

1
2 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
3 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
4 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
5 **THURSDAY AUGUST 25, 2022, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED**
6 **IN THE *RICHMOND TIMES-DISPATCH* AUGUST 8, 2022 AND AUGUST 15, 2022.**
7

8
9 **Members Present:** Terone B. Green, Chair
10 Walter L. Johnson, Jr., Vice-Chair
11 Gentry Bell
12 Terrell A. Pollard
13 James W. Reid, Jr.
14

15
16 **Also Present:** Jean M. Moore, Assistant Director of Planning
17 Benjamin Blankinship, Secretary
18 Paul M. Gidley, County Planner
19 R. Miguel Madrigal, County Planner
20 Rob Peterman, Technology Support Specialist
21 Kuronda Powell, Account Clerk
22

23
24
25 **Mr. Green -** Welcome to the August 25, 2022, Board of Zoning Appeals
26 meeting. For those of you that can join me, would you please stand so we can say the
27 Pledge of Allegiance?
28

29 **[Recitation of Pledge of Allegiance]**
30

31 **Mr. Green -** Thank you.
32

33 I'm going to ask if we can just deviate from our normal agenda today for the Board
34 because we have one member who has to leave, and this also is our annual meeting
35 where we are going to conduct elections for officers ... so I'd like to make sure everyone
36 participates in that process. And, I would also ask that because Mr. Pollard has to leave
37 that, if it's ok, we would hear his case first so he could participate in it before he has to
38 leave at 9:45.
39

40 **Mr. Blankinship -** Alright.
41

42 **Mr. Green -** Well, based on that, I think we need to go ahead and move to
43 ...
44

45 **Mr. Blankinship -** The election of officers.
46

47 Mr. Green - The election of officers.
48
49 Mr. Blankinship - Alright, the floor is open to the nominations for the office of
50 Chair.
51
52 Mr. Green - I would like to nominate Mr. Walter Johnson for Chairman of
53 the Board of Zoning Appeals.
54
55 Mr. Blankinship - Alright, Mr. Green has nominated Mr. Johnson. Are there any
56 further nominations? If not, a motion to close the floor to nominations would be in order.
57
58 Mr. Pollard - Do you have to have a second?
59
60 Mr. Blankinship - No, not on the nominations.
61
62 Mr. Pollard - So moved.
63
64 Mr. Blankinship - Alright, Mr. Pollard. Is there a second?
65
66 Mr. Reid - Second.
67
68 Mr. Blankinship - Alright, Mr. Pollard has moved, and Mr. Reid and seconded.
69 Motion to close the floor to further nominations for the office of Chair ... all in favor say
70 aye.
71
72 The Board - Aye.
73
74 Mr. Blankinship - All opposed, no. Motion passes.
75
76 Mr. Green - Mr. Walter Johnson will start at our October meeting as our
77 new Chair.
78
79 Mr. Blankinship - October or September?
80
81 Mr. Green - What is this, October?
82
83 Mr. Blankinship - This is August.
84
85 Mr. Green - August, September
86
87 Mr. Blankinship - You just want one more month.
88
89 Mr. Green - Nah ...
90
91 Mr. Blankinship - Alright, Mr. Johnson has been elected by acclamation, and the
92 floor is open for nominations for the office of Vice Chairman.

93
94 Mr. Johnson - I nominate Mr. Pollard.
95
96 Mr. Blankinship - Alright, Mr. Johnson has nominated Mr. Pollard. Are there
97 any further nominations? If not, a motion to close the floor to nominations would be in
98 order.
99
100 Mr. Bell - So moved. I would motion that we close the floor.
101
102 Mr. Blankinship - Thank you. Is there a second?
103
104 Mr. Green - Second.
105
106 Mr. Blankinship - Alright, Mr. Bell has moved, Mr. Green has seconded. To
107 close the floor to nominations, all in favor say aye.
108
109 The Board - Aye.
110
111 Mr. Blankinship - All opposed, no. The motions passes. Nominations are
112 closed and Mr. Pollard, congratulations, you have been elected by acclamation.
113
114 Mr. Pollard - Thank you.
115
116 Mr. Blankinship - Mr. Chair, I will turn the meeting back over to you. Both of
117 those are effective next month. And, Mr. Chair, I will turn the gavel back over to you.
118
119 Mr. Green - So, I don't get that extra check?
120
121 Mr. Blankinship - Nope! Sorry.
122
123 [Laughter]
124
125 Mr. Green - Not that we get one. Just so individuals out there know, we've
126 adopted a policy that which we think is fair that we would rotate the Chairmanship, Vice-
127 Chairmanship, every two years. We feel like it's important for everyone to have a chance
128 to sit in this hot seat and be kicked by Mr. Blankinship ... I'll be honest with you ... my
129 knee ... my leg is sore ... so I can't ...
130
131 [Laughter]
132
133 Mr. Blankinship - I should switch sides after a year.
134
135 [Laughter]
136
137 Mr. Green - So I can't endure the pain of Mr. Blankenship's torture! That's
138 a good policy. We're following the policy of the Board of Supervisors, as well as the

