
1781 been no changes made by us, since we've moved in, to the existing foundation
1782 on that side whatsoever. Our neighbor is fully on board with what we're doing
1783 there. And all we're trying to do, really the main part of it is to add a bathroom to
1784 the second floor. Currently, my wife and my two daughters all share the same
1785 bathroom. When these houses were built, these Cape Cods did very small
1786 bathrooms on the second floor. We all live on the second floor. So it's an
1787 untenable situation, if you will, with my oldest heading into junior high this year.
1788 They all get up at the same time to go to school in Henrico, including my wife.

1789
1790 That's what we're proposing. We will add a little bit to the back to have a little bit
1791 of a closet behind the bathroom as well. But again, we're not going to change the
1792 line of the house whatsoever. It's a little bit of a red herring when you say it
1793 violates the 22-1/2-foot that's required now because we currently violate that
1794 because the house was built in 1948. So we're really not changing anything
1795 whatsoever.

1796
1797 Ms. Harris - Mr. Tluchak, did you see condition #3 that the addition
1798 must be located no closer than 6.61 feet?

1799
1800 Mr. Tluchak - We have not seen the conditions, but we're certainly
1801 willing to meet that.

1802
1803 Ms. Harris - Okay. Do you have a copy of the report?

1804
1805 Mr. Tluchak - I do not. I don't believe my wife received one either.

1806
1807 [Pause in conversation]

1808
1809 Mr. Tluchak - Yes, we're in agreement with those conditions. That
1810 matches the survey that we had prepared and the architectural drawings we had
1811 prepared.

1812
1813 Ms. Harris - Okay. Are there questions from Board members?

1814
1815 Mr. Tluchak - Thank you, I appreciate it.

1816
1817 Ms. Harris - Thank you so very much. Is there anyone who wishes
1818 to speak to this request? Is there anyone who wishes to speak against this
1819 request? If not, that concludes this case.

1820
1821 Okay, we'll go to voting on the first case.

1822

1823 [After the conclusion of the public hearings, the Board discussed the case
1824 and made its decision. This portion of the transcript is included here for
1825 convenience of reference.]
1826

1827 Ms. Harris - What is the pleasure of the Board?
1828

1829 Mr. Bell - I move that we approve this variance. I don't think it
1830 creates any safety or welfare problem to the area. I also believe that the five
1831 subtests of the Code of Virginia 15.2-2309 appear to have been met. And also
1832 the new addition will be no closer to the property line than the existing porch.
1833

1834 Ms. Harris - Okay. Is there a second?
1835

1836 Mr. Johnson - Second.
1837

1838 Ms. Harris - It's been moved and properly seconded that we
1839 approve this variance. Any further discussion? All in favor say aye. Those
1840 opposed say no. There is no opposition; that motion passes.
1841

1842 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr.
1843 Johnson, the Board **approved** application **VAR2018-00015, LISA ROSSI**
1844 requests a variance from Section 24-95(c)(1) of the County Code to build an
1845 addition at 6106 Morningside Drive (WESTWOOD TERRACE) (Parcel 768-740-
1846 8908) zoned One-Family Residence District (R-3) (Brookland). The Board
1847 approved this request subject to the following conditions:
1848

1849 1. This variance applies only to the minimum side yard and sum of side yard
1850 setback requirements for the proposed addition only. All other applicable
1851 regulations of the County Code shall remain in force.
1852

1853 2. Only the improvements shown on the plot plan and building design filed with
1854 the application may be constructed pursuant to this approval. Any additional
1855 improvements shall comply with the applicable regulations of the County Code.
1856 Any substantial changes or additions to the design or location of the
1857 improvements will require a new variance.
1858

1859 3. The addition must be located no closer than 6.61 feet to the side property line.
1860

1861 4. The new construction shall match the existing dwelling as nearly as practical in
1862 materials and color.
1863

1864
1865 Affirmative: Bell, Harris, Johnson, Reid 4
1866 Negative: 0
1867 Absent: Green 1
1868

1869

1870 Ms. Harris - That concludes the cases. We have minutes from the
1871 last meeting.

1872
1873 Mr. Blankinship - We have hours from the last meeting.
1874

1875 Ms. Harris - I think ninety pages of minutes. We do need to
1876 compliment the staff on getting those out and to us. We appreciate all you do.
1877 Okay, can I have a motion on accepting the minutes?

