

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**  
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**  
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**  
4 **THURSDAY AUGUST 27, 2020 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**  
5 **THE *RICHMOND TIMES-DISPATCH* AUGUST 10, 2020 AND AUGUST 17, 2020.**  
6  
7

8 Members Present: Gentry Bell, Chair  
9 Terone B. Green, Vice-Chair  
10 Walter L. Johnson, Jr.  
11 Terrell A. Pollard  
12 James W. Reid  
13

14 Also Present: Jean M. Moore, Assistant Director of Planning  
15 Benjamin Blankinship, Secretary  
16 Paul M. Gidley, County Planner  
17 R. Miguel Madrigal, County Planner  
18 Rosemary Deemer, County Planner  
19 Kuronda Powell, Account Clerk  
20  
21

22 Mr. Bell - Good morning. This is the Board of Zoning Appeals meeting  
23 on August 27, 2020, our August meeting. If you can I'd appreciate it if you would stand  
24 up and say the pledge with us.  
25

26 **[Recitation of the Pledge of Allegiance]**  
27

28 Mr. Bell - I do thank you. We had a little delay this morning, about five  
29 minutes, and I apologize for that. But as you probably know, it's easy to get hung up in  
30 that traffic sometimes. So we shall begin. Ben.  
31

32 Mr. Blankinship - Good morning, Mr. Chair, members of the Board, ladies and  
33 gentlemen. The rules for this meeting are as follows: Acting as secretary I'll announce  
34 each case and then we'll ask everyone who intends to speak to that case to stand and be  
35 sworn in? Then a member of the Planning Department staff will give a brief introduction  
36 to the case. Then the applicant will make their presentation. And then anyone else who  
37 wishes to speak will be given the opportunity. After everyone's had a chance to speak  
38 the applicant and only the applicant will have an opportunity for rebuttal.  
39

40 This meeting is being recorded, so we'll ask everyone to speak directly into the  
41 microphone. There is one on the podium here and there is also a microphone in the rear,  
42 so if you're more comfortable social distancing to the back of the room, you might find it  
43 a little bit more appropriate to use that microphone. They're both available to you.  
44 We ask that you state your name and please spell your last name to make sure we get it  
45 correctly in the record.  
46

47 Today we're broadcasting the meeting over two media. There is a livestream on the  
48 Planning Department webpage and we're also hosting a video conference using Webex.  
49 I'd like to welcome everyone who is joining us remotely and provide just a few details for  
50 your participation.

51  
52 If you wish to observe the meeting but you do not intend to speak, welcome and thank  
53 you for joining us. You do not need to take any further action. If you are an applicant or  
54 if you wish to speak about one of the cases, we need to know that in advance so we can  
55 connect you.

56  
57 We are managing the speakers using the Webex chat feature which can be found by  
58 hovering your mouse over the bottom of the Webex screen. It's the fourth button from  
59 the left and resembles a speech bubble. If you would like to speak at any time during the  
60 meeting, please press the chat button now and open the chat screen and follow the  
61 prompts you'll see on the right side of the screen.

62  
63 Following the introduction and presentation of each case, the applicant, as I said, will  
64 make their presentation. Then we will ask everyone in the room to speak. And then we  
65 will ask everyone who is on Webex to speak.

66  
67 If you wish to speak you have to send a request to Kristin Smith. So use that dropdown  
68 to open the chat feature, select Kristin Smith, and send her a message letting her know  
69 that you are -- that you intend to speak on that case or you would like to speak on that  
70 case. Please do not type questions or comments into the chat feature. It is only being  
71 used to organize the speakers.

72  
73 When it's your turn you'll be introduced, you'll be unmuted, and you'll be prompted to  
74 speak, and the Board will hear whatever you have to say. And following your question or  
75 statement you will be muted again.

76  
77 So, in summary, if you want to speak please use the chat feature -- on Webex -- please  
78 use the chat feature to send a chat to Kristin Smith so she knows to put you in line.

79  
80 With that, Mr. Chair, we also have two withdrawals from this morning's agenda. Variance  
81 2020, number 19, and Variance 2020, number 20. The two cases on Red Coach Lane.

82  
83 **VAR2020-00019**                    **ESTHER T. GRAY** requests a variance from Section 24-  
84 95(d)(1) of the County Code to build a one-family dwelling at 4721 Red Coach Lane  
85 (CEDAR RIDGE (E)) (Parcel 854-698-9321) zoned One-Family Residence District (R-2A)  
86 (Varina). The lot width requirement and total lot area requirement are not met. The  
87 applicant proposes 0.71 acre total lot area and 100 feet lot width, where the Code requires  
88 1.0 acre total lot area and 150 feet lot width. The applicant requests a variance of 0.29  
89 acre total lot area and 50 feet lot width.

90  
91 **VAR2020-00020**                    **ESTHER T. GRAY** requests a variance from Section 24-  
92 95(d)(1) of the County Code to build a one-family dwelling at 4725 Red Coach Lane

93 (CEDAR RIDGE (E)) (Parcel 855-698-0416) zoned One-Family Residence District (R-2A)  
94 (Varina). The lot width requirement and total lot area requirement are not met. The  
95 applicant proposes 0.71 acre total lot area and 100 feet lot width, where the Code requires  
96 1.0 acre total lot area and 150 feet lot width. The applicant requests a variance of 0.29  
97 total lot area and 50 feet lot width.  
98

99 Those two cases have been withdrawn. They will not be heard this morning. And, with  
100 that -- oh. Let me just remind the members of the Board of the importance of speaking  
101 as close as you can to your microphones or remove your mask as you speak. As long  
102 as you're six feet apart you can remove your mask, and it's very difficult to pick up our  
103 voices on the microphones.  
104

105 All right. I will just pull up my agenda quickly. All right, Mr. Chair, the first case is  
106 Conditional Use Permit 2020, number 17. Earl L. Douglas.  
107

108 **CUP2020-00017** **EARL L. DOUGLAS** requests a conditional use permit  
109 pursuant to Section 24-95(i)(4) of the County Code to allow an accessory structure in the  
110 front yard at 4701 Dogwood Oaks (Parcel 837-685-0893) zoned Agricultural District (A-  
111 1) (Varina).  
112

113 Would everyone who intends to speak to this case please stand and be sworn in? Can  
114 you raise your right hand please? Do you swear the testimony you're about to give is the  
115 truth, the whole truth, and nothing but the truth, so help you God?  
116

117 Mr. Blankinship - Thank you. All right. Sir, you can speak right after Mr.  
118 Madrigal.  
119

120 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board,  
121 good morning. Before you is a request to allow an accessory structure in the front yard  
122 of a residence in an agricultural district. The subject property is a landlocked parcel  
123 slightly over eight acres in size, accessed by way of a private road.  
124

125 When the applicant purchased the property in 1989 it was unimproved. Since then he  
126 has constructed a two-story, 2,296-square-foot dwelling with open parking built in 1995  
127 by way of variance.  
128

129 Mr. Green - Excuse me.  
130

131 Mr. Madrigal - Yes, sir.  
132

133 Mr. Green - Is it -- is it possible for it to pop up on our screen in  
134 (indiscernible) it's not on my screen.  
135

136 Mr. Blankinship - Oh. Well, if you'll press the system button. The system button  
137 here should switch it over.  
138

139 Mr. Green - Thank you. Appreciate it.

140

141 Mr. Blankinship - Sure.

142

143 Mr. Madrigal - So the house was built by way of variance in 1995.  
144 Additionally, the applicant has operated a commercial tree-service business from the  
145 property since 2003. Over the years the unpermitted business grew, requiring additional  
146 heavy equipment, employees, and the clearing of land to process trees into firewood and  
147 woodchips.

148

149 In 2015 the applicant replaced an older storage building with the subject accessory  
150 structure that was built in phases, and without the benefit of building permits. The building  
151 totals 4,022 square feet in area and was placed at the northeast corner of the property  
152 between the access road and the existing pond. It sits approximately 6 to 8 feet off the  
153 northern property line and 72 feet from the eastern property line. This building was used  
154 to service heavy equipment and vehicles associated with the tree-service business.

155

156 In February the -- February of this year the county received a complaint regarding a  
157 commercial operation at the the property. Including a large amount of traffic that it was  
158 generating. After verifying the complaint a notice of violation was issued to the property  
159 owner by Community Maintenance on February 19th of this year.

160

161 The investigation also revealed the construction of the subject accessory building without  
162 the benefit of permits. The applicant has since then applied for building permits which  
163 are pending the outcome of this hearing. According to the applicant, if the structure is  
164 allowed to remain, it'll be used for agricultural storage and repairs.

165

166 Additionally, on July 31st of this year the property owners was issued a stop-work order  
167 for the land disturbance without an approved soil erosion and a sediment control plan.  
168 That was from the Department of Public Works. And this was due to the applicant having  
169 removed large areas of trees and vegetation from the property to accommodate the  
170 growth of the business.

171

172 The property is zoned A-1 and is designated prime agricultural on the 2026 Future Land  
173 Use map. A one-family dwelling is a permitted principal use in this district and is  
174 consistent with the land-use designation. The zoning ordinance allows accessory  
175 structures that are customarily incidental to a principal use. In this case a 4000-square-  
176 foot garage is too large to be incidental to a dwelling. If it was reduced in size, the location  
177 in the front yard might be permissible or acceptable.

178

179 The applicant has ceased the operation of the business on the property and is in the  
180 process of relocating it. He is attempting to get a building permits for the 4000-square-  
181 foot building after the fact. Although the property is landlocked and is not visible from the  
182 public right of way, such a large structure is out of place in its current location.

183

184 If the property was used for an agricultural activity, a large accessory building would be  
185 allowed. However, a 40-foot side-yard setback would be required for the structure.  
186 Because the principal use of the property is residential and the accessory building is only  
187 six feet from the side property line, the subject building can only be used for residential -  
188 - as a residential accessory structure for the storage of personal vehicles, lawn  
189 equipment, and household items.

190  
191 To discourage any further use of the structure for commercial purposes, it should be  
192 reduced in size by removing the two smaller appendages on the west and north sides of  
193 the building. And that would be here on the north and then here on the west.  
194

195 This would remove approximately 850 square feet of building area and reduce the overall  
196 size of the building to 3150 square feet. It would also increase the setbacks adjacent the  
197 pond and along the northern property line.  
198

199 The most impacted neighbor is directly north of the subject building. That home is over  
200 130 feet distant and there is some vegetative screening between the two structures. The  
201 properties to the east and south are undeveloped and are not impacted. The applicant's  
202 request should not pose any detrimental impacts on nearby property so long as the  
203 proposed conditions of approval are adhered to.  
204

205 In conclusion, a 4000-square-foot building in the front yard of a residential lot is  
206 inappropriate. Reducing the size of the structure, increasing setbacks, and limiting its  
207 use would make it feasible. Because the property is landlocked, has limited access, and  
208 is not visible from a public right of way, detrimental impacts are reduced and limited.  
209

210 Based on the facts of the case, staff recommends approval subject to conditions. That  
211 concludes my presentation. I'll be happy to answer any questions.  
212

213 Mr. Bell - Does the panel have any questions? Hearing none, applicant  
214 please.

215  
216 Mr. Douglas - I have the property to the south.

217  
218 Mr. Bell - Sir, will you state your name and --

219  
220 Mr. Douglas - Oh. I'm sorry. Earl Douglas.

221  
222 Mr. Bell - And spell it.

223  
224 Mr. Douglas - E-a-r-l D-o-u-g-l-a-s.

225  
226 Mr. Bell - Thank you.

227  
228 Mr. Douglas - The property to the south right here and this piece here I also  
229 own, and it's about 10 acres. Well, there was a property line adjustment that's not

230 reflected, this line is no longer there. So I have a 10-acre parcel down here and I was --  
231 I've been talking before COVID with Kelly Farms about growing produce and doing some  
232 agricultural work here since I moved the business. My business has moved about four  
233 miles up the road now. I bought a piece of property and I'm working on moving everything  
234 there.

235  
236 I don't know how to get back to the different pictures, but the two smaller pieces that were  
237 added on to this building would be pretty important for storage. You know, the bigger  
238 parts would be, you know, for agricultural equipment. Storing stuff out of the weather and  
239 working on stuff. And then the two smaller pieces just the backside and then the left side.  
240 I mean, if I had to take them down, I would just have to build something else in a different  
241 spot to make up the difference.

242  
243 It wouldn't make much sense, but, I mean, if that's what I have to do, then that's what I  
244 have to do. But it would be used for agricultural. My neighbor to the north here, they  
245 have a garden there. We get along great. I believe she sent in something on an email.

246  
247 Mr. Blankinship - She did. That's correct.

248  
249 Mr. Douglas - Okay. Yeah. They have no problem with the property line  
250 adjustment right behind the buildings to get me the proper offset. And as far as this being  
251 in front of my house, you know, it's referred to as a front yard, but it's, you know, between  
252 the bottom piece of property and the top piece of property, that's 18 acres. There's just  
253 a small area up here that's actually used like a yard, so it's not like it's in my front yard.  
254 And it's not visible from anybody except for my neighbors over here. And it's not  
255 unpleasant to look at.

256  
257 But I guess that's all I have to say. If anybody has any questions.

258  
259 Mr. Bell - Does anyone have any questions? Seeing none. And thank  
260 you, Mr. Douglas.

261  
262 Mr. Douglas - Fine.

263  
264 Mr. Blankinship - Is there anyone else in the room who would like to speak  
265 either in favor or in opposition to this case? All right. Mr. Chair, I've been told that there  
266 is nobody on Webex to speak to this case, so that would close the public hearing and a  
267 discussion or a motion would --

268  
269 Mr. Douglas - (indiscernible).

270  
271 Mr. Blankinship - Copies were presented to the Board. We can send you a  
272 copy. Sure.

273  
274 Mr. Douglas - Okay.

275

276 Mr. Blankinship - Yeah. So, Mr. Chair, a motion or discussion would be in order.  
277  
278 Mr. Bell - Do I hear any motion to -- .  
279  
280 Mr. Johnson - Bring him back up.  
281  
282 Mr. Bell - Bring him back up. Yes, sir, Mr. Douglas, yeah.  
283  
284 Mr. Douglas - Yes, sir.  
285  
286 Mr. Johnson - Oh. On the background, did you say you stopped using the  
287 building? Was that correct?  
288  
289 Mr. Douglas - I'm not using it for what -- I was running a tree service from  
290 my home. And I've since moved to another piece of property. So the building is still there  
291 and, you know, my dad -- and my dad lives with me and he used to be a machinist and  
292 he has got a lathe and a mill. And he piddles around with that. He is in his 70s. By no  
293 means is that a business. That's just, like, a hobby. But the building's really not used  
294 right now. Just kind of storage and some empty bays.  
295  
296 I have a tractor and a couple agricultural trailers and stuff that I -- that I park in there to  
297 keep out of the weather sometimes.  
298  
299 Mr. Johnson - And then that large building there. Would you consider taking  
300 part of it down?  
301  
302 Mr. Douglas - If I had to, I would. It would -- like I said, if I go into produce  
303 and agriculture with the Kellys, I would lose some storage, you know, for material and we  
304 would have to build something in place of that in a different spot on the property. And it  
305 just wouldn't be as convenient as having it all in one place.  
306  
307 Mr. Johnson - Okay. Thank you.  
308  
309 Mr. Douglas - All right. Thank you.  
310  
311 Mr. Green - Mr. Blankinship, I don't see that email that the neighbor sent  
312 in.  
313  
314 Mr. Blankinship - Okay, your mic is working. It should've been left on the table  
315 this morning. Well, let me pull it up and read it.  
316  
317 Mr. Green - I don't think any of us have it.  
318  
319 Mr. Blankinship - All right. I apologize for that. I've got a copy here. I'll read it.  
320 To whom it may concern. This is Kathleen Beasley. I am Earl Douglas' neighbor. We  
321 are a quarter of a mile off the main road, Bradbury, and are the only two houses back

322 here. For nearly 30 years they have been nothing but helpful and friendly. We've recently  
323 received a notice to a public hearing case number 17, and I want to make it perfectly clear  
324 there is no issue between me and my neighbor, or anything he chooses to do on his own  
325 property. Sincerely, Kathleen Beasley, 8140 Bradbury Road.