139 School Board and I think it's going to work well for everyone. And, it doesn't lead to
140 anyone continuing to control everything. So, that's why we do this and I just wanted to
141 make it clear to the public as well as those who are on WebEx watching. And, I have full
142 confidence in our new leadership team in that they will do an excellent job in what they
143 do. Mr. Blankinship.

144
145 Mr. Blankinship - And, we thank you for your leadership.

146
147 Mr. Green - Thank you, sir.

148
149 Mr. Blankinship, the other thing that I'm going to ask is that Mr. Pollard has to leave by
150 9:45, and he does have a case ... I would ask that we indulged him in moving his case to
151 the front of the agenda.

152
153 Mr. Blankinship - Good morning, Mr. Chair, members of the Board, and good
154 morning to everyone in the room with us today. I'd also like to welcome everyone who is
155 joining us remotely on WebEx.

156
157 If you wish to observe the meeting, but you do not intend to speak, welcome and thank
158 you for joining us. For those of you on WebEx who wish to speak, we need to know that
159 in advance so that we can connect you at the appropriate time. So, if you are an applicant
160 or if you have questions or comments on one of the cases, please press the chat button
161 now. It's located in the bottom-right corner of the screen.

162
163 And when the chat window opens, please select Kuronda Powell from the list of
164 participants and let her know your name and which case you're interested in. The chat
165 feature is only being used to identify speakers, so please do not type questions or
166 comments into a chat, but please send a chat to Kuronda Powell now.

167
168 So acting as secretary I will call each case and then we will ask everyone in the room
169 who intends to speak to that case to stand and be sworn in. Then a member of the
170 Planning Department staff will give a brief presentation, and then the applicant will speak.
171 And, then anyone else who wishes to speak will be given the opportunity. We will hear
172 from citizens in the room first, and then from those on WebEx. After everyone has had a
173 chance to speak, the applicant and only the applicant will have an opportunity for rebuttal.

174
175 This meeting is being recorded so we'll ask everyone who speaks to speak directly into
176 the microphone on the lectern in the back of the room. We'll ask you to state your name,
177 and please spell your last name to make sure that we get it correctly in the record, and
178 once your case is over, you are free to leave. There's no reason for you to stay for the
179 rest of the meeting.

180
181 And with that, Mr. Chair, you have requested that we call Conditional Use Permit 2022,
182 number 33, Ellen Byrd.

183

184 **CUP2022-00033 ELLEN BYRD** requests a conditional use permit pursuant to Section
185 24-4430 to allow short-term rental of a dwelling at 5508 Bloomingdale Avenue
186 (Bloomingdale) (Parcel 782-745-3035) zoned R-4, One-Family Residence District
187 (Fairfield).
188
189

190 Mr. Blankinship - Would everyone who intends to speak to this case please
191 stand and be sworn in. Raise your right hand please. Do you swear the testimony you
192 are about to give is the truth, the whole truth, and nothing but the truth so help you God?
193

194 Background - Yes, I do.
195

196 Mr. Blankinship - Thank you. Mr. Madrigal.
197

198 Unknown voice - [Inaudible]
199

200 Mr. Blankinship - Oh ... Were you going to speak as well?
201

202 Unknown voice - Yes.
203

204 Mr. Blankinship - Please stand and raise your right hand. Do you swear the
205 testimony you are about to give is the truth, the whole truth, and nothing but the truth so
206 help you God?
207