1878
1879 Mr. Johnson - Motion that we accept the minutes.
1880

1881 Ms. Harris - Is there a second?

1882
1883 Mr. Bell - I second it.
1884

1885 Ms. Harris - Okay, moved and properly seconded that we accept
1886 the minutes. All in favor say aye. Those opposed say no. There is no opposition;
1887 that motion passes. The minutes are approved.
1888

1889 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved as**
1890 **submitted the Minutes of the July 26, 2018**, Henrico County Board of Zoning
1891 Appeals meeting.
1892

1893
1894 Affirmative: Bell, Harris, Johnson, Reid 4
1895 Negative: 0
1896 Absent: Green 1
1897

1898
1899 Ms. Harris - At this time I'm going to turn the meeting over to
1900 Mr. Blankinship because we have to elect officers for the next term. I will step out
1901 of the seat.
1902

1903 Mr. Blankinship - Thank you, Madam Chair. The floor is open for
1904 nominations for the office of Chair.

1905
1906 Mr. Bell - I move that we make the next Chairman of the Board
1907 Ms. Helen Harris.
1908

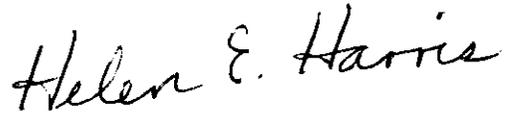
1909 Mr. Blankinship - All right, Mr. Bell has nominated Ms. Harris. Are there
1910 any other nominations? If not, a motion to close the floor to nominations would be
1911 in order.
1912

1913 Mr. Johnson - I make a motion that we close the nominations.

1914
1915 Mr. Blankinship - Is there a second?

1916
1917 Mr. Bell - Second.
1918
1919 Mr. Blankinship - There was a motion by Mr. Johnson to close the floor,
1920 second by Mr. Bell. All in favor of closing the floor to nominations for the office of
1921 Chair say aye. Those opposed say no. Ms. Harris, there being no other
1922 nominees, you are elected by acclamation.
1923
1924 Ms. Harris - Thank you so very much.
1925
1926 Mr. Blankinship - Congratulations. And the floor is now open for
1927 nominations for the office of Vice Chair.
1928
1929 Mr. Reid - I move that we elect Mr. Bell as Vice Chairman. He's
1930 been on the Board a long time and is quite knowledgeable. And he continues to
1931 do a wonderful job.
1932
1933 Ms. Harris - I second the motion.
1934
1935 Mr. Blankinship - Mr. Reid—
1936
1937 Ms. Harris - This is a nomination, right? So we don't have to
1938 second that. Okay.
1939
1940 Mr. Blankinship - Yes ma'am. Mr. Reid has nominated Mr. Bell. Are
1941 there any further nominations for the office of Vice Chair?
1942
1943 Mr. Johnson - I make a motion that it be closed.
1944
1945 Ms. Harris - And I second that.
1946
1947 Mr. Blankinship - There is motion by Mr. Johnson, seconded by
1948 Ms. Harris to close the floor to nominations. All in favor of closing the floor say
1949 aye. Those opposed say no. There is no opposition; that motion passes.
1950
1951 Mr. Bell, you being the only nominee, you are elected by acclamation to the office
1952 of Vice Chair. Congratulations.
1953
1954 Ms. Harris - Is there any more business before this body? If not,
1955 the meeting stands adorned.
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1979



Helen E. Harris
Acting Chairman



Benjamin Blankinship, AICP
Secretary