326  
327 Mr. Green - Thank you.

328  
329 Mr. Bell - Is there any other questions? Thank you. Then we'll continue  
330 on and we go on to --

331  
332 Mr. Blankinship - A motion or a discussion

333  
334 Mr. Green - Mr. Chairman.

335  
336 Mr. Bell - Yes, sir.

337  
338 Mr. Johnson - I move that we approve the conditional use permit subject to  
339 the conditions recommended by the staff and then that this is a large building that cost a  
340 lot of money. And if the applicant can use it in a way that is lawful, he can be allowed to  
341 keep it. He should remove the area closest to the neighbor and to the pond and the  
342 building can only be used for accessories to the dwelling. As long as the owner abides  
343 by the conditions there should be no detrimental impacts on the properties.

344  
345 Mr. Pollard - I second the motion.

346  
347 Mr. Bell - Got a second to the motion. Any discussion? No discussion.  
348 All those in favor say aye. All those opposed. Hearing none the motion carries. Thank  
349 you, Mr. Douglas.

350  
351 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved** case  
352 **CUP2020-00017, EARL L. DOUGLAS** request for a conditional use permit pursuant to  
353 Section 24-95(i)(4) of the County Code to allow an accessory structure in the front yard  
354 at 4701 Dogwood Oaks (Parcel 837-685-0893) zoned Agricultural District (A-1) (Varina).  
355 The Board approved the request subject to the following conditions:

356  
357

358 1. This conditional use permit allows only the existing accessory structure to remain in  
359 the front yard. All other applicable regulations of the County Code shall remain in force.

360  
361 2. Only the improvements shown on the plans prepared by JB Byers dated April 3, 2020,  
362 as modified by these conditions, may be constructed pursuant to this approval. Any  
363 additional improvements shall comply with the applicable regulations of the County Code.  
364 Any substantial changes or additions to the design or location of the improvements shall  
365 require a new conditional use permit.

366

367 3. No later than October 30, 2020, the applicant shall remove the northern bay labeled  
368 "Garage Area 1" on the plans (14 feet by 34 feet) and the western "Lean-To" (8'6" feet by  
369 44 feet) as indicated on the floor plans.

370  
371 4. All commercial tree service activities shall cease at the property. All associated  
372 business vehicles, fuel storage tanks, shipping containers, and all tree removal, hauling,  
373 and chipping equipment shall be removed from the property no later than September 30,  
374 2020.

375  
376 5. There shall be no clearing, grading, or other land disturbing activity on the property  
377 unless the applicant obtains approval of an environmental compliance plan from the  
378 Department of Public Works.

379  
380 6. No exterior lighting shall be added to the building.

381  
382 7. The use of the building shall be accessory to the dwelling. No commercial activities or  
383 business support activities shall be conducted within the building. Any agricultural building  
384 on the property shall be located 50 feet from the front and rear lot lines and 40 feet from  
385 the side lot lines.

386  
387 8. A building permit for the existing garage must be approved by August 26, 2022, or this  
388 conditional use permit will expire. If the building permit is cancelled or revoked because  
389 construction was not diligently pursued, this conditional use permit will expire at that time.

390  
391  
392 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
393 **Negative:** 0  
394 **Absent:** 0

395  
396 Mr. Bell - Moving along now to case number 18.

397  
398 Mr. Blankinship - Yes, sir. Conditional use permit 2020, number 18, Donald D.  
399 Marsden, Jr.

400  
401 **CUP2020-00018 DONALD D. MARSDEN, JR.** requests a conditional use  
402 permit pursuant to Section 24-95(i)(4) of the County Code to build a detached garage in  
403 the side yard at 8004 Hermitage Road (Parcel 775-752-4262) zoned One-Family  
404 Residence District (R-3) (Brookland).

405  
406 Mr. Blankinship - Would everyone who intends to speak to this case please  
407 stand and be sworn in? Raise your right hand, please. Do you swear the testimony  
408 you're about to give is the truth, the whole truth, and nothing but the truth so help you  
409 God?

410  
411 Mr. Marsden - I do.

413 Mr. Blankinship - Thank you. Mr. Madrigal.

414  
415 Mr. Madrigal - Thank you, sir. Mr. Chair, members of the Board, before you  
416 is a request to build a garage and guest house in a side yard of a one-family dwelling.  
417 The subject parcel is slightly over an acre in area and is improved with a two-story 2,692-  
418 square-foot home with a finished basement and open parking built in 1941.

419  
420 The lot is approximately 160 feet wide and slopes down in a northerly direction at an 11  
421 percent slope. The applicant purchased the property in 2017 and has been steadily  
422 improving it.

423  
424 In 2018 he added a mud room and a 456-square-foot deck off the rear of the home. He  
425 later paved the second driveway entrance. And this property here. This was the original  
426 drive and you can see this second entrance that was added on.

427  
428 He would now like to add a two-story, 1,287-square-foot garage which would include a  
429 guest house, in the side yard. The property is zoned R-3 and is designated suburban  
430 residential 2 on the 2026 Future Land Use map. A one-family dwelling is a principal  
431 permitted use in this district and is consistent with the land use designation.

432  
433 The proposed accessory structure in the side yard requires the approval of a conditional  
434 use permit. The plans for the proposed garage show a living area, wet bar, and guest  
435 room with full bath and walk-in closet. This would cost -- constitute a guest house, which  
436 is defined as an accessory building without cooking facilities and intended for intermittent  
437 occupancy by one or more guests.

438  
439 The property is improved with a one-family dwelling and is bounded by parcels ranging in  
440 size between 4/10 to 1 1/2 acres. The adjacent properties to the east and west are also  
441 improved with single-family dwellings. The parcel to the north is vacant.

442  
443 The proposed building would be 38 feet from the dwelling, 79 feet from the front property  
444 line, and 6 feet from the side property line. The most impacted neighbor is to the west,  
445 that home is approximately 20 feet from the shared property line. No adverse impacts  
446 are anticipated due to the large front setback, lot grading, and existing vegetation. Their  
447 proposed building would consist of an oversized one-car garage and 357 square feet of  
448 finished floor area on the first floor and 543-square-feet of finished floor area on the  
449 second floor.

450  
451 All the windows and doors would be oriented away from the neighbor to the west to  
452 maintain privacy. The proposed structure is consistent with the architectural style of the  
453 home of -- and will be required to match it in color and exterior materials. Staff is not  
454 aware of any complaints against the property.

455  
456 As long as the applicant adheres to the recommended conditions of approval, staff does  
457 not anticipate any adverse impacts on nearby property.

458

459 In conclusion, the request is consistent with both the zoning and land-use designations  
460 on the property. The proposed structure would be oriented towards the street, and it  
461 would be set back approximately 79 feet from the front property line. Because of the deep  
462 front setback, existing landscaping, and the topography of the lot, staff does not anticipate  
463 any negative impacts.

464  
465 Based on the facts of this case, staff recommends approval subject to conditions. Do you  
466 have any questions?

467  
468 Mr. Bell - Does the staff or does the Board have any questions?  
469 Hearing none, thank you.

470  
471 Mr. Madrigal - Thank you.

472  
473 Mr. Blankinship - Mr. Marsden, you can use either microphone.

474  
475 Mr. Marsden - Good morning. My name is Donald Marsden. I'm the property  
476 owner. Primarily I'm here to answer any questions.

477  
478 Mr. Bell - Would you give us your name and spell it, please?

479  
480 Mr. Marsden - Yes. Donald Marsden, M-a-r-s-d-e-n.

481  
482 Mr. Bell - Thank you.

483  
484 Mr. Blankinship - And we would like you to just take a moment to introduce your  
485 project and what you're doing and why.

486  
487 Mr. Marsden - Yeah. Well, going into why. Our family spent 11 years living  
488 in Russia, we were missionaries. And as a result of that we raised kids who've gone off  
489 to be missionaries, too. We have a son who's been serving in Kazakhstan three years.  
490 So occasionally people like that will come home and want to spend a few months at home.  
491 It'd probably be good to have a property there to have guests. Our children as well as  
492 sometimes some of our friends who come over from internationally. And having people  
493 live in your house for a month or two or three, we have the room, but sometimes they'd  
494 like to have the space if they're -- especially if they're married and with children.

495  
496 As far as the reason we wanted to build it where it requires a conditional permit, if you  
497 move back from there even just a few feet the property starts to decline very steeply. We  
498 would have -- we would be happy to put it back further where the conditional use is not  
499 required, but the way the property -- the property was, before we purchased it three years  
500 ago, the property -- that whole back yard was made out of landfill.

501  
502 We found that out when we replaced the -- we had to replace the septic tank, which we  
503 did two years ago. And we discovered it's all landfill. And so they built it up, but then at  
504 the side of the property it goes off quite steeply.

505  
506 So I don't want to say too much, but I'm here to answer any questions.  
507  
508 Mr. Blankinship - And I'll just mention to the Board. We also have the builder,  
509 Mr. Marsden's builder, is available on Webex.  
510  
511 Mr. Marsden - Yes.  
512  
513 Mr. Blankinship - If anyone has any questions for the builder.  
514  
515 Mr. Marsden - Yes.  
516  
517 Mr. Bell - Have you read the conditions of approval for this -- for your  
518 construction here? In the report.  
519  
520 Mr. Marsden - I'm --  
521  
522 Mr. Bell - There's seven of them.  
523  
524 Mr. Marsden - I'm sorry, but I don't understand the question.  
525  
526 Mr. Blankinship - With your -- a copy of the staff report was mailed to you. Or it  
527 may have been mailed to your builder if he signed the application as the representative.  
528 And it included suggested conditions that the Board would place on the permit if it is  
529 approved. Have you not had a chance to review those?  
530  
531 Mr. Marsden - I have -- I have -- I haven't seen that.  
532  
533 Mr. Blankinship - Mr. Madrigal, could you let the -- let Mr. Marsden -- oh you  
534 have a printed copy.  
535  
536 Mr. Marsden - So that would be the part that's highlighted in yellow?  
537  
538 Mr. Blankinship - There's seven conditions.  
539  
540 Mr. Madrigal - All the conditions.  
541  
542 Mr. Marsden - Okay. Yes.  
543  
544 Mr. Bell - Do you understand it?  
545  
546 Mr. Marsden - Those are agreeable. Those terms are agreeable.  
547  
548 Mr. Bell - Okay. And you understand and agree with -- agree with  
549 them?  
550

551 Mr. Marsden - Yes.

552  
553 Mr. Bell - All right. Thank you. Any other questions by the staff or  
554 Board?  
555

556 Mr. Johnson - And especially number six is on that short term, the guest  
557 house shall not be offered for short-term rental until -- unless a conditional use permit is  
558 approved for that purpose.  
559

560 Mr. Marsden - Yes.

561  
562 Mr. Johnson - Okay.

563  
564 Mr. Bell - Thank you, Mr. Marsden, Jr. That's it.  
565

566 Mr. Marsden - No further questions?

567  
568 Mr. Bell - No further questions.  
569

570 Mr. Marsden - All right. Thank you very much.  
571

572 Mr. Blankinship - Is there anyone else in the room who would like to speak,  
573 either in favor or in opposition to this case? And I'm assuming that the builder on Webex  
574 doesn't have anything to add, but if you do please let us know.  
575

576 Mr. Bell - All right. Hearing none we will go on to the vote. Do I hear a  
577 motion? I move that we approve the conditional use permit and subject to the conditions  
578 recommended by the staff. Although the building would be on the side yard, it would be  
579 almost 100 feet from the road. The side facing the neighbor. It will be consistent with the  
580 surroundings and will be -- it will not be detrimental to the area. Therefore we -- I make  
581 the motion.  
582

583 Mr. Johnson - I second.

584  
585 Mr. Bell - Do I hear any discussion? All those in favor of the motion say  
586 aye. All those opposed. Motion carried.  
587

588 On a motion by Mr. Bell, seconded by Mr. Johnson, the Board **approved** case **CUP2020-**  
589 **00018, DONALD D. MARSDEN, JR.'s** request for a conditional use permit pursuant to  
590 Section 24-95(i)(4) of the County Code to build a detached garage in the side yard at  
591 8004 Hermitage Road (Parcel 775-752-4262) zoned One-Family Residence District (R-  
592 3) (Brookland). The Board approved the request subject to the following conditions:  
593

594 1. This conditional use permit applies only to allowing an accessory structure in the  
595 western side yard. All other applicable regulations of the County Code shall remain in  
596 force.



643 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chair,  
644 members of the Board. The subject property is located in the Sleepy Hollow Subdivision  
645 at the corner of Sleepy Hollow Road and Riverwood Drive. This is one of those situations  
646 where the home faces Riverwood although under the zoning ordinance Sleepy Hollow is  
647 technically the front, as this is the shortest street frontage. And this is a view of the home  
648 here facing Riverwood.

649  
650 The applicant would like to construct a block patio in the side yard along with a masonry  
651 fireplace that would be up to 11 feet in height. And you can see here part of the patio  
652 that's being constructed and then over here is where the fireplace would go, and this is a  
653 drawing the applicant provided of that.

654  
655 Because these structures would be located in the side yard, the applicant is applying for  
656 conditional use permit. In evaluating this request, the property is zoned R-1, One-Family  
657 Residence District, and is designated Suburban Residential on the 2026 Land Use Plan.  
658 A one-family dwelling is consistent with these designations, and an accessory structure  
659 is permitted in the side yard with the approval of a conditional use permit.

660  
661 In looking at detrimental impact, although technically in the side yard, to the casual  
662 observer the improvements would be located in the rear yard due to the orientation of the  
663 home. The fireplace would be located roughly 11 feet off the property line.

664  
665 As you can see here, there is a decent screen between the adjacent property owner and  
666 the applicant's property. This property owner over here did send an email indicating he  
667 had no opposition to this request. Based on these facts, staff does not anticipate a  
668 substantial detrimental impact to nearby property.