208 Unknown voice - I do.
209

210 Mr. Blankinship - Thank you. Mr. Madrigal.
211

212 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, Members of the Board.
213 Good morning, gentlemen.
214

215 Before you is a request to allow the short-term rental of a dwelling. The subject property
216 is located in Lakeside, approximately 300 feet northeast of the intersection of Lakeside
217 Avenue and Dumbarton Road. The parcel is 7,500 square feet in area, and is part of the
218 Bloomingdale subdivision, recorded in 1907. The lot is improved with a one-story, 825-
219 square-foot ranch style home with open parking, built in 1984. Other improvements
220 include a large shed in the rear yard and a 25-foot-wide gravel driveway in the front yard,
221 which is visible here. The lot backs onto a 15-foot-wide alley shared with the businesses
222 along Lakeside Avenue to the west.
223

224 The applicant acquired the property in March of last year and has made significant
225 improvements to the home and property. The interior of the two-bedroom and one-bath
226 house has been remodeled. Vegetative overgrowth has been removed from the rear yard;
227 and, it's been partially enclosed with a six-foot-tall privacy fence. The applicant has
228 installed a wood frame patio, added a large storage shed, and created a gravel parking
229 area off the rear alley, which is visible here. She would now like to offer the home for

230 short-term rentals. Because the proposed rentals would be unhosted and in excess of 60
231 days per year, a conditional use permit is required.

232
233 The proposed use is consistent with both the zoning and Comprehensive Plan
234 designations on the property. The size and existing improvements of the property are
235 typical for the area. The majority of the homes do provide open parking, either in the front
236 yard or the rear yard. The subject property has a 25-foot-wide gravel driveway in the front
237 yard and a gravel parking area off the alley. So, parking is satisfied.

238
239 The occasional short-term rental of the home would not be incompatible with the
240 surrounding uses, nor would it result in an overly intense use of the parcel so long as
241 transient guests are limited to no more than four and are respectful of the property, and
242 all our zoning requirements.

243
244 Although the proposed use would increase the intensity at the property, it is mitigated by
245 its location, the amount of onsite parking, and the 3800 square-foot, private, screened
246 rear yard. As long as the applicant adheres to the regulations and conditions of approval,
247 staff does not anticipate any significant adverse impacts on the neighbors. Based on the
248 facts of the case, staff recommends approval subject to the conditions.

249
250 Mr. Green - Questions from the Board to staff?

251
252 Mr. Pollard - Just want to double check ...

253
254 Mr. Madrigal - You're muted, sir.

255
256 Mr. Pollard - Have we received any complaints?

257
258 Mr. Madrigal - None.

259
260 Mr. Pollard - Any opposition?

261
262 Mr. Madrigal - I haven't gotten any phone calls, haven't gotten any emails,
263 no inquiries on this request.

264
265 ... [Inaudible] ...

266
267 Mr. Blankinship - You'll have an opportunity to speak

268
269 Mr. Green - Any more questions from the Board to the staff? Hearing
270 none, we'll now hear from the applicant.

271
272 Mr. Blankinship - If you would just step around to the microphone.

273
274 Unknown Speaker - I really just need to ...

275

276 Mr. Blankinship - We need you to step around to the microphone. And, please
277 tell us your name.

278
279 Ms. Byrd - Ellen Byrd. I actually don't have much to add. I thought
280 everything was reflected really well in the report. I was just here to answer any questions
281 and any phone calls in person ... or any questions for me or needed clarification.

282
283 Mr. Pollard - I have a question. So, you are familiar with the conditions and
284 agree with them?

285
286 Ms. Byrd - Yes. It's all in the report, the conditions that he had.

287
288 Mr. Green - Ok, we'll now hear from anyone who is opposed and/or in
289 support of this application.

290
291 Ms. Sims - My name is Robin Sims. S-I-M-S. I live two doors down, 5508
292 Bloomingdale. I've been involved with Bloomingdale for years. It's a rich street, from
293 Spring Park all the way down to Anderson, which was known as bootleggers' lane. It's
294 where I eat dinner. It's where kids play in the road. It's where my family enjoys holidays.
295 My career in life was a residential property manager. So, I'm speaking completely from
296 experience.