669  
670 In conclusion, the proposed fireplace and patio would be located in the side yard.  
671 Although, again, it would appear to be in the rear yard based on the home's orientation  
672 towards Riverwood Drive. Due to the 11-foot setback, screening between the two  
673 properties, and no opposition from the adjacent property owners, staff does not believe  
674 there would be any detrimental impact. As a result, we recommend approval of this  
675 request subject to the conditions found in your staff report.

676  
677 This concludes my presentation, and if you have any questions, I will be happy to answer  
678 those. Thank you.

679  
680 Mr. Bell - Questions?

681  
682 Mr. Green - Yes. The work that's already been done is okay. It's this  
683 additional work is what needs our approval.

684  
685 Mr. Gidley - Yes, sir. This patio here I would consider ground level and  
686 not needing any approval. If they raise it up -- the diagram they submitted showed it more  
687 like a foot, so if you'd technically, you know, step up to it, then at that point even more it's  
688 a structure traditionally.

689  
690 The fireplace that was shown back here, this would be a structure. And being in the side  
691 yard it would need a conditional use permit from the Board. Yes, sir.  
692  
693 Mr. Bell - Any other questions? Thank you, Paul.  
694  
695 Mr. Gidley - Thank you.  
696  
697 Mr. Hamilton - I'm Matt Hamilton, H-a-m-i-l-t-o-n. We moved to the area  
698 about three or four years ago. We wanted to create an area in the back yard where we  
699 could spend time as a family. We eat outside a lot. We eat dinner together as a family  
700 often. And so we, after several years of planning and saving, we tried to make an outdoor  
701 patio area that's consistent with the fellow neighborhood.  
702  
703 So that's where we're going. And then I didn't realize that this was my front yard, or side  
704 yard, per se, since it was logically located in the rear of the property. But I found out after  
705 we submitted for the permits.  
706  
707 Mr. Reid - Mr. Hamilton.  
708  
709 Mr. Hamilton - Yes, sir.  
710  
711 Mr. Reid - Are you in agreement with the conditions of approval in the  
712 staff report? Have you seen --  
713  
714 Mr. Hamilton - I have not reviewed that, sir.  
715  
716 Mr. Reid - You haven't.  
717  
718 Mr. Hamilton - Yes, sir. I'm in agreement with those conditions.  
719  
720 Mr. Reid - Okay. Thank you. Thank you.  
721  
722 Mr. Bell - Are there any other questions?  
723  
724 Mr. Hamilton - No, sir. I just had to find out things after --  
725  
726 Mr. Bell - Thank you.  
727  
728 Mr. Green - Vote now.  
729  
730 Mr. Hamilton - Pardon?  
731  
732 Mr. Green - We vote now.  
733  
734 Mr. Hamilton - Oh, you vcte now. Got you.

735  
736  
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780

Mr. Bell - Mm-hmm.

Mr. Blankinship - Is there anyone else in the room who would like to speak to this case? Either in favor or in opposition? Mr. Chair, I'm told there is no one on Webex for this application, so a discussion or a motion would be in order.

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

Mr. Reid - I move that we approve the conditional use permit subject to the conditions recommended by the staff. Although this would be in the side yard, in the yard -- in the side yard as defined in our code, it is behind the house. The chimney would be about 11 feet tall and about 11 feet from the neighbor's property, so it would not appear excessive. The patio adds to the value of the home, and I think these improvements will fit into the neighborhood.

Mr. Green - Second.

Mr. Bell - We got a second by Mr. Green. Any discussion? No request for discussion. We'll go for the vote. All those in favor of the motion say aye. All those opposed. Hearing none opposed the motion carries.

On a motion by Mr. Reid, seconded by Mr. Green, the Board **approved** case **CUP2020-00019 MATTHEW HAMILTON**'s request for a conditional use permit pursuant to Section 24-95(i)(4) of the County Code to build accessory structures in the side yard at 8657 Riverwood Drive (SLEEPY HOLLOW) (Parcel 749-736-9645) zoned One-Family Residence District (R-1) (Tuckahoe). The Board approved the request subject to the following conditions:

1. This conditional use permit applies only to the construction of the patio and fireplace in the side yard. All other applicable regulations of the County Code shall remain in force.
2. Only the improvements shown on the plot plan and building design filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.
3. The applicant shall maintain a planting of evergreen shrubs between the property line and the detached fireplace.
4. All exterior lighting shall be shielded to direct light away from adjacent property and streets.
5. A building permit for the proposed improvements must be approved by August 26, 2022, or this conditional use permit will expire. If the building permit is cancelled or



827 consistent with the land use designation. Because the addition will result in the garage  
828 being in the side yard, he is required to obtain the CUP to ensure it does not create any  
829 detrimental impact.

830  
831 The subject property is part of a larger lot residential subdivision where lots range  
832 between 1 and 9 acres in size. The two adjacent lots on either side of the property are  
833 on 5 and 6 acre parcels respectively. The rear half of the subject property is wooded and  
834 backs on to an undeveloped and heavily forested 8-acre area that serves as common  
835 area for the adjacent subdivision.

836  
837 The existing detached garage was built in 2011 and it has been part of the property for  
838 the last 9 years. It's a one-story structure with a storage attic and it's architecturally  
839 consistent with the existing home.

840  
841 It sits approximately 49 feet from the side property line and 276 feet distant from the front  
842 property line. Although it is clearly visible from the adjacent home to the south, it does  
843 not appear to have caused any detriment impacts to that home or surrounding properties.  
844 Additionally, staff is not aware of any complaints resulting from the detached garage.

845  
846 In conclusion, the existing garage has been in place for over 9 years and is art --  
847 architecturally consistent with the home. It's set back over 270 feet from the front property  
848 line, and 49 feet from the side property line. The rear setback is over 600 feet from the  
849 undeveloped land, designated as common area for the adjacent subdivision.

850  
851 This CUP is only necessary because of the proposed addition off the rear of the existing  
852 home which will place the garage in the side yard. Based on the facts of the case, staff  
853 recommends approval subject to conditions.

854  
855 That concludes my presentation.

856  
857 Mr. Bell - Any questions by staff or Board? Seeing none or hearing  
858 none thank you.

859  
860 Mr. Siewert - Good morning-.

861  
862 Mr. Bell - Morning, sir.

863  
864 Mr. Siewert - I'd like to state my name, Steve Siewert, spelled S-i-e-w-e-r-t.  
865 And I'd only like to add that, as you've seen from the demonstration that was provided,  
866 there are -- there's one house to the left of us and one house to the right of us and there  
867 -- those are the only two homes where the sunroom would be visible.

868  
869 And, actually, the home to the left because of the detached garage wouldn't be able to  
870 see the sunroom at all. And I do have letters from both of those neighbors saying they  
871 have no objections to what we're about to do. And I'll stand here for any other questions  
872 you might have.

873  
874 Mr. Green - I have a question. How do you keep your grass so green?  
875  
876 Mr. Siewert - Well I wanted to thank the individual who took the picture.  
877 Because they make the house look really, really good. So. But that's not really grass,  
878 that's just good weeds.  
879  
880 Mr. Blankinship - We photoshop the photos sometimes.  
881  
882 Mr. Siewert - I appreciate that.  
883  
884 Mr. Johnson - But yes. I went out there, it's a nice subdivision as well, that  
885 the neighbor on it across the street. And also noticing yours. Do you still have the  
886 attached garage here to the house?  
887  
888 Mr. Siewert - The attached garage, you know, is in the middle of  
889 modification right now. So the framework has already been done to convert that to a  
890 master bedroom, master bath, and a walk-in closet. Now we're trying to get my parents  
891 to move there, and that's an ongoing battle, but that's' the intent of that -- of that -- of that  
892 room.  
893  
894 Mr. Johnson - Yes. Because I noticed the materials laying on the side on  
895 the ground over on the other side when I was out there.  
896  
897 Mr. Siewert - Yes, sir.  
898  
899 Mr. Johnson - And I was just wondering what was -- that was something else  
900 to it. Again, it's the -- you got a lot of space and the garage -- detached garage also have  
901 everything to compare out there. That's it. I was just curious about the construction.  
902  
903 Mr. Siewert - So there's about four projects that are going on right now. The  
904 front porch is being extended. You can see some of the dirt work there. That's being  
905 extended out. And the first three things I'm going to mention are all in the same permit,  
906 which is the -- is not for this particular hearing.  
907  
908 The second project, which is the renovation of the attached garage to the master  
909 bedroom, and then on the side of that house, on the side of -- to the left part of the house  
910 we are also putting a balcony off of the second floor that's above where that master  
911 bedroom's going to be. So a lot of that material is also there for that.  
912  
913 So those three pieces are on the one permit that's been approved and then this last  
914 project is the -- is the sunroom.  
915  
916 Mr. Green - Okay. Appreciate it.  
917

918 Mr. Bell - Are there any questions for -- or concerns that anyone else in  
919 here would like to address us about? Seeing none we'll go ahead with the -- with the  
920 vote. Do I hear a motion on this case?

921  
922 Mr. Johnson - Yes, sir. Mr. Chair, I move that we approve the conditional  
923 use permit subject to the condition recommended by the staff. The garage has been  
924 there for about 10 years, and the garage is not moving or changing. And the only change  
925 is the addition on the rear of the house. And the proposed additions would add value to  
926 the property and would not have any detrimental impacts to the neighborhood or to the  
927 property. I motion that we approve.

928  
929 Mr. Bell - Do I hear a second?

930  
931 Mr. Reid - Second.

932  
933 Mr. Bell - Hearing a second, we'll go ahead and ask for any more  
934 discussion. No more discussion we'll go ahead and vote. All those in favor of the -- of  
935 the motion say aye. All those opposed. Hearing no opposed then the motion carries.

936  
937 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved** case **CUP2020-**  
938 **00020 STEVEN SIEWERT's** request for a conditional use permit pursuant to Section 24-  
939 95(i)(4) of the County Code to allow a garage to remain in the side yard at 6416 Cookes  
940 Farm Drive (TURKEY ISLAND BLUFFS) (Parcel 853-684-7752) zoned Agricultural  
941 District (A-1) (Varina). The Board approved the request subject to the following  
942 conditions:

943  
944 1. This conditional use permit allows only the existing garage to remain in the side yard.  
945 All other applicable regulations of the County Code shall remain in force. Any substantial  
946 changes or additions to the garage shall require a new conditional use permit.

947  
948 2. A building permit for the proposed sunroom addition must be approved by August 26,  
949 2022, or this conditional use permit will expire. If the building permit is cancelled or  
950 revoked because construction was not diligently pursued, this conditional use permit will  
951 expire at that time.

952  
953  
954 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
955 **Negative:** 0  
956 **Absent:** 0

957  
958  
959 Mr. Blankinship - Mr. Chair, the next case is conditional use permit 2020,  
960 number 21, Robert and Stuart Roberts.

961  
962 **CUP2020-00021 ROBERT AND STUART ROBERTS** request a conditional  
963 use permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the side

964 yard at 911 S Gaskins Road (WEST KNOLL) (Parcel 738-732-7571) zoned One-Family  
965 Residence District (R-0) (Tuckahoe).

966  
967 Mr. Blankinship - Would everyone who intends to speak to this case please  
968 stand and be sworn in? All raise your right hands, please. Do you swear the testimony  
969 you're about to give is the truth, the whole truth, and nothing but the truth, so help you  
970 God?

971  
972 Mr. Blankinship - Thank you. Mr. Gidley.

973  
974 Mr. Gidley - Thank you, Mr. Secretary. The subject property is located  
975 along South Gaskins Road adjacent to The Country Club of Virginia and their James River  
976 Golf Course. The property contains 2.887 acres, and a two-story dwelling built last year.  
977 And this is a view of the existing home from South Gaskins Road.

978  
979 The applicant is requesting permission to place an in-ground swimming pool in the side  
980 yard and you can see the location here. This is looking north. To the left would be South  
981 Gaskins Road and the pool would go right in through here. And, as you can see, it's kind  
982 of secluded here with the garage and the home right here.

983  
984 The pool would meet the required setback off the adjacent property as well.

985  
986 In evaluating this request, the property is zoned R-0, One-Family Residence District, and  
987 is designated Suburban Residential on the Land Use Plan. A one-family dwelling is  
988 consistent with both of these designations, and an accessory swimming pool is allowed  
989 in the side yard with the approval of a conditional use permit.

990  
991 As far as any substantial detrimental impact to nearby property, again, the pool would go  
992 in this location right here. And due to its location behind the garage, it would not be visible  
993 from the public street. Beside the house it would not be visible from the house to the  
994 north. And as far as the golf course back here, they can build by right in the rear yard, so  
995 by moving it to the side yard here it's actually further from the golf course, which means  
996 less impact on the golf course and, obviously, less impact of a wayward golf ball coming  
997 into the pool and perhaps hitting somebody.

998  
999 Staff did receive an email and a phone call from the adjacent property owner to the south  
1000 here to oppose the request. This is a view from the proposed pool location towards the  
1001 south. The neighbor's home is actually located behind the trees that you see here in the  
1002 distance, so staff does not believe there would be any substantial detrimental impact to  
1003 that property.

1004  
1005 My understanding from speaking to the owner is one of their family members may wish  
1006 to build a home in this field here. But, again, the swimming pool would meet the required  
1007 setback off the side property line. Even if they had to move it to the rear yard, they would  
1008 have every right to build the same distance from the property line. So staff does not  
1009 believe there would be any substantial detrimental impact to nearby property.

1010  
1011 In conclusion, the property contains an existing dwelling on 2.887 acres of land. The  
1012 request is to place a pool in the side yard. The pool would be located over 400 feet from  
1013 South Gaskins Road, and at least 300 feet from the closest residence. Due to the lack of  
1014 any detrimental impact, staff recommends approval of this request subject to the  
1015 conditions in your staff report.

1016  
1017 This concludes my presentation, and if you have any questions, I will certainly be happy  
1018 to answer those. Thank you.

1019  
1020 Mr. Green - Fencing. What type of fencing?

1021  
1022 Mr. Gidley - The applicant under the building code would be required to  
1023 either cover the pool with an automatic cover or put up a fence. And my understanding  
1024 is they want to do a fence. I don't think I have a copy of that fence in here. Maybe that's  
1025 it right here.

1026  
1027 Mr. Green - That's it there.

1028  
1029 Mr. Gidley - Okay. So the pool would have a fence there. And when I was  
1030 out there the property line was marked and the owner explained to me that her  
1031 understanding is she thought the adjacent property owner was also going to put up a  
1032 fence as well. So there might be two fences. But the pool would meet setbacks and they  
1033 would have that fence that you see there, Mr. Green.

1034  
1035 Mr. Johnson - Also would there be a little fence around the pool itself? You  
1036 know, just in case someone walking around, walking out?

1037  
1038 Mr. Green - Exterior fences.

1039  
1040 Mr. Gidley - This is the fence up here that you see right here.

1041  
1042 Mr. Johnson - Okay.

1043  
1044 Mr. Gidley - And, again, here you have a building or walkway here. So  
1045 they would have to meet building code as far as keeping the pool safe. Yes, sir.

1046  
1047 Mr. Johnson - Okay.

1048  
1049 Mr. Johnson - You said something, just for clarification, that before I -- if it's  
1050 covered. If it's covered, you don't need a fencing? Or -- fence?

1051  
1052 Mr. Gidley - My understanding is if you have an automatic cover that if a  
1053 pool is not in use the cover automatically will respond and cover the pool. In that case  
1054 my understanding is building code would allow that.

1055

1056 Mr. Johnson - Oh. So you wouldn't need a fencing.  
1057  
1058 Mr. Gidley - Not necessarily.  
1059  
1060 Mr. Johnson - That's what I was concerned with. Okay.  
1061  
1062 Mr. Bell - Any other questions? Thank you, Paul.  
1063  
1064 Mr. Gidley - Thank you, gentlemen.  
1065  
1066 Mr. Blankinship - We'll hear from the applicant now, please.  
1067  
1068 Mr. Gray - Kelly Gray, G-r-a-y. We are proposing the 14-foot by 23-foot  
1069 pool in the side yard, as he explained.  
1070  
1071 Main reason for being in the side yard is for privacy for the homeowners. Because they  
1072 are located along the cart path and that fairway for the golf course it's a lot of, you know,  
1073 just golf traffic there. So by tucking it into that little cubby it's more private for them and  
1074 actually more private as far as for the people around the golf course as well.  
1075  
1076 And with -- when you were talking about that fence thing I was actually as surprised as  
1077 you with the automatic cover you do not have to have the normal 4-foot fence around the  
1078 pool. But we are -- we will have both. They plan to have the automatic cover as well as  
1079 the fence to satisfy code.  
1080  
1081 As far as the pool, the fence structure, which is really the only thing you'll see, it'll be stone  
1082 columns, which are corresponding to the existing house, with wrought iron in between.  
1083  
1084 Mr. Blankinship - Mr. Gray, you're the contractor for the Roberts?  
1085  
1086 Mr. Gray - Yes, sir.  
1087  
1088 Mr. Blankinship - Thank you.  
1089  
1090 Mr. Reid - Mr. Gray, will there be any little maintenance building for the  
1091 equipment and everything to service the pool?  
1092  
1093 Mr. Gray - It's in the existing garage. The back wall of that existing  
1094 garage the pool equipment will be against that wall. And it's on that same south side of  
1095 the property, but it'll be maintained within the fenced area and view -- it won't be visible.  
1096  
1097 Mr. Reid- All right. Thank you.  
1098  
1099 Mr. Bell - Any other questions? Thank you.  
1100  
1101 Mr. Gray - Thanks.

1102  
1103 Mr. Blankinship - All right. Is there anyone in the room who wishes to speak in  
1104 favor of this application? All right. Is there anyone who would like to speak in opposition  
1105 to the application? Please come to the podium.

1106  
1107 Ms. Hall - Hi. My name is Kristy Hall, and I am the partial owner next  
1108 door who have always dreamed to build a house on that lot next to the Roberts. And I've  
1109 loved -- I grew up out there and I've loved the area and it's always been kept kind of  
1110 private and kept its value just because of the building restrictions and that sort of thing.

1111  
1112 Originally there was one house on that lot and the Roberts bought it, and then they  
1113 knocked the house down and divided it into two lots. So when they did that they clearly  
1114 knew all the rules and regulations. And they got the bigger lot, as you can see. And it's  
1115 just a little frustrating that they didn't plan to do it the proper way and have the right amount  
1116 of space between our property line and their property line. Because part of the beauty of  
1117 -- what? Okay.

1118  
1119 Mr. Green - Okay.

1120  
1121 Ms. Hall - Part of the beauty of living out there is the privacy. And I feel  
1122 like they came closer to us because it is a nice grass area. And they started to actually  
1123 cut the grass on our property and put some building materials there. So we had to get a  
1124 survey. And they were, I think, 40 feet or so on our property. So we just kind of felt like  
1125 they were being a little aggressive and, you know, we -- we're -- this -- it used to be the  
1126 country, so that's what we were kind of used to.

1127  
1128 I just feel like this whole situation is -- could have been avoided because they started with  
1129 a blank slate. It was very black and white. They clearly knew the rules when they broke  
1130 up the two properties. And so it was a little frustrating. Nobody wants a pool in a side  
1131 yard next to you. They have plenty of room to put it in the back or the front just like their  
1132 neighbors did a beautiful pool -- you can see it in that picture and it looks great -- in the  
1133 front yard.

1134  
1135 So I really hope that you all won't grant this conditional use permit and that you'll keep  
1136 this area beautiful just like it has been for years. So thank you so much.

1137  
1138 Mr. Green - Excuse me.

1139  
1140 Ms. Hall - Yes.

1141  
1142 Mr. Green - You said you are next to it?

1143  
1144 Ms. Hall - Yes. So my family owns the 11 acres next to it, and there's a  
1145 lot there. I actually live in --

1146  
1147 Mr. Green - That's the vacant lot?

1148  
1149 Ms. Hall - A vacant lot. It's the grassy area. They showed you the  
1150 picture. My parents are down, and my brother and his wife are down, but that lot was  
1151 really meant for me to build a house. That's where my house is going to go, so --  
1152  
1153 Mr. Green - But could you repeat -- if you --  
1154  
1155 Mr. Blankinship - Can you use the microphone?  
1156  
1157 Mr. Green - Yes.  
1158  
1159 Ms. Hall - Oh. That's where my house is going to go.  
1160  
1161 Mr. Green - Yeah. If we could go back to the property line.  
1162  
1163 Mr. Blankinship - Mr. Green, try to get right up on your mic.  
1164  
1165 Mr. Green - If you can go back to the property line. No, the other one.  
1166  
1167 Mr. Blankinship - The aerial that shows the property.  
1168  
1169 Mr. Green - Yeah. Yes.  
1170  
1171 Mr. Blankinship - Go ahead and zoom a little bit there, Paul, as well.  
1172  
1173 Mr. Green - Could you -- could you expand it to where she's, I mean, so  
1174 -- oh. Okay. So --  
1175  
1176 Ms. Hall - So, see, next to the yellow dots.  
1177  
1178 Mr. Green - Yeah.  
1179  
1180 Ms. Hall - That lot right there. Which I would never go 10 feet to their  
1181 property line, because I would give them privacy. My parents are down there and then  
1182 my brother and his wife are to the left. So it's 11 acres of land.  
1183  
1184 Mr. Green - Okay.  
1185  
1186 Mr. Bell - Any more questions?  
1187  
1188 Ms. Hall - Any more questions?  
1189  
1190 Mr. Bell - Any more questions? Thank you.  
1191  
1192 Mr. Blankinship - Next speaker.  
1193

1194 Ms. Ancarrow - Good morning.

1195  
1196 Mr. Bell - Good morning.

1197  
1198 Ms. Ancarrow - I am Susan Ancarrow, A-n-c-a-r-r-o-w. I'm Kristy's sister-in-  
1199 law. I live in the house on the bottom left on the screen with my husband. And we live  
1200 next door to my husband's parents who live in the house on the bottom right. And we  
1201 also object to this conditional use permit for many of the same reasons that Kristy just  
1202 articulated.

1203  
1204 The 11 acres that we live on is very private. We actually purchased our house in 2013  
1205 for fair market value, and since we purchased it the immediate neighbor, which is the 911  
1206 South Gaskins, changed from 5 acres with one house on it that you could neither see nor  
1207 hear, now -- excuse me -- now it's two parcels with two houses on it.

1208  
1209 The closest property, which is the Roberts, they've built a beautiful house with a beautiful  
1210 three-car garage and it is as close to our side of the property as it could possibly be under  
1211 the rules. And we view their -- the back of their three-car garage. That's what we see  
1212 from our house. Whereas before the land was subdivided it was just trees and you  
1213 couldn't see your neighbor from our house.

1214  
1215 So our property value has already been diminished by the subdivision of the original 5-  
1216 acre lot into two. And the building of the garage so close to our property. And we feel  
1217 that the addition of this pool in the side yard would just add insult to injury by adding one  
1218 more structure in that tiny area when they've got 2.88-acres to work with where they could  
1219 put the pool anywhere else.

1220  
1221 You see there's a lot of space behind the house facing Gaskins Road where they could  
1222 put a pool that would be far away from the road and farther away from us as the neighbors.  
1223 And would also still have the privacy from the golf course. So we don't object to a pool,  
1224 we object to the location of the pool where they're proposing to put it so close to our  
1225 property line when there's already a large three-car garage that we have to look at. And  
1226 the equipment for the pool would be on the backside of that garage, which would also be  
1227 in our direct viewing line of site.

1228  
1229 So we just feel like the location of the proposed pool would be more detrimental to our  
1230 property value, and we hope that the Board will consider objecting, or rejecting, the  
1231 conditional use permit because there are other locations on the property where the pool  
1232 could be placed that wouldn't be detrimental to us as the immediate neighbor.

1233  
1234 Mr. Green - Do you object to them building a house on that parcel in front?

1235  
1236 Ms. Ancarrow - To the house that they've built?

1237  
1238 Mr. Green - I thought -- I heard that they made the -- build a house in front  
1239 of that parcel.

1240  
1241 Ms. Ancarrow - Are you talking about my sister-in-law who might --  
1242  
1243 Mr. Green - No. That the Roberts.  
1244  
1245 Ms. Ancarrow - So we have no objection to the house that they've already built  
1246 there. It's --  
1247  
1248 Mr. Green - But they want to -- they want to build another house with --  
1249  
1250 Mr. Blankinship - I think the confusion, Mr. Green, is where you see two houses  
1251 on the screen there used to be one house. Those were two lots and there was one house  
1252 that crossed that property line. So they demolished that house, divided it, and have  
1253 already built the two houses.  
1254  
1255 Ms. Ancarrow - That's right. That's right. So what's there right now in the  
1256 yellow is the Robert's house and garage. Above -- on the screen above is the other half.  
1257 Those two -- the yellow area and the part above it used to be a single five-acre lot with  
1258 one house on it.  
1259  
1260 Mr. Blankinship - Right.  
1261  
1262 Ms. Ancarrow - It's now two, two-plus-acre parcels each with one house. But  
1263 no additional houses are proposed as far as I know.  
1264  
1265 Mr. Green - Are the houses somewhere in here?  
1266  
1267 Mr. Blankinship - No, sir. Just up --  
1268  
1269 Ms. Ancarrow - No.  
1270  
1271 Mr. Blankinship - The house that shows with the pool.  
1272  
1273 Ms. Ancarrow - Do you see where the pool is? The blue --  
1274  
1275 Mr. Green - Yeah.  
1276  
1277 Ms. Ancarrow - Okay. That's one house on a 2.2-acre parcel. And then below  
1278 it is the Roberts house, which is on a 2.88-acre parcel. Those two parcels together, 10  
1279 years ago, was one 5-acre parcel.  
1280  
1281 Mr. Green - But I thought I heard -- didn't they say someone other might  
1282 want to build another house here?  
1283  
1284 Unknown Speaker - Her sister-in-law.  
1285

1286 Mr. Blankinship - That --  
 1287  
 1288 Mr. Green - Oh. Okay.  
 1289  
 1290 Mr. Blankinship - Can you indicate where your sister-in-law is hoping to build  
 1291 here?  
 1292  
 1293 Ms. Ancarrow - Sure. That's correct. That's correct. And we have no  
 1294 objection to that.  
 1295  
 1296 Mr. Blankinship - Yes. That's correct.  
 1297  
 1298 Mr. Reid - Ms. Ancarrow --  
 1299  
 1300 Ms. Ancarrow - Yes.  
 1301  
 1302 Mr. Reid - Are there any trees between the pool and your property to  
 1303 shield your property from the pool?  
 1304  
 1305 Ms. Ancarrow - No. I don't know if I can take us back to the previous photo.  
 1306  
 1307 Mr. Blankinship - Yeah. You can click -- yes.  
 1308  
 1309 Ms. Ancarrow - Woops. Maybe he could --  
 1310  
 1311 Mr. Blankinship - Zoomed in a little tight there.  
 1312  
 1313 Ms. Ancarrow - Oh. Sorry.  
 1314  
 1315 Mr. Blankinship - Yeah. Those photos are huge. There you go.  
 1316  
 1317 Ms. Ancarrow - Can you show the one that had -- that showed the survey line  
 1318 on there? That would be the helpful.  
 1319  
 1320 Mr. Gidley - Now we got the office -- .  
 1321  
 1322 Mr. Blankinship - A photo -- no. A photo that had a survey.  
 1323  
 1324 Ms. Ancarrow - I mean the one with the -- so go to the where you could see  
 1325 the orange survey marker line on the right.  
 1326  
 1327 Mr. Gidley - Okay. Okay. Oh, and the setback is 10.5 feet.  
 1328  
 1329 Ms. Ancarrow - Yes.  
 1330  
 1331 Mr. Gidley - It's 10 feet.

1332  
1333 Mr. Blankinship - She wants the photo that shows that.  
1334  
1335 Mr. Gidley - There we go. I think that shows it.  
1336  
1337 Ms. Ancarrow - Yes.  
1338  
1339 Mr. Blankinship - Is that the one, ma'am?  
1340  
1341 Ms. Ancarrow - No. It's farther to the right of that.  
1342  
1343 Mr. Blankinship - One more down. Yes.  
1344  
1345 Mr. Gidley - And you were able to just reduce it in size.  
1346  
1347 Ms. Ancarrow - Yes. That's showing -- right now. Oh there you go.  
1348  
1349 Mr. Gidley - See this string line?  
1350  
1351 Ms. Ancarrow - Yeah. So where the orange string is, there're no trees for 30  
1352 or 40 feet to the right of that. So, to answer the question, no there is -- there would not  
1353 be any screening. There's not currently a screen blocking from our view.  
1354  
1355 Mr. Reid - Thank you.  
1356  
1357 Mr. Green - So would you like to have a screen blocking that?  
1358  
1359 Ms. Ancarrow - I mean, our preference -- it's a really tight space. You know,  
1360 you can see the edge of the house there. I mean, the pool would be jammed in that  
1361 section right there. Our preference would be for the pool to be anywhere but that location.  
1362 Just because it's so crammed. If the pool does go there, we intend to plant trees to block  
1363 the view. Because we don't want to be looking at a pool.  
1364  
1365 Mr. Green - Well, would there be a -- on the other side would someone  
1366 else be complaining, or the people playing golf or something?  
1367  
1368 Ms. Ancarrow - So I don't know that the country club -- I mean, the -- they're  
1369 neighbors to the left --  
1370  
1371 Mr. Green - Right.  
1372  
1373 Ms. Ancarrow - -- already have a pool in their -- in the part of the yard that  
1374 faces the golf course. So, I mean, the country club -- I'm not aware that the country club  
1375 objected to that pool being built. So I wouldn't expect that the country club would object  
1376 to the pool in the front.  
1377

1378 Now the Roberts might not want the pool in the front, because the -- from part of the  
1379 presentation that we heard they wanted privacy. So it seems to me that the most private  
1380 location away from the country club and away from us would be to put it on the side of  
1381 the house facing Gaskins Road.