297
298 Personally, short-term leases are known to have a revolving door. It's what it is ... people
299 rent ... people move out. And, while there are always stipulations, there is no way to
300 enforce it. You have a party for Friday night, and Ms. Byrd has had several, where the
301 whole street is blocked up with cars. All we can do is complain and by the time the
302 complaint gets anywhere, those people have moved on. And, this could happen every
303 single time somebody rents. It does happen. Not only does that happen ... just like in the
304 hotels, people rent those short-term places to do things that are illegal. Distribute drugs,
305 have parties, because by the time the Police get there or know what's going on, they've
306 moved on to another place. It happens in hotels. That's the way it works.

307
308 The main thing I need you to understand about short-term rentals, and *Forbes Magazine*
309 has a great article on this. Short-term leases are equivalent to gentrification. It said
310 because a short-term lease is great for an owner. Money every night, like a hotel room
311 ... is a lot of money. Much more than you are gonna make on a monthly rent. And, you
312 can change it every day. Tonight I'm renting it for four-hundred, next week three-hundred.
313 You make money hand over fist. But what happens if this is approved and you set
314 precedence for this and a third of the people, or half of the people who have yearly leases
315 decide to go short-term? They're gonna make a bunch of money. They may not even be
316 in-state owners of the property, but that money is going out of state, we're suffering and
317 all those people who needed that 12-month lease, because they can't afford to buy, they
318 couldn't get an apartment. Where are they going to go? Short-term leases destroy
319 neighborhoods. They push out the indigenous people who have always been there. And,
320 those people who moved there to start their life have nowhere to go. It's something that's
21 a rolling ball that gets bigger and bigger. While one seems ok, one leads to two, and our

322 county doesn't need the homelessness rate it will cause, the poverty rate it will cause.
323 It's a negative issue all the way around. Just for myself, I don't want a revolving door next
324 to me with people moving in and out.

325
326 Oh yes, there's parking in the rear. I didn't even think there's a gate in the rear of the
327 house. Ok, if you park in the rear, you have to walk around the block to get in. Behind
328 there is dumpsters to a catering place. Catering place comes in at 11:00 o'clock. We're
329 up all night some nights between eleven and one for the catering place, then the dumpster
330 in the morning, then you got the bar with the bikers across the street. The local
331 businesses include a pawn shop where you can buy a gun, and a plasma bank where
332 you can sell your blood for quick cash. This is not out on a beach. It's not somewhere
333 you would go to a hotel resort. This is a small neighborhood. It doesn't need this kind of
334 traffic. And, honestly, it's a small street that can't afford it. We have lots of kids in the
335 street every day. It's like your childhood when you go out somebody screams "car" and
336 all the kids scatter. That's our street. I love my street. I don't want it to turn into something
337 that you're scared to go out at night. It's already busy. We're already backed up to
338 commercial. We're on Bloomingdale & Dumbarton. Dumbarton is getting Amazon down
339 the road. It's going to make it even busier. This is the last thing that would be positive for
340 my street, for my county. I'd ask you not to approve it.

341
342 Mr. Green - Excuse me, your name was again ... I'm sorry.

343
344 Mr. Blankinship - Sims.

345
346 Mr. Green - Ms. Sims, you know that the county has altered its rules to
347 allow short term rentals and one of the things they require is that the owner has to live in
348 it at least 185 days a year.

349
350 Ms. Sims - That's ... so, half a year?

351
352 Mr. Green - Yes.

353
354 Mr. Blankinship - Ma'am, if you're going to speak you're going to need to be on
355 the microphone.

356
357 Ms. Sims - So, half the year, we got a neighbor who already doesn't
358 respect any of us. It's been plenty of nights she's thrown soirees and all the street is
359 blocked with cars. They're parked in people's yards. My house doesn't have a driveway.
360 Most homes are on-street parking there. I don't know why that was misinformed but, no,
361 we don't all have driveways there. And anything that goes on in that house blocks up all
362 the street. Which is not a big deal, but it's a big deal if you have tenants in and out, and
363 in and out. One tenant, they throw a party once or twice a year, but if you've got a
364 revolving door tenant. I don't know any ramifications as a resident that I would have. If
365 they have more than four guests ... I don't even know who lives there.