1382  
1383 Where their house is located, it is very far up a hill from Gaskins, and there's plenty of  
1384 space to put a pool in that area where it -- you wouldn't be able to see it from the road.  
1385 None of the, you know, neither of the neighbors would be impacted by it and it -- and the  
1386 house would be between the pool and the country club. So in terms of the impact on the  
1387 surrounding neighbors that, to me, seems like the least -- that's the location that would  
1388 have the least impact on the neighbors.

1389  
1390 The location that's currently proposed has a big impact on our property, because you  
1391 would be able to see it and presumably hear it, if people are making noise. But, I mean,  
1392 they're not noisy neighbors right now. So.

1393  
1394 Mr. Bell - Any other questions or comments?

1395  
1396 Mr. Green - Well I guess, with all due respect, what I'm hearing is, is that,  
1397 you know, you don't -- is that, you know, because you all own -- you all own 11 acres, you  
1398 don't want them to put a pool in. But yet they own a property and under certain conditions  
1399 they can put a pool in. And did you ever -- did anybody ever discuss with them, you know,  
1400 that you would -- might want them to have an alternative -- alternative place to put a pool?  
1401 And, I don't know, I just think that this is their property and there, you know, they wanted  
1402 to put a pool there and can meet certain conditions that they maybe should have a right  
1403 to do that. Just like the folks next door.

1404  
1405 Because if you look at the photos, I would think that the pool that's next door, these  
1406 individuals can see that pool. And I have a pool that's next door to me and I can see that  
1407 pool. But I guess, you know, you all talked about the keeping the character of the  
1408 neighborhood the way it is, but, you know, things change. And, you know, what you're  
1409 beginning to see now, I'm beginning to see now, is more individuals are opting to put in  
1410 pools because of COVID-19, because they want that self-containment. And in that -- in  
1411 that I hear your objections. And I can see.

1412  
1413 But when I look at one of their properties, when I look at one of the pictures, it looked like  
1414 your house is further away and it looks like some trees are blocking your view, the view.  
1415 Is that not true? Could we go back to that picture?

1416  
1417 Ms. Ancarrow - We can see the garage very clearly, which is right next to  
1418 where the pool would go.

1419  
1420 Mr. Green - No, no, no. The other picture.

1421  
1422 Mr. Johnson - With their houses.

'23

1424 Mr. Green - That one. Yeah.  
1425  
1426 Mr. Blankinship - We should have the expanded aerial as well. Yes.  
1427  
1428 Mr. Green - There it is. I believe this is your house right there?  
1429  
1430 Ms. Ancarrow - Yes. It is.  
1431  
1432 Mr. Green - Yes. So aren't those trees?  
1433  
1434 Ms. Ancarrow - Those are trees. Those are trees. But we have a view of the  
1435 garage.  
1436  
1437 Mr. Green - But what's the distance between your home because that  
1438 looks like a large distance between the two houses.  
1439  
1440 Ms. Ancarrow - Yeah. I do not know the distance.  
1441  
1442 Mr. Gidley - 350 feet.  
1443  
1444 Mr. Green - Only 350 feet?  
1445  
1446 Mr. Gidley - Yes, sir.  
1447  
1448 Mr. Green - Oh.  
1449  
1450 Ms. Ancarrow - But to answer some of your questions. So you are 100  
1451 percent right that the Roberts have the right to build the house and the garage that they've  
1452 already built.  
1453  
1454 It's my understanding that they can only build this side pool with a conditional use permit.  
1455 And one of the questions that the conditional use permit asks is, what would the impact  
1456 be on the neighbors and would it be detrimental to any of the neighbors? And that -- the  
1457 permit application said that there would be no impact to the neighbors. And as one of the  
1458 neighbors we strenuously disagree with that statement and believe that we would be  
1459 detrimentally impacted by a pool being placed in that specific location.  
1460  
1461 Again, we have no objection to a pool in any other part of the property and would hope  
1462 that the Board would consider that in evaluating this application.  
1463  
1464 Mr. Green - Okay.  
1465  
1466 Mr. Bell - Any other comments? Thank you.  
1467  
1468 Ms. Roberts - Hi.  
1469

1470 Mr. Bell - Hi.

1471  
1472 Ms. Roberts - I'm Stuart Roberts, R-o-b-e-r-t-s. My first name is harder to  
1473 spell, if you want me to do that. And I am the neighbor. Or I'm the applicant, excuse me.  
1474 And I apologize, I've got kind of joggled notes because I wasn't sure whether there would  
1475 be any complaints. Our neighbors had not expressed any concern to us and so we really  
1476 didn't know whether they would be here until they came in this morning. So I was just  
1477 jogging down some notes, so I apologize if I'm disorganized.

1478  
1479 First of all, we are not the ones who divided the property. I actually grew up in this area,  
1480 too, and actually babysat for Ms. Ancarrow's husband when he was a child. And so I live  
1481 down the road.

1482  
1483 This house was 5 acres, it was overgrown with a dilapidated house. The kids, who are  
1484 obviously adults, who inherited the house, they divided the lot in order to maximize what  
1485 they got from the house that they inherited. So they divided the property line the way they  
1486 did and we bought the piece that had the old house on it. And the old house was in  
1487 terrible condition, so we tore that down.

1488  
1489 We were forced into our placement of our house because the old house had a basement  
1490 and so we had to kind of make our corner fit that corner or otherwise we would have had  
1491 to do some things that I don't understand about pre-compacted dirt and things like that in  
1492 order to fill and to change the basement. That's why our house is the way it is. We didn't  
1493 do it to maximize, to encroach on the Ancarrows in any way. We really had no choice as  
1494 to where we put it.

1495  
1496 Also in regard to the suggestion that we put the pool on the Gaskin's road side, we would  
1497 love to have put a pool on the Gaskin's Road side and would have designed around that  
1498 originally, but Gaskins Road is our front yard, and so we can't put a pool in the front yard.  
1499 And so that's why we actually went into the project without putting a pool anywhere,  
1500 because we didn't know where we could put one.

1501  
1502 We didn't want a pool on the golf course side. We love our neighbors, that's their property,  
1503 they have done what they wanted to do on their property. We felt that a pool on the golf-  
1504 course side was just very visible. It isn't private. And, also, that it is obtrusive to a lot of  
1505 people. It's obtrusive to the people who use the golf course and also -- I apologize. I  
1506 can't remember your last name now-- Kristy. If Kristy --

1507  
1508 Mr. Blankinship - Hall.

1509  
1510 Ms. Roberts - If Ms. Hall ever did want to build a house, which there are no  
1511 plans submitted for a house at this time. And that's just news to me when I heard it today.  
1512 But that's something that they've talked about doing. But if they ever did build a house  
1513 up there, I think you look at the picture, that a pool on the golf-course side would be a lot  
1514 more obtrusive to them than a pool on that little side yard.

1515

1516 Like I said, when we bought the place it was this overgrown place with a house in very  
1517 poor condition. It was a mess. When we did the garage, we realized that the Ancarrows  
1518 were going to see the garage and, like I said, I've known them since I was, like, 12 or 13  
1519 years old and so what we did is when we did the back of the garage my builder, Kelly,  
1520 said, don't put copper gutters and a copper roof on the back of that garage. Nobody can  
1521 see it. And I said, well, we're putting it on the rest of the house and the Ancarrows can  
1522 see it, and so I'm going to make the back of that garage as nice as I make the rest of the  
1523 house.

1524  
1525 I don't know if there's a picture of the back of the garage. And I'm not saying the back of  
1526 the garage is a thing of beauty, but we did also put five windows across the back of the  
1527 garage that it would look evenly spaced and it would be in keeping with the rest of the  
1528 house again, so that it would look nice for the Ancarrows.

1529  
1530 So you can't see the pool from either of the existing houses. Like I said, the house next  
1531 to us might be a dream, it might be something that Kristy's wanted to do all her life. But  
1532 it's not something that's a plan at this point.

1533  
1534 And the pool meets all the guidelines. So I think that that's everything. Have I forgotten  
1535 anything, guys? Okay.

1536  
1537 Mr. Blankinship - Ms. Roberts, can I ask you about your first statement that you  
1538 would have preferred a pool in the front yard. The approval process actually is this same  
1539 process if you wanted to put it in the front yard. Now you may have meant before you  
1540 designed and built the house and the garage.

1541  
1542 Ms. Roberts - We're stuck now. I appreciate that comment.

1543  
1544 Mr. Blankinship - Okay. I just wanted to make that clear.

1545  
1546 Ms. Roberts -- Yeah. We would have had to do things differently to do that.

1547  
1548 Mr. Blankinship - All right. I understand.

1549  
1550 Ms. Roberts - But we had originally been told that we couldn't do a pool in  
1551 the front yard.

1552  
1553 Mr. Blankinship - In the front or side yard unless you got the use permit. So.

1554  
1555 Ms. Roberts - Well actually, when we first talked about it, when we first were  
1556 building the house, we were told we couldn't do one in the front yard. To be honest, we  
1557 didn't think about the side yard until after we built. It actually is a perfect place. It sits in  
1558 there nicely, it's very private. And in terms of the fence, we are going to do a fence that  
1559 runs -- and it's in some of those pictures but it -- the fence will cover the back of the  
1560 garage. I mean it will go along the back of the garage and there was that dog that you  
1561 saw in those pictures.

1562  
1563 Mr. Blankinship - Yes.  
1564  
1565 Ms. Roberts - So the fence will come out and run along the back of the  
1566 garage and then include this whole area. And actually, to correct Kelly just a teeny bit,  
1567 it's got the little stone pylons, but it's actually going to have wooden pickets, which will  
1568 also make the pool less visible than if it had wrought iron in between the posts.  
1569  
1570 So any questions?  
1571  
1572 Mr. Bell - Any questions?  
1573  
1574 Mr. Reid - I just can't believe, Ms. Roberts, I just can't believe that a small  
1575 14-foot by 23-foot swimming pool is going to have such a detrimental impact on a  
1576 neighborhood. If we were talking about an olympic pool, or something like that, I might  
1577 be in agreement. But I just can't see where a small pool like this is going to have such a  
1578 detrimental impact on a neighborhood. Well, actually it's a lovely neighborhood out there,  
1579 beautiful homes, but it's a small pool.  
1580  
1581 Ms. Roberts - Well I agree with you, Mr. Reid. And I am old and my husband  
1582 is even older.  
1583  
1584 Mr. Reid - I'm old, too.  
1585  
1586 Ms. Roberts - We are not loud people as the Ancarrows have already said.  
1587 We have two grown children, one of whom doesn't even live in this area, and the one who  
1588 is here doesn't have children, so I don't think we're going to be out there whooping it up.  
1589  
1590 Mr. Bell - Any other questions?  
1591  
1592 Mr. Blankinship - Is there anyone else in the room who intended to speak to this  
1593 case? We may have skipped over if there was any other opposition and gone straight to  
1594 your rebuttal. Okay. I just wanted to make sure of that.  
1595  
1596 Mr. Gray - I just had just one thing just kind of on the side.  
1597  
1598 Mr. Blankinship - We need you at the microphone, Mr. Gray.  
1599  
1600 Mr. Gray - Sorry. I was just reiterating that even though it's in the side  
1601 yard we are still maintaining the setbacks off of that property line. So if we were to move  
1602 the pool back closer to the golf course we could still technically maintain that exact same  
1603 distance off that property line.  
1604  
1605 Mr. Blankinship - That's correct.  
1606

1607 Mr. Gray - And not even need a conditional use permit. The reason for  
1608 the conditional use -- the permit we have applied for is to tuck it back in that little private  
1609 area and away from the cart path. But it's still the side yard. We are maintaining, you  
1610 know, legal distance off the side property line.

1611  
1612 Mr. Bell - Hearing no more questions we'll go ahead and go to the  
1613 motion.

1614  
1615 Mr. Reid - I move that we approve the conditional use permit subject to  
1616 the conditions recommended by the staff. The proposed pool meets the side-yard  
1617 setback required by code. The only reason this approval is necessary is because it is not  
1618 behind the rear plane of the house. If they move the pool a few feet to the east, it would  
1619 be allowed by right, but that location would be more detrimental because it would require  
1620 the removal of mature trees and would be more visible from the golf course.

1621  
1622 Although I understand the neighbor's sensitivity, I believe this is a better location than  
1623 further back, so I think the request should be approved.

1624  
1625 Mr. Green - Second.

1626  
1627 Mr. Bell - Any discussion? Hearing no discussion, we'll go to the vote.  
1628 All those in favor say aye. All those opposed. Hearing none opposed the motion's carried.

1629  
1630 On a motion by Mr. Reid, seconded by Mr. Green, the Board **approved** case **CUP2020-**  
1631 **00021 ROBERT AND STUART ROBERT'S** request for a conditional use permit pursuant  
1632 to Section 24-95(i)(4) of the County Code to allow a pool in the side yard at 911 S Gaskins  
1633 Road (WEST KNOLL) (Parcel 738-732-7571) zoned One-Family Residence District (R-  
1634 0) (Tuckahoe). The Board approved the request subject to the following conditions:

1635  
1636 1. This conditional use permit applies only to the location of the swimming pool in the side  
1637 yard. All other applicable regulations of the County Code shall remain in force.

1638  
1639 2. Only the improvements shown on the plot plan titled "Plat Showing Improvements on  
1640 Lot 2 in the Division of #911 South Gaskins Road" by Harvey L. Parks, Inc. dated August  
1641 15, 2019, and other design drawings filed with the application may be constructed  
1642 pursuant to this approval. Any additional improvements shall comply with the applicable  
1643 regulations of the County Code. Any substantial changes or additions to the design or  
1644 location of the improvements shall require a new conditional use permit.

1645  
1646 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
1647 shall obtain approval of an environmental compliance plan from the Department of Public  
1648 Works.

1649  
1650 4. The swimming pool shall be enclosed as required by the Building Code.

1651



1696 The properties are zoned R-5AC and are designated Suburban Mixed-Use on the 2026  
1697 Future Land Use Map. The applicant intends to build semi-detached dwellings on zero-  
1698 lot lines, which are consistent with both of these designations.

1699  
1700 Due to the configuration of the two subject lots and cul-de-sacs, the adjoining common  
1701 areas and the effects of the power line easement, the proposed garage locations will be  
1702 in the side yards. As such, they each require a CUP. In both instances the proposed  
1703 garage location would have no detrimental impacts on any of the adjacent or nearby  
1704 properties as respectfully outlined in the staff report.

1705  
1706 In conclusion, the proposed garage locations are consistent with both the zoning  
1707 ordinance and the comprehensive plan. Due to the location and shapes of the properties  
1708 and the adjoining power line easement, the proposed detached garages in the side yards  
1709 will have no detrimental impacts.

1710  
1711 Based on the facts of the case, staff recommends approval subject to conditions for both  
1712 cases. That concludes my presentation.

1713  
1714 Mr. Bell - Any questions from staff or the Board? Hearing none, thank  
1715 you, Miguel.

1716  
1717 Mr. Blankinship - All right, Mr. Chair, we have Chad Kester on Webex. Mr.  
1718 Kester?

1719  
1720 Mr. Kester - Good morning. My name is Chad Kester. Can everyone hear  
1721 me?

1722  
1723 Mr. Blankinship - Yes. Thank you.

1724  
1725 Mr. Kester - Thank you. Chad Kester, K-e-s-t-e-r. I am a representative  
1726 of Ryan Homes. And to briefly summarize, our intent here is to construct a two-car  
1727 detached garage on both properties. However, the depth and power line on both  
1728 properties are impacting our ability to meet the current zoning, which would require the  
1729 garages to be placed behind the rear plane of the home.

1730  
1731 For that reason, we would like to place them as shown on the two plot-plan drawings for  
1732 each property and construct a two-car garage in that fashion.

1733  
1734 Can I answer any questions?

1735  
1736 Mr. Bell - Are there any questions to be answered for the Board or staff?  
1737 Hearing none, we will continue.

1738  
1739 Mr. Blankinship - All right. Is there anyone in the room who would like to speak  
1740 in favor or opposition to these two cases?

1741

1742 Mr. Bell - Seeing none, we'll go ahead to the vote.  
1743  
1744 Mr. Blankinship - Thank you, Mr. Kester.  
1745  
1746 Mr. Green - I would like to take them separately.  
1747  
1748 Mr. Blankinship - Please, yes.  
1749  
1750 Mr. Green - I move to approve CUP2020-00022, garage in side-yard. I  
1751 move that we approve the conditional use permit subject to the conditions recommended  
1752 by the staff. The proposed garage would be consistent with the development plan and  
1753 would not have any detrimental impact.  
1754  
1755 Mr. Bell - Thank you.  
1756  
1757 Mr. Johnson - Second.  
1758  
1759 Mr. Bell - Any more discussion? Hearing no discussion, now we will  
1760 move on to the vote which I'm trying to push very quickly, I guess. I apologize about that.  
1761 All of those in favor of the motion say aye. All of those opposed. Hearing no opposed  
1762 the motion is carried.  
1763  
1764 On a motion by Mr. Green, seconded by Mr. Johnson, the Board **approved** case  
1765 **CUP2020-00022 RYAN HOMES** request for a conditional use permit pursuant to Section  
1766 24-95(i) (4) of the County Code to build a detached garage in the side yard at 12321  
1767 Manor Crossing Court (SHORT PUMP MANOR AT BACOVA) (Parcel 739-767-0904)  
1768 zoned General Residence District (R-5AC) (Three Chopt). The Board approved the  
1769 request subject to the following conditions:  
1770  
1771 1. This conditional use permit applies only to the location of a garage in the side yard. All  
1772 other applicable regulations of the County Code shall remain in force.  
1773  
1774 2. Only the improvements shown on the plat titled "Proposed Improvements on Lot 9  
1775 Block H Short Pump Manor at Bacova Section 3" by Youngblood Tyler & Associates dated  
1776 March 13, 2020, and "RHW-WV-3H02" by NVR, Inc. dated June 29, 2020, may be  
1777 constructed pursuant to this approval. Any additional improvements shall comply with the  
1778 applicable regulations of the County Code. Any substantial changes or additions to the  
1779 design or location of the improvements shall require a new conditional use permit.  
1780  
1781 3. A building permit must be approved by August 26, 2022, or this conditional use permit  
1782 will expire. If the building permit is cancelled or revoked because construction was not  
1783 diligently pursued, this conditional use permit will expire at that time.  
1784  
1785  
1786 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
1787 **Negative:** 0

1788  
1789  
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1832

**Absent:**

0

Mr. Green - Mr. Chair. In reference to CUP2020-00023, garage in the side yard, I move we approve the conditional use permit subject to the conditions recommended by staff. The proposed garage would be consistent with the development plan and would not have any detrimental impact.

Mr. Bell - Do I hear a second?

Mr. Reid - Second.

Mr. Bell - Any discussion? Hearing no discussion. All those in favor of the motion say aye. All those opposed. Hearing none opposed, motion carried.

On a motion by Mr. Green, seconded by Mr. Reid, the Board **approved** case **CUP2020-00023, RYAN HOMES** request for a conditional use permit pursuant to Section 24-95(i) (4) of the County Code to build a detached garage in the side yard at 12337 Manor Crossing Court (SHORT PUMP MANOR AT BACOVA) (Parcel 738-767-8003) zoned General Residence District (R-5AC) (Three Chopt). The Board approved the request subject to the following conditions:

- 1. This conditional use permit applies only to the location of a garage in the side yard. All other applicable regulations of the County Code shall remain in force.
- 2. Only the improvements shown on the plat titled "Proposed Improvements on Lot 2 Block H Short Pump Manor at Bacova Section 3" by Youngblood Tyler & Associates dated June 12, 2020, and "RHW-WV-3H02" by NVR, Inc. dated June 29, 2020, may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.
- 3. A building permit must be approved by August 26, 2022, or this conditional use permit will expire. If the building permit is cancelled or revoked because construction was not diligently pursued, this conditional use permit will expire at that time.

**Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

**Negative:** 0

**Absent:** 0

Mr. Blankinship - All right, Mr. Chair, that brings us to the last use permit on this morning's agenda. Conditional use permit 2020, number 25, Parham Senior Living.

1833 **CUP2020-00025** **PARHAM SENIOR LIVING** requests a conditional use permit  
1834 pursuant to Section 24-116(d)(1) of the County Code to allow a temporary office trailer at  
1835 601 N Parham Road (Parcel 752-739-1406) zoned One-Family Residence District (R-2)  
1836 (Tuckahoe).

1837  
1838 Mr. Blankinship - Would everyone who intends to speak to this case please  
1839 stand and be sworn in? Do you swear the testimony you're about to give is the truth, the  
1840 whole truth, and nothing but the truth so help you God?

1841  
1842 Mr. Blankinship - Thank you. Mr. Gidley.

1843  
1844 Mr. Gidley - Thank you, Mr. Secretary. Am I coming through? Doesn't  
1845 sound like it.

1846  
1847 Mr. Blankinship - Try again.

1848  
1849 Mr. Gidley - Testing.

1850  
1851 Mr. Bell - Yes. You're coming through.

1852  
1853 Mr. Blankinship - Fred, we're having a little trouble with the microphone on the  
1854 podium, I think. Is there a mute button for that one? Maybe somebody accidentally  
1855 muted it.

1856  
1857 Mr. Gidley - Testing. Testing.

1858  
1859 Mr. Blankinship - Okay.

1860  
1861 Mr. Gidley - Thank you, Mr. Secretary, members of the Board. The subject  
1862 property is the Temple Beth-El property, which is located off of Parham Road opposite its  
1863 intersection with Derbyshire Road.

1864  
1865 The adjacent property to the south is the future home of the Parham Senior Living Life  
1866 Care Facility, which is currently under construction, as you can see right here. Well. Sorry  
1867 about that.

1868  
1869 Mr. Blankinship - Podium's been working fine for an hour and a half now all of  
1870 the sudden it's --

1871  
1872 Mr. Gidley - Anyway, the property to the south right down here is where  
1873 the senior living facility is being constructed currently.

1874  
1875 Mr. Blankinship - Try the expanded aerial.

1876  
1877 Mr. Gidley - The applicant is requesting permission to use a modular  
1878 building that is located on the Temple's property as a temporary leasing office until the

1879 senior living facility is ready for occupancy. Due to the ongoing construction, it was  
1880 decided it would be safer to have the leasing facility next door on the Temple's property  
1881 rather than on the construction side.

1882  
1883 The parking lot that houses the temporary leasing facility is over 400 feet from Parham  
1884 Road and 300 feet from the nearest dwelling. There's plenty of parking, including two  
1885 handicap-accessible parking spaces as shown on the plot plan here.

1886  
1887 This is the trailer location here. Here are your handicapped accessible parking spaces.  
1888 As you can see, there's plenty of parking spaces out on the site right here. The modular  
1889 building would be on site for a total of one year and its hours of operation would be from  
1890 8:00 am to 7:00 pm daily.

1891  
1892 In evaluating this request, the property is zoned R-2, One-Family Residence District, and  
1893 it's designated Suburban Residential on the land-use plan. The proposed modular office  
1894 will be consistent with the zoning and comprehensive plan, because it is an accessory to  
1895 the project under construction next door and will be in place for only one year.

1896  
1897 This is a view of the leasing facility right here and this modular building is located, as you  
1898 can see, in an existing parking lot. And, again, it is over 400 feet from Parham Road and  
1899 over 300 feet from the nearest dwelling, so it is not visible from off site.

1900  
1901 The parking lot on Temple Beth-El was designed to support a second phase that has not  
1902 been constructed. So, as a result, there are almost 100 excess parking spaces on site.  
1903 As a result, staff does not believe there would be any detrimental impact to nearby  
1904 property.

1905  
1906 In conclusion, the modular office is consistent with the zoning ordinance and  
1907 comprehensive plan. The location is already paved with parking. It is not visible from  
1908 any public streets or adjacent dwellings. The duration and hours of operation are limited.  
1909 As a result, staff recommends approval of this request subject to the conditions in your  
1910 staff report.

1911  
1912 This concludes my presentation and if you have any questions please let me know and  
1913 I'll be happy to answer those. Thank you.

1914  
1915 Mr. Bell - Are there any questions from staff or the Board?  
1916 Seeing none we'll go ahead and call for the applicant.

1917  
1918 Mr. Gidley - Thank you.

1919  
1920 Mr. Blankinship - Oh, yeah. Paul, there was an exhibit.

1921  
1922 Mr. Theobald - Not that.

1923  
1924 Mr. Blankinship - Oh.

1925  
1926 Mr. Theobald - (indiscernible)  
1927  
1928 Mr. Blankinship - Probably not in there. So we have the aerial --. They have it  
1929 in their packets. But we don't have it, for sure.  
1930  
1931 Mr. Theobald - All right. No problem. Good morning, Mr. Chairman,  
1932 members of the Board. My name is Jim Theobald. I'm an attorney with Hirschler  
1933 Fleischer and I'm here representing CA Ventures requesting a conditional use permit to  
1934 allow a temporary modular unit to be used as a leasing office in connection with the senior  
1935 living facility being constructed next door.  
1936  
1937 That facility was unanimously approved by the Board of Supervisors on March 12 of last  
1938 year and will consist of 58 independent living units, 60 assisted living units, and 32  
1939 memory-care units subject to numerous conditions including an age restriction.  
1940  
1941 The office is to be located on the adjacent Temple Beth-El parking area. Temple Beth-El  
1942 was our seller to the life-care facility. And the Beth-El site, as you may know, is used for  
1943 a daycare operation, religious schooling, and temple meeting space. The specific location  
1944 is a significant distance from Parham Road down a winding drive that blocks the view  
1945 from any residences. The Temple enjoys significant excess parking installed for a future  
1946 expansion that has yet to occur.  
1947  
1948 The request is to utilize this leasing office for a one-year period only. So I believe this  
1949 request is consistent with the zoning and comprehensive plan, as suggested by staff. It  
1950 will not have a detrimental impact on nearby property given the office's proposed location  
1951 and access to a signalized entrance at Parham nor be a detriment to the health, safety,  
1952 and welfare of the area.  
1953  
1954 With that I would respectfully ask that you approve this request for a conditional use  
1955 permit, and we are in agreement with the conditions. Thank you. Happy to answer any  
1956 questions. And I also have my client, I believe, on Webex.  
1957  
1958 Mr. Blankinship - That's correct.  
1959  
1960 Mr. Bell - Any questions from staff or the Board? Hearing none, thank  
1961 you.  
1962  
1963 Mr. Theobald - Thank you.  
1964  
1965 Mr. Blankinship - Is there anyone else who would like to speak either in favor or  
1966 in opposition to this request?  
1967  
1968 Mr. Bell - Hearing none, we'll go on to vote on the motion.  
1969

1970 Mr. Reid - I move that we approve the conditional use permit subject to  
1971 the conditions recommended by the staff. The proposed location enters Parham Road at  
1972 a traffic light, which contributes to traffic safety. The modular building would be located  
1973 on an existing parking lot, so it would not have any environmental impact. There's plenty  
1974 of parking at that location. I do not think the modular office will be visible from any other  
1975 property and it will only be on the site for one year. There would be no detrimental impact  
1976 on nearby property.

1977  
1978 Mr. Bell - Do I hear a second?

1979  
1980 Mr. Green - I second the motion.

1981  
1982 Mr. Bell - Any discussion? Hearing no discussion, we will go ahead and  
1983 vote. All those in favor say aye. All of those opposed. Ayes have it. Motion carried.

1984  
1985 On a motion by Mr. Reid, seconded by Mr. Green, the Board **approved** case **CUP2020-**  
1986 **00025, PARHAM SENIOR LIVING's** request for a conditional use permit pursuant to  
1987 Section 24-116(d)(1) of the County Code to allow a temporary office trailer at 601 N  
1988 Parham Road (Parcel 752-739-1406) zoned One-Family Residence District (R-2)  
1989 (Tuckahoe). The Board approved the request subject to the following conditions:

1990  
1991 1. Only the improvements shown on the plans titled "Parham Senior Living Sales Trailer"  
1992 by Kimley-Horn dated 06/04/20 and "Modspace Stock 2 Unit Complex" By Modular Space  
1993 Corporation dated 8-19-16 may be constructed pursuant to this approval. Any additional  
1994 improvements shall comply with the applicable regulations of the County Code. Any  
1995 substantial changes or additions to the design or location of the improvements shall  
1996 require a new conditional use permit.

1997  
1998 2. Hours of operation shall be limited to 8:00 am to 7:00 pm daily.

1999  
2000 3. The modular office shall be removed from the property on or before August 24, 2021,  
2001 at which time this permit shall expire.

2002  
2003 4. A building permit for the modular building must be approved by August 26, 2022, or  
2004 this conditional use permit will expire. If the building permit is cancelled or revoked  
2005 because construction was not diligently pursued, this conditional use permit will expire at  
2006 that time.

2007  
2008  
2009 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
2010 **Negative:** 0  
2011 **Absent:** 0

2012  
2013  
2014 Mr. Theobald - Thank you.