366
367 Mr. Green - Have you ever called the Police, or taken pictures of ...

368
369 Ms. Sims - No, because it's not a neighborhood where you want to fight
370 with people. Literally, it's 12 foot between each house. I look out my window, I can see
371 my neighbor's going in her refrigerator. It's not a neighborhood where you want to argue
372 with people. We all get along. We wave to one another going up and down the street.
373 So no, and like I said, with Ms. Byrd it's once or twice, it's not something that happens
374 every night. But if she's renting it to somebody new every night, it very well could be.
375
376 Mr. Green - Ok, thank you. Are there any other individuals who want to
377 speak for or against this request?
378
379 Mr. Peterman - No one on WebEx.
380
381 Mr. Blankinship - Thank you.
382
383 Mr. Green - Ok, Mr. Johnson. You can go ahead and answer the question.
384
385 Mr. Blankinship - Are there no other speakers?
386
387 Mr. Green - No, no, we have a Board member asking a question.
388
389 Mr. Johnson - You were at the podium, please go back ...
390
391 Mr. Blankinship - Oh, you want to ask Ms. Sims a question?
392
393 Mr. Johnson - Yes.
394
395 Mr. Blankinship - Oh, I'm sorry Ms. Byrd ... my confusion.
396
397 Ms. Sims - Yes, sir.
398
399 Mr. Johnson - Where is your residence compared to the applicant?
400
401 Ms. Sims - There is one house between mine, 5508.
402
403 Mr. Johnson - You're on the same street?
404
405 Ms. Sims - I'm one house over.
406
407 Mr. Johnson - Ok. Now, has there been anything you've had in the
408 neighborhood ... like within the last year or so?
409
410 Ms. Sims - Anything ... like ...?
411
412 Mr. Johnson - ... made complaints of neighbors and all?

13

414 Ms. Sims - No, normally we are able to speak to our neighbors. The
415 neighbor across the street, the one that wants to park in his easement a certain way; and
416 we simply talk back and forth, as a normal neighbor would do. So no, nothing to call the
417 Police on ... nothing. It's just a quiet little neighborhood. We have a gentleman across
418 the street who has some issues. I think he goes to the Lakeside House. Occasionally,
419 he comes out and growls at people. You know what, he's our neighbor. We know he has
420 some issues and we know how to overlook that. That's a simple thing. You don't start a
421 fight over something like that. Ninety-nine percent of the time, he's good. When it's a full
422 moon ...

423
424 Mr. Pollard - I'm just curious. Are you and Ms. Byrd friendly?

425
426 Ms. Sims - We are not.

427
428 Mr. Blankinship - You're muted again, Mr. Pollard.

429
430 Ms. Sims - I have not spoken to Ms. Byrd. I have waved at her several
431 times. She's made no attempt to be friends with anybody in the neighborhood that I know.

432
433 Mr. Pollard - She doesn't wave back?

434
435 Ms. Sims - No, she definitely does not.

436
437 Mr. Pollard - I'm sorry Mr. Johnson.

438
439 Mr. Green - Thank you. Ms. Byrd, you can go to the podium and ...

440
441 Ms. Byrd - I just figured I'd give my two cents. I am unfamiliar with these
442 neighbors. I have my partner who lives in Carytown. We are partially at my place, and
443 partially at his place. So, I'm not sure what she is referencing as far as parties. I have
444 actually not had a late night party at my house. I actually reside at my boyfriend's a lot of
445 the time with our dog. I wanted to hit on a few other things she had mentioned.

446
447 As I'd spoken with Miguel prior, I will be in-state. I will be living with my boyfriend who
448 lives in Carytown ... so three miles away. I don't think this would set a precedent. This is
449 why we have to come here every time we want to do something like this So that you guys
450 can hear us out. There is no precedent.