2015

2016 Mr. Blankinship - All right, Mr. Chair, that completes the conditional use permit  
2017 portion of this morning's agenda. There were three variances on the agenda, as I  
2018 mentioned at the outset. Two of those have been withdrawn. 2020 numbers 19 and 20  
2019 have been withdrawn. Variance 2020, number 16, Gibson M. Wright.  
2020

2021 **VAR2020-00016** **GIBSON M. WRIGHT** requests a variance from Section 24-9  
2022 of the County Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-  
2023 7630) zoned Agricultural District (A-1) (Varina). The public street frontage requirement is  
2024 not met. The applicant proposes 0 feet public street frontage, where the Code requires  
2025 50 feet public street frontage. The applicant requests a variance of 50 feet public street  
2026 frontage.  
2027

2028 Mr. Blankinship - Would everyone who intends to speak to this case please  
2029 stand and be sworn in? Raise your right hand, please. Do you swear the testimony  
2030 you're about to give is the truth, the whole truth, and nothing but the truth so help you  
2031 God. Thank you. Mr. Madrigal.  
2032

2033 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the Board.  
2034 Before you is a request to build a one-family dwelling on an agricultural parcel with no  
2035 public street frontage. The subject property dates back to the early 1920s, and it was  
2036 owned by the Gibbs family until 2010.  
2037

2038 The parcel is three acres in area, is landlocked, and unimproved. The property is heavily  
2039 forested and slopes down from south to north at a six percent slope. It is accessed by  
2040 way of a private access road that serves six other lots. The applicant acquired said  
2041 property and the adjoining lot to the west in 2010 and this subject lot.  
2042

2043 In 2014 he obtained variances to construct single-family dwellings on each of the parcels.  
2044 The adjacent lot to the west was sold and a 3,300-square-foot home was constructed in  
2045 2016. Let me fix this picture here. You can see the home that was built there.  
2046

2047 The variance for the subject property expired and was not developed. The applicant  
2048 obtained a second variance in 2017, but that permit also expired. The property is under  
2049 contract again and he would like to obtain a third variance to develop the property.  
2050

2051 The underlying conditions of the property have not changed, it is zoned A-1 and is  
2052 designated Rural Residential on the 2026 Future Land Use Map. In 1939 the property  
2053 was improved with a three-bedroom bungalow, which was razed in '75. Since then the  
2054 parcel has remained unimproved, landlocked, and without a beneficial use.  
2055

2056 Sand and gravel has been extracted from several large tracts in the area, but the subject  
2057 property is too small for that use. Its limited size and lack of public street-frontage also  
2058 limits its use for agriculture.  
2059

2060 Twelve lots along Gibbs Lane and the private access road have been improved with  
2061 single-family dwellings establishing the immediate development pattern. Absent of

2062 variance to allow for a one-family dwelling, the property would appear to lack any  
2063 reasonable beneficial use under the A-1 standards outlined in code.

2064  
2065 With respect to the five subtests, the applicant satisfies all five items. Highlighting a  
2066 number two, substantial detriment. As previously mentioned, the prevailing development  
2067 pattern in the immediate area is residential.

2068  
2069 The size of the -- I don't know why the screen keeps making these images so small.  
2070 There we go. The size of the subject parcel and the existing tree coverage should provide  
2071 sufficient privacy for the new home and the adjacent parcel so long as the applicant is  
2072 careful with the home's placement on the property and intentionally maintains a healthy  
2073 tree buffer around the proposed home.

2074  
2075 A total of six lots are served by a private access road including one that fronts on Gibbs  
2076 Lane. The previous property owner of the subject parcel had negotiated a road  
2077 maintenance agreement with his neighbors that was executed and recorded in 2006. This  
2078 agreement establishes a 50-foot-wide access easement, ensures maintenance of the  
2079 road, and restricts the further subdivision of the six participating parcels without having  
2080 all the property owner's consent.

2081  
2082 This agreement runs with the land and is binding on all current and future property  
2083 owners. Based on these facts, staff does not anticipate any detrimental impacts to nearby  
2084 or adjacent property if the request is approved.

2085  
2086 In conclusion, the request is consistent with both the zoning and comprehensive plan  
2087 designations on the property. The property predates the county's adoption of the zoning  
2088 ordinance and the street-frontage requirement. Due to its size and restricted access, it is  
2089 not suitable for mining or agriculture. Without a variance it has no reasonable beneficial  
2090 use.

2091  
2092 Given the existing development pattern and the established road maintenance  
2093 agreement, staff does not anticipate any detrimental impacts if the request is approved.

2094  
2095 Based on the facts of the case, staff recommends approval subject to conditions. Be  
2096 happy to answer any questions.

2097  
2098 Mr. Bell - Any questions from staff or the Board? Hearing none we'll  
2099 move on.

2100  
2101 Mr. Johnson - One question.

2102  
2103 Mr. Blankinship - Just a moment. One of the Board members has a question.

2104  
2105 Mr. Madrigal - Yes.

2106

2107 Mr. Johnson - The roadway in front of this facility, is that the county facility?  
 2108 I've been out there. It's a narrow road. Really about 10 feet wide, or something.  
 2109

2110 Mr. Madrigal - Right. Here you can see Gibbs Lane and Gibbs Lane is a  
 2111 private road. And then in addition to Gibbs Lane you see the dirt track here, or gravel  
 2112 track.  
 2113

2114 Mr. Johnson - Yes.  
 2115

2116 Mr. Madrigal - That is the private access road that we're mentioning. So  
 2117 Gibbs Lane is private and then this access road is also private. Essentially this ended up  
 2118 being, like, an extension of Gibbs Lane.  
 2119

2120 Mr. Johnson - Okay.  
 2121

2122 Mr. Madrigal - And the 50-foot-wide easement that I referred to, this is it here.  
 2123 There's a 50-foot-wide access easement that constitutes this gravel road.  
 2124

2125 Mr. Johnson - All right. So then private road, then, there won't be any  
 2126 widening to it, would it.  
 2127

2128 Mr. Madrigal - There won't be any what?  
 2129

2130 Mr. Johnson - To make it wider, you know, for two-way vehicles.  
 2131

2132 Mr. Madrigal - That would be up to the property owners. So there's an  
 2133 established maintenance agreement and there's already established road width of that  
 2134 access easement, which is 50 feet. Right now that access road, I believe, is roughly 12-  
 2135 to 16-foot wide. If they wanted to widen that, they would have to all come into agreement  
 2136 in order to widen that, and then work out the details as to how that would occur.  
 2137

2138 Mr. Johnson - Okay. So are the homeowners aware of that fact?  
 2139

2140 Mr. Madrigal - They should all be, because they're all part of that agreement.  
 2141 Yes, sir.  
 2142

2143 Mr. Johnson - Okay. That was my concern. Thank you.  
 2144

2145 Mr. Madrigal - Thank you.  
 2146

2147 Ms. Lett - Good morning.  
 2148

2149 Mr. Bell - Good morning.  
 2150

2151 Ms. Lett - I'm Andrea Lett. I'm actually the homeowner of that house  
 2152 that was built in 2016. We have that main piece of property. The issue that we have --

2153  
2154 Mr. Bell - Excuse me, ma'am.  
2155  
2156 Ms. Lett - I'm sorry.  
2157  
2158 Mr. Bell - Give us your name and spell it for us, please.  
2159  
2160 Ms. Lett - Andrea, last name is L-e-t-t.  
2161  
2162 Mr. Blankinship - And are you representing the applicant? Or are you just  
2163 speaking as an adjoining landowner?  
2164  
2165 Ms. Lett - I'm speaking as the adjoining landowner.  
2166  
2167 Mr. Blankinship - Okay. Is there anybody -- there's nobody on Webex, so the  
2168 applicant is not present? Okay. We'll go ahead. We'll definitely want to hear your  
2169 comments.  
2170  
2171 Ms. Lett - Okay. You're correct. The road is not wide. That access road  
2172 is not being maintained by the other homeowners in that area. The house that's next door  
2173 to me that just recently sold, there is no agreement with them to maintain that road.  
2174  
2175 We were told by the county when we purchased our house and went to build it, that we  
2176 cannot make anybody help take care of that road, because that has expired. It's old. We  
2177 can't make you take care of that road. So currently my husband and I maintain that private  
2178 access road so that we can get to and from our house.  
2179  
2180 The other neighbor that we know of, Myers, they're good people, but, like I said, no one  
2181 maintains that road. When it rains it washes out. That's my husband and I is putting the  
2182 gravel. We paid thousands of dollars for the gravel to be put back on that road and keep  
2183 the trees out. We do have trees that come down. It's our responsibility to get those trees  
2184 up.  
2185  
2186 The person wants to access that property that's directly in front of my house, I'm either  
2187 going to have to allow them to come on to my property to get on to it, or they're going to  
2188 have come up to the very edge down there right where we call the little branch and get  
2189 into that parking to get to that property.  
2190  
2191 Mr. Green - Can you point that out? You have the mouse. Can you point  
2192 out what you're talking about?  
2193  
2194 Ms. Lett - Okay. So --  
2195  
2196 Mr. Green - So wait a minute. This is your house down at the bottom?  
2197  
2198 Ms. Lett - This is my house.

2199

2200

Mr. Green - Okay.

2201

2202

Ms. Lett - So all of this is my property line. All of this. Mine goes all back here. It's five acres. Right here, where that property line is, they will have to bury over this way. The last time somebody considered building a house they were going to put their house right here. I strongly object to that. That's right in front of my house. In fact, this part of the line is where we have the buffer and we've given Dominion Power and Comcast access that we paid for to get them back here. Here's the box back here. They could put that house over here. Then it wouldn't be obtrusive to our privacy sitting back there in the back.

2210

2211

My question then becomes who's going to help maintain that road? Because we are not an HOA. We cannot create an HOA. I can't make anybody pay for that road. And I can't sue them to pay for that road. So who's going to help maintain this private road?

2214

2215

Mr. Blankinship - Who told you that? That the maintenance agreement is not enforceable?

2216

2217

2218

Ms. Lett - When we originally got the house -- actually before someone here at the Board told us that we can't do that. But the lady who originally owned the house, the first time she -- comes to her, they've been there for years. That agreement is not with them. And then the people that used to own it the house next door to us, they didn't have the agreement. So that was given to us in our agreement, but the other neighbors weren't told that.

2221

2222

2223

2224

2225

Mr. Blankinship - Oh, okay.

2226

2227

Ms. Lett - And I asked when the realtor was selling the other house, sold their house, I asked them to inform the neighbors that they have to help take care of the road. There's nothing in writing saying that they have to help take care of that road. That was not transferred with the easement. It is not something I can go back and enforce.

2229

2230

2231

2232

Mr. Blankinship - Okay.

2233

2234

Mr. Johnson - So the roadway itself now is really on your property, right?

2235

2236

Ms. Lett - Correct. This roadway right here is on my property.

2237

2238

Mr. Blankinship - A portion of it is. Yes.

2239

2240

Ms. Lett - Yes.

2241

2242

Mr. Blankinship - From that portion north is within the easement.

2243

2244

Ms. Lett - Yeah. This is the easement.

2245  
2246 Mr. Blankinship - But from that place south is on her property.  
2247  
2248 Ms. Lett - This is me.  
2249  
2250 Mr. Blankinship - Yes.  
2251  
2252 Mr. Johnson - Yes. I was noticing when I went back there looking at this --  
2253  
2254 Ms. Lett - Were you the one came back there with a black car?  
2255  
2256 Mr. Blankinship - She's got a Ring doorbell.  
2257  
2258 Mr. Johnson - I was just trying to observe how -- because it was so narrow,  
2259 and I also had to pull into a driveway for another car to go in the opposite direction.  
2260  
2261 Ms. Lett - Yes, we do. If one of us decides to leave we actually have to  
2262 sit back to the curb or back into our driveway so the other neighbor can come in and out.  
2263  
2264 Mr. Johnson - So there is no written agreement about --  
2265  
2266 Mr. Blankinship - There is an agreement, but there's a disagreement over  
2267 where it's enforceable. And we should look into that.  
2268  
2269 Mr. Johnson - Okay.  
2270  
2271 Ms. Lett - Right. So apparently Mr. Gibson, when he sold us our piece,  
2272 said there was an agreement that we would allow 50-foot frontage so that people could  
2273 get -- so they have the frontage to do that and then it would be an agreement between  
2274 the neighbors that we had to maintain that road.  
2275  
2276 Mr. Blankinship - Right.  
2277  
2278 Ms. Lett - But in trying to find out what exactly we needed to maintain  
2279 that road, we found out that, hey, I can't make you pay to maintain the road and it's not in  
2280 your agreement when you purchased your house that you had to take the other road.  
2281 And there's no set allotment amount, or anything so nobody has to contribute x-hundred  
2282 dollars every month, every week, every year to help maintain the road.  
2283  
2284 Mr. Green - But in order for that person to get to that piece of property that  
2285 they've got to go through your land.  
2286  
2287 Ms. Lett - The best route would be for them to come through my land.  
2288  
2289 Mr. Green - So then you can make and, I mean, you've got to grant them  
2290 permission to do that.

2291 Ms. Lett - Correct. I would have to.

2292

2293

2294 Mr. Green - So then you could then put the conditions --

2295

2296 Mr. Blankinship - Well let's understand, though. They can get on to their

2297 property without crossing her property just on the easement. She's suggesting, if I

2298 understand her correctly, that the best location would be for them to share her private

2299 portion of the driveway.

2300

2301 Ms. Lett - Correct.

2302

2303 Mr. Blankinship - But they don't have to do that.

2304

2305 Ms. Lett - Right. And if they decide to do that and come in to build, how

2306 are they going to get that equipment in there up into that property they're going to build?

2307

2308 Mr. Blankinship - Right.

2309

2310 Mr. Green - I guess that same question, the same way you did.

2311

2312 Ms. Lett - Well when I did it I had the access and we build this road.

2313

2314 Mr. Green - Right.

2315

2316 Ms. Lett - So I built the road to come into my property and put my house

2317 back there where I did.

2318

2319 Mr. Blankinship - Right. So they would have to build a new driveway from the

2320 easement onto there.

2321

2322 Ms. Lett - Easement to get to their property.

2323

2324 Mr. Blankinship - Right.

2325

2326 Ms. Lett - And they're going to have to understand that they can't be

2327 blocking us to get out of our property.

2328

2329 Mr. Blankinship - Right.

2330

2331 Ms. Lett - To build on their property. If someone wants to build there,

2332 great.

2333

2334 Mr. Blankinship - Okay.

2335

2336 Ms. Lett - If they want to build there, great. I'm asking two things, don't  
2337 build in front of my house where I look out of my front door and I see your house. I'd  
2338 rather it be over here. And, two, that you get access and build your house away from the  
2339 access road so that you're not blocking me getting in and out.  
2340  
2341 Mr. Blankinship - Okay.  
2342  
2343 Mr. Johnson - Well, where they put the house is not restricted, you know.  
2344  
2345 Mr. Blankinship - Yes. As long as they comply with the setbacks --  
2346  
2347 Mr. Johnson - Right.  
2348  
2349 Mr. Blankinship - -- it's a large enough parcel that there's a lot of flexibility.  
2350  
2351 Mr. Johnson - Right.  
2352  
2353 Mr. Green - Did we see plans for a house?  
2354  
2355 Mr. Blankinship - Yes.  
2356  
2357 Mr. Green - And the location?  
2358  
2359 Mr. Johnson - And there are right many houses on that road as well coming  
2360 in off of Route 5.  
2361  
2362 Mr. Madrigal - Here's the proposed site plan, actually.  
2363  
2364 Mr. Mr. Green - Right.  
2365  
2366 Mr. Madrigal - So this is the property in question. And here is the proposed  
2367 house.  
2368  
2369 Ms. Lett - Not far from the property line.  
2370  
2371 Mr. Green - Right.  
2372  
2373 Mr. Madrigal - So they're showing 50 feet from the -- we'll call it the front  
2374 property line and 100 feet from here, from the southern property line.  
2375  
2376 Here is where you can see that access easement boxed out and it kind of goes all along  
2377 there. And you can see it's 50 feet. Called out 50 feet here. So it goes all along this  
2378 area. And it partially enters Mrs. Lett's property here. So they could enter her property  
2379 partially to establish a new driveway leading to a house. This is the suggested location.  
2380 Doesn't necessarily have to be there. That's their proposal.  
2381

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Mr. Blankinship - Right.

Mr. Madrigal - Obviously you all could condition it to make it further. That would be up to you all. And then are the tentative plans. Keep in mind that they have a contract purchaser, so they're just getting the variance in order to settle that deal and they've got some proposed plans here that they're not necessarily tied to, they just submitted them as examples of what could be built on the property.

Here's another elevation. So these are a couple proposals that they've included with their application and it's showing what potentially could be built on the property, but they're not necessarily tied to these plans. Whoever buys the property would develop their own plans and, I guess, ultimately place the house to their liking. You know we're -- I think we've conditioned it to be a minimum of 50 feet from the front property line and it provided a 50-foot buffer on the sides or the rear to maintain, you know, the trees for privacy purposes. And, again, you can condition it more if you'd prefer.

Mr. Green - I guess my only concern is that no one's here to talk about it.

Mr. Blankinship - Yes.

Mr. Green - This is a major project. And if they're not even here to come talk about it --

Mr. Madrigal - Well, I had a couple contacts with the applicant, and I did email them the agenda packet with the staff report, the agenda, instructions.

Mr. Green - Yes.

Mr. Blankinship - Given the applicant's not being present and also this question now that's been raised about whether the maintenance agreement is enforceable, that's a major aspect of our staff report. We were relying on that to show that there would be no detrimental impact.

Mr. Johnson - Right.

Mr. Blankinship - So I would think, Mr. Chair, as staff, that a deferral would be in order and we could ask the applicant to address that issue specifically at the next meeting.

Now, Ms. Lett, you can come to that meeting or not. We have heard your concern, so you're not required to come back out. Your comments are on the record and will be taken into account but, of course, you're welcome to come next time as well.

Ms. Lett - Okay.

2427 Mr. Johnson - And that was one of my concerns as well when I went out  
2428 there looking and observing what was going on out there, especially that road and also  
2429 looking at the lot there.

2430  
2431 Mr. Chairman, I agree with the secretary that since we don't have the person here, I'd like  
2432 to make a motion that we defer this application to September 24th, giving time for the  
2433 applicant to respond to the objections. And also provide some information on how they  
2434 could work the roadway system out.

2435  
2436 Mr. Pollard - I second the motion.

2437  
2438 Mr. Bell - Any discussion?

2439  
2440 Mr. Green - So if I drive back there you're not going to tell on me are you?

2441  
2442 Ms. Lett - I'm not going to tell on you.

2443  
2444 Mr. Bell - No discussion. No discussion. We'll go ahead and make the  
2445 vote to defer. Are we going to set a date next meeting or --

2446  
2447 Mr. Johnson - Put it on September 24<sup>th</sup> for the next meeting, if they can do it  
2448 then.

2449  
2450 Mr. Bell - So then you're motioning that we will defer to the September  
2451 meeting.

2452  
2453 Mr. Johnson - Right. September meeting.

2454  
2455 Mr. Reid - Mr. Pollard.

2456  
2457 Mr. Pollard - I seconded.

2458  
2459 Mr. Blankinship - Yes.

2460  
2461 Mr. Bell - We got a second. Do we have any discussion? We'll go  
2462 ahead and vote. All those in favor of defer this particular application until the meeting in  
2463 September, say aye. All opposed. No opposed. We have deferred.

2464  
2465 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **deferred** case  
2466 VAR2020-00016 GIBSON M. WRIGHT requests a variance from Section 24-9 of the  
2467 County Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-7630)  
2468 zoned Agricultural District (A-1) (Varina) until the September 24, 2020 Board of Zoning  
2469 Appeals meeting.

2470  
2471

2472 **Affirmative:** **Bell, Green, Johnson, Pollard, Reid** **5**

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**Negative:** 0  
**Absent:** 0

Mr. Bell - And now will we be taking a break? Anybody? We'll go on to voting for the first chair and vice chair.

Mr. Blankinship - You want to take the approval of the minutes first, Mr. Chair?

Mr. Green - Speaking of, you know, well, go ahead. You've got it.

Mr. Bell - Does anybody feel like we should?

Mr. Pollard - I need a minute.

Mr. Bell - All right. Ben --

Mr. Green - The minutes.

Mr. Blankinship - Approval of the minutes of last month's meeting.

Mr. Bell - Oh. Do it before this?

Mr. Blankinship - Yes.

Mr. Bell - All right. You know, let's go there one minute. Is there any approval for last month's meeting in July for the Board of Zoning Appeals?

Mr. Green - So moved.

Mr. Bell - Second?

Mr. Reid - Second.

Mr. Bell - All those in favor say aye. The motion passes. We're going to take five minutes until we'll come back -- it's 11:08 now -- and then we'll finish up today.

On a motion by Mr. Green, seconded by Mr. Reid, the Board **approved the minutes** of the July 23, 2020 Board of Zoning Appeals meeting.

**Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
**Negative:** 0  
**Absent:** 0

2519 Mr. Green - Restroom break.  
2520  
2521 Mr. Blankinship - Okay.  
2522  
2523 [Break in audio]  
2524  
2525 Mr. Blankinship - Officers. So the floor is now open for nominations for the  
2526 Office of Chair.  
2527  
2528 Mr. Reid - I would like to nominate Mr. Green, our Vice Chairman, to be  
2529 Chairman for the coming year.  
2530  
2531 Mr. Blankinship - All right. Mr. Reid has nominated Mr. Green. Are there any  
2532 further nominations? If not, a motion to close the floor to nominations would be in order.  
2533  
2534 Mr. Johnson - Motion to close.  
2535  
2536 Mr. Blankinship - All right. Is there a second?  
2537  
2538 Mr. Pollard - Second.  
2539  
2540 Mr. Blankinship - All right. This a motion by Mr. Johnson, seconded by Mr.  
2541 Pollard to close the floor to nominations. All in favor say aye. All opposed say no. The  
2542 motion passes, so nominations are closed. And, Mr. Green, since you were the only  
2543 candidate nominated you have been elected Chair by acclamation. Congratulations.  
2544  
2545 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
2546 **Negative:** 0  
2547 **Absent:** 0  
2548  
2549 Mr. Green - Thank you.  
2550  
2551 Mr. Blankinship - The floor is now open for nominations for the office of Vice  
2552 Chair.  
2553  
2554 Mr. Green - I would like to nominate --  
2555  
2556 Mr. Bell - I would like to vote for Mr. Johnson.  
2557  
2558 Mr. Green - Second.  
2559  
2560 Mr. Blankinship - All right. There's a nomination for Mr. Johnson. Are there any  
2561 other nominations? All right. Then a motion to close the floor to nominations would be in  
2562 order.  
2563  
2564 Mr. Pollard - Make a motion close the floor.

2565  
 2566 Mr. Blankinship - All right. Is there a second?  
 2567  
 2568 Mr. Reid - Second.  
 2569  
 2570 Mr. Blankinship - There's a motion by Mr. Pollard to close the floor to  
 2571 nominations seconded by Mr. Reid. All in favor say aye. All opposed no. Nomination  
 2572 passes, or motion passes, nominations are closed. And Mr. Johnson, since you're the  
 2573 only candidate nominated, you've been elected Vice Chair by acclamation.  
 2574 Congratulations.

2575  
 2576 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
 2577 **Negative:** 0  
 2578 **Absent:** 0

2579  
 2580 Mr. Johnson - Thank you.

2581  
 2582 Mr. Blankinship - Mr. chair, we do have one other item on the agenda, which is  
 2583 the review and approval of the calendar for 2021. That should've been left on the table  
 2584 in front of you this morning. And I guess a motion would be in order. I'm not sure it's  
 2585 necessary. But --

2586  
 2587 Mr. Pollard - I make a motion to approve the calendar for 2021.

2588  
 2589 Mr. Reid - Second.

2590  
 2591 Mr. Blankinship - All right. Motioned by Mr. Pollard. Seconded by Mr. Reid to  
 2592 approve the calendar. Any discussion? All in favor say aye. All opposed say no. The  
 2593 calendar is approved.

2594  
 2595  
 2596 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
 2597 **Negative:** 0  
 2598 **Absent:** 0

2599  
 2600  
 2601 Mr. Green - Mr. Chair, I think you wanted to say something. Because this  
 2602 went fast, and I think it was your intention not to seek re-election.

2603  
 2604 Mr. Bell - Yes.

2605  
 2606 Mr. Green - So I just want to make that clear. Nobody's trying to pull  
 2607 anything on any of us.

2608  
 2609 Mr. Bell - Now also, this is something we probably should discuss if we  
 2610 don't want to discuss it we don't have discuss it. But it is important. The group of us like

2611 Mr. Green just said we probably should have done that. But the way he touched on it  
2612 was my thought was that we would set it up like we might -- like we had it set it up when  
2613 I came here several years ago. And that was basically by jurisdiction. In other words,  
2614 ahead of me was Helen from Fairfield.

2615

2616 Mr. Pollard - The mic.

2617

2618 Mr. Bell - The mic. I took over for her and then it was automatically my  
2619 next turn, so it fell in perfectly. But after me then comes Brookland. But the early part of  
2620 the year we didn't really have anybody from Brookland here so it was still changed two or  
2621 three times. And it wasn't due anyway, so it didn't bother anything. But you were in line,  
2622 whoever was in that office, to be considered for the chair.

2623

2624 Mr. Green - I thought Mr. Reid was. I think would have been Mr. Reid.

2625

2626 Mr. Blankinship - Yes. Mr. Reid.

2627

2628 Mr. Bell - I thought it was him, Reid, and then you.

2629

2630 Mr. Green - No. Mr. Reid. thought it was based on seniority.

2631

2632 Mr. Bell - No, no, no, no. This isn't seniority.

2633

2634 Mr. Johnson - Oh.

2635

2636 Mr. Green - Oh.

2637

2638 Mr. Bell - This is what -

2639

2640 Mr. Pollard - District you're in.

2641

2642 Mr. Bell - District you're in.

2643

2644 Mr. Pollard - Oh. It's your district.

2645

2646 Mr. Bell - But it has nothing to do with seniority. It just means every  
2647 rotation of five years a supervisor of the chair would be for every -- much like the  
2648 Supervisor's do it. All right. So it was Reid. He fell in, okay, because you were due, he  
2649 was due, (indiscernible) said that he's due and he's due and then it starts all over again.

2650

2651 Mr. Green - But I wouldn't have been Vice Chair had Mr. Reid not declined  
2652 it.

2653

2654 Mr. Bell - Like I said, it fell in place.

2655

2656 Mr. Reid - We all right.

2657  
2658 Mr. Bell - So a lot of people looked at it and said it was seniority and it  
2659 was never really looked at as seniority to me anyway. Ever since I've been here that's  
2660 the way we rotated. But we didn't have people change like we had for a short period of  
2661 time there. The Brookland position they changed three times in about a year and a half.

2662  
2663 Mr. Johnson - Oh, yeah.  
2664  
2665 Mr. Bell - Yeah. So, I mean, I may be wrong, but it was very quick. It  
2666 was very quick. And then Varina changed earlier than anybody as well.

2667  
2668 Mr. Green - So --  
2669  
2670 Mr. Bell - So, anyway, that's something -- that's something that if we just  
2671 say it, keep it in mind, and next time it comes up that's the way we just keep it back. Or,  
2672 we could codify it when and make it rule. I prefer to just keep it in mind than make it the  
2673 rule for everybody to follow.

2674  
2675 Mr. Green - Okay. Mr. Blankinship, what has it normally --  
2676  
2677 Mr. Blankinship - Historically starting in, like, the '70s, I guess, it used to be  
2678 there was one gentleman who was chair every year for about 30 years.

2679  
2680 Mr. Green - Yeah, well --  
2681  
2682 Mr. Blankinship - And then the decision was made that it should rotate it -- and  
2683 so starting in about '70s they started rotating. As Mr. Bell said, it generally followed the  
2684 sequence of magisterial districts, generally from east to west, but not rigidly.

2685  
2686 There were times, you know, if there was a new member, you know, I guess it was felt  
2687 better to let that member become acclimated to the job a little bit before he took the chair.  
2688 So, it generally followed the sequence by magisterial district. Although the election is  
2689 held every year, people generally held their seats for two years.

2690  
2691 Mr. Green - Okay.

2692  
2693 Mr. Blankinship - So typically whoever was finished their first year would be  
2694 reelected for a second year. But at the end of the second year the vice chair would  
2695 typically be elected chair and then whoever was next in the rotation of magisterial districts  
2696 would be nominated to Vice-Chair

2697  
2698 Mr. Green - Because we would've elected you chair for a second term, but  
2699 you declined for a second year.

2700  
2701 Mr. Bell - Mm-hmm.

2702

2703 Mr. Green - Because I remember you brought this up and I thought that  
2704 was an admirable gesture on your part to have us consider that and not want to sit in the  
2705 chair forever like, you know, some people have done in the past.

2706  
2707 Mr. Blankinship - Right.

2708  
2709 Mr. Bell - Thank you, I appreciate that. That was nice. But it's a position  
2710 that it just worked well that -- the way that they had it and why not keep it. Even though I  
2711 could -- why not keep it? Because here I'm the oldest person who's been here. I've seen  
2712 you all come and go. So get involved. You know, so I can back off from doing things a  
2713 lot that involves, you know, relationships, is maybe the right word, with the chairman and  
2714 the person who's in the chair.

2715  
2716 Look at the relationship at the chair, what it's supposed to do. It's just like Mr. Blankinship  
2717 gave us an example right there of where when or how it was run. But I don't think that  
2718 was ever codified, was it?

2719  
2720 Mr. Blankinship - No, sir.

2721  
2722 Mr. Bell - N that's what I think we ought to way it is. Leave it like it is  
2723 from here on out and as long as we all have the majority the new people's not constantly  
2724 coming in necessarily long, but it doesn't mean we have to, but I like the way it ran and it  
2725 ran since '70s, so it worked out pretty good.

2726  
2727 Anyway, I won't hold you any longer. Unless there's anybody want to make any  
2728 comments or say anything.

2729  
2730 Mr. Reid - You did a good job, Mr. Bell.

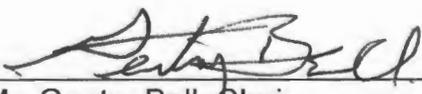
2731  
2732 Mr. Bell - Well thank you. I appreciate it. All right. Any other new  
2733 business or old business?

2734  
2735 Mr. Blankinship - No, sir.

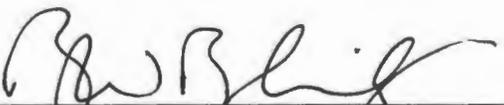
2736  
2737 Mr. Bell - Then let's go home.

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2743   
2744 Mr. Gentry Bell, Chair

2745  
2746

2747  
2748   
Mr. Benjamin W. Blankinship, Secretary