451
452 I kind of would like to speak to the gentrification aspect or whatever she spoke about kind
453 of in the neighborhood. She's not wrong in the sense that this endeavor has nothing to
454 do with enhancing the neighborhood. It has to do with me taking a large asset in my life
455 or turning this into a large asset in my life. This is a liability for me. I purchased this
456 property and then put \$80,000 dollars into it. That's not much more than this property was
457 worth. So, on this particular endeavor, it's not about enhancing the neighborhood. It was
458 in 2021 when I purchased it. The ability for me to continue to make revenue on this and
459 to pay my mortgage through this and not have two properties hinges on the fact that I

460 don't upset neighbors and that people do have a positive experience in the neighborhood.
461 It does not behoove me in any way to allow large parties of more than four people in this
462 property. I know that this can get taken away just as easily as it was given to me. So,
463 please know that I do understand that.
464

465 The other thing I'd like to speak on is that she mentioned something about the
466 neighborhood and the fact that there are pawn shops, catering companies, dumpsters,
467 mechanics. This neighborhood is loud, and I don't think there has been one time that I
468 have made the neighborhood any louder. And I can't imagine the four people that could
469 possibly be in this place less than 180 days a year could make it much louder than it
470 already is. Like you mentioned, as well, I've put in a privacy fence, I've regraded the
471 property. I, again, put \$80,000 dollars into this house. It looks nothing like it did in 2020.
472 The only thing I can think she may be referencing is prior to me purchasing this property,
473 I was told by her neighbor, Heather, and a few other people in the neighborhood that who
474 lived there before did have a lot of wild parties. And, I can vouch for that by the amount
475 of Heineken beer caps I found in the back yard when we regraded.
476

477 Mr. Blankinship - How long have you owned the property?
478

479 Ms. Byrd - I purchased it in March of 2021. Like I said, we're there often.
480 My partner, my dog and I, but ... we're 50/50 in between both our houses.
481

482 Mr. Green - Ok.
483

484 Ms. Byrd - Hence, we're trying to off-load one.
485

486 Mr. Green - Any other questions from the Board to the applicant?
487

488 Mr. Johnson - Are you aware that there is 185 days you have to be at that
489 facility as well?
490

491 Ms. Byrd - Yeah, and when I spoke with Miguel and his team prior, I did
492 understand that. This is not I'm moving into my partner's place. This is just if I'm only
493 there half the time ... Why would I not rent it half the time, if possible?
494

495 Mr. Johnson - And I noticed you have two car spaces so it wouldn't be a
496 whole lot of space for people coming in.
497

498 Ms. Byrd - Yes. So I was told that I need to have a space per person. So
499 I have two spaces in the front and there is a picture that shows the back as well, in the
500 rear. My property line actually goes out about 20-30 feet past that rear fence. It looks
501 like it's into the alley, but it's not. So, with cleaning up that back area, that definitely offers
502 two more parking spots. There would not be any street parking, which I'm told is not
503 allowed anyway. And there is a gate, I guess I should have referenced that. There is a
504 gate that takes you from the back to the front. It can only be unlocked, currently, from the
505 inside for safety. But I'll, obviously, put a lock on the back too.

506
507 Mr. Johnson - Thank you.
508
509 Mr. Green - Hearing no other questions or concerns from members of the
510 Board, I'd like to entertain a motion.
511
512 Mr. Pollard - In hearing both residents of that neighborhood speak, Ms.
513 Sims, she spoke to a lot of large scale issues that I'm interested to read about myself.
514 And, some of those issues could probably be addressed with the Board of Supervisors in
515 terms of changing how we handle them. Overall, we address these on a case by case
516 basis. ... but I do encourage you if there are any issues that arise, do call them ... and it
517 sounds like so far Ms. Byrd hasn't had any complaints ... [Inaudible] ... so with that, I'm
518 move that we approve the conditional use permit, subject to the conditions
519 recommended by staff. It is consistent with the Comprehensive Plan and Zoning
520 Ordinance. It backs up to commercial property so that impact will be minimal. The lot has
521 parking in front and on the alley. The privacy fence will mitigate noise, and then glare.
522
523 Mr. Green - Is there a second?
524
525 Mr. Johnson - I second.
526
527 Mr. Green - It has been moved by Mr. Pollard. Seconded by Mr. Johnson.
528 Is there any discussion among the Board? Hearing none, all in favor say, aye.
529
530 The Board - Aye.
531
532 Mr. Green - Motion passed.
533
534 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **approved, CUP2022-**
535 **00033 ELLEN BYRD's** request for a conditional use permit pursuant to Section 24-4430
536 to allow short-term rental of a dwelling at 5508 Bloomingdale Avenue (Bloomingdale)
537 (Parcel 782-745-3035) zoned R-4, One-Family Residence District (Fairfield). The Board
538 approved the request subject to the following conditions:
539
540 1. This conditional use permit authorizes the short-term rental of the existing dwelling,
541 including unhosted stays for a maximum of four guests. All other applicable regulations
542 of the County Code remain in force.
543
544 2. This approval is subject to the County noise ordinance (Sec. 10-67 through 10-69),
545 registry ordinance (Sec. 20-280 through 20-282), and short-term rental development
546 standards (Sec. 24-4430).
547
548 3. To ensure adequate parking, before listing the property for short-term rental, the
549 applicant must remove and dispose of the wood, concrete blocks, and bricks located in
550 the rear parking area.
551

552 4. Any exterior lighting must be shielded to direct light away from adjacent property and
553 streets.

554
555 5. Before listing the property for short-term rental, the applicant must obtain approval from
556 the Department of Building Construction and Inspections to change the use of the building
557 to include short-term rental. This must be accomplished no later than August 26, 2024,
558 or this conditional use permit will expire. If the change of use request is cancelled or
559 revoked after that date due to failure to diligently pursue building corrections, this
560 conditional use permit will expire at that time.

561
562

563 Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
564 Negative:		0
565 Absent:		0

566
567

568 Mr. Blankinship - Alright, Mr. Chair, with that I'm going to ask that we move back
569 to the top of the agenda because we did skip over ... There are two requests for deferral
570 on this morning's agenda, and they were the two variances.

571
572

So the first is Variance 2022, number 14, Steven and Jean Himelspach.

573
574

575 **VAR2022-00014 STEVEN AND JEAN HIMELSPACH** request a variance from Section
576 24-6402.A.2. of the County Code to build a one-family dwelling at 9750 Osborne Turnpike
577 (Newstead Farms) (Parcel 807-670-8807) zoned A-1, Agricultural District (Varina). The
578 applicant has 26,569 square feet lot area and 100 feet lot width where the Code requires
579 30,000 square feet lot area and 150 feet lot width. The applicant requests a variance of
580 3,431 square feet lot area and 50 feet lot width.

581
582

583 Mr. Blankinship - The applicant's not here this morning. There's no one here to
584 represent that case this morning. Mr. Himelspach did email us. He is working on
585 alternatives and wants have a meeting with the neighbors. I understand he has not yet,
586 but he wants to meet with the neighbors before he comes back before the Board. So, he
587 has asked for a deferral to the September meeting.

588
589

590 Mr. Green - This was that case that I missed?

591
592

593 Mr. Blankinship - Yes. Yes, sir. It was deferred from the previous meeting.

594
595

596 Mr. Johnson - This is the second deferral?

597
598

599 Mr. Blankinship - Yes. Is there a motion?

600
601

602 Mr. Johnson - I motion that we defer to September.

603
604

605 Mr. Green - Is there a second?

598
 599 Mr. Reid - Second.
 600
 601 Mr. Green - Oh ... Is there any discussion? No discussion. All in favor of
 602 deferring say, aye.
 603
 604 The Board - Aye.
 605
 606 Mr. Green - Deferred.

607
 608 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **deferred** case **VAR2022-**
 609 **00014** until the September meeting.
 610

611
 612 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
 613 **Negative:** 0
 614 **Absent:** 0
 615

616
 617 Mr. Blankinship - And the other variance is also requesting deferral. Variance
 618 2022, number 16, Mark Rempe.
 619

620 **VAR2022-00016 MARK REMPE** requests a variance from Section 24-6402.A.2. of the
 621 County Code to build a one-family dwelling at 1647 Main Boulevard (Greenwood Heights)
 622 (Parcel 780-767-9302) zoned R-4, One-Family Residence District (Brookland). The
 623 applicant has 5,250 square feet lot area where the Code requires 6,000 square feet lot
 624 area. The applicant requests a variance of 750 square feet lot area.
 625

626 Mr. Blankinship - Mr. Rempe emailed us yesterday and said he had to take his oldest
 627 child to college orientation today. So, he did not want the case to be heard in his absence.
 628

629 Mr. Green - I know about that. Is there a motion to defer?
 630

631 Mr. Reid - So moved.
 632

633 Mr. Green - Is there a second?
 634

635 Mr. Pollard - Second.
 636

637 Mr. Green - Any discussion? Variance is deferred.
 638

639 On a motion by Mr. Reid, seconded by Mr. Pollard, the Board **deferred** case **VAR2022-**
 640 **00016** until the September meeting.
 641
 642
 643

644	Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
645	Negative:		0
646	Absent:		0

647
648
649 Mr. Blankinship - Alright, thank you. The first case on the agenda ... we've not
650 had a request for the applicant to defer, but staff is recommending deferral. So this one
651 should go quickly, too.

652
653 This is the other case that was deferred from last month due to miscommunication,
654 confusion, or conflict with the Homeowner's Association. It's Conditional Use Permit
655 2022, number 32.

656
657 **CUP2022-00032 MALLA IWATSUBO** requests a conditional use permit pursuant to
658 Section 24-4406 of the County Code to allow an accessory dwelling unit at 11725 Norwich
659 Parkway (HAMPSHIRE) (Parcel 742-774-4587) zoned One-Family Residence District (R-
660 2AC) (Three Chopt).

661
662 Mr. Blankinship - Is there anyone here to speak to this case? Ok, I guess the applicant
663 just assumed they didn't need to be here since they had not resolved the issue. Mr.
664 Madrigal, would you go ahead?

665
666 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, Members of the Board.
667 Before you ...

668
669 Mr. Green - Is there a motion to defer?

670
671 Mr. Blankinship - Well that's what he's going to present.

672
673 Mr. Madrigal - Would you like to hear the case?

674
675 Mr. Blankinship - It's our suggestion that you defer. Well, you could just defer
676 because the applicant is not here. Save us a minute.

677
678 Mr. Green - I move to defer.

679
680 Mr. Bell - Second.

681
682 Mr. Green - All in favor say, aye.

683
684 The Board - Aye.

685
686 Mr. Green - Is there any discussion? No discussion. All in favor say, aye.

687
688 The Board - Aye.

689

690 Mr. Green - Deferred.
691

692 On a motion by Mr. Green, seconded by Mr. Bell, the Board **deferred** case **CUP2022-**
693 **00032** until the September meeting.
694

695
696 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
697 **Negative:** 0
698 **Absent:** 0
699

700
701 Mr. Blankinship - Alright. Thank you very much.
702

703 Now, we do have three cases that we do expect to hear. The first is Conditional Use
704 Permit 2022, number 34.
705

706 **CUP2022-00034 NEAL RICHARDS AND HEATHER SCUDDER** request a conditional
707 use permit pursuant to Section 24-4430 of the County Code to allow short-term rental of
708 a dwelling at 4901 Thicket Place (White Oak Hills) (Parcel 856-702-8114) zoned A-1,
709 Agricultural District (Varina).
710

711 Mr. Blankinship - Would everyone who intends to speak to this case please stand and
712 be sworn in. Raise your right hand please. Do you swear the testimony you are about to
713 give is the truth, the whole truth, and nothing but the truth so help you God?
714

715 Background - I do.
716

717 Mr. Blankinship - Are you the applicant?
718

719 Unknown Speaker - Yes.
720

721 Mr. Blankinship - Ok, great. Mr. Gidley.
722

723 We do have one person on WebEx who's interested in this case. Also, there were two
724 emails in the packet, and a third was left at the table concerning this case. Were you
725 given a copy of the email? Ok, good.
726

727 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chairman and
728 Members of the Board.
729

730 Mr. Blankinship did mention the letters of opposition that you have so I will go on and start
731 now.
732

733 The subject property is located in the White Oak Hills subdivision, and this is just off Elko
734 Road in the eastern part of the county. The applicants own a 1.2-acre lot that is improved

735 with a 2-story, 2,104-square-foot home with four bedrooms. And, this is the street view
736 of the home right here.

737
738 The applicant would like to offer the home for short-term rentals, which requires a
739 conditional use permit for two reasons. First, these will be unhosted stays, so the
740 applicants will not be there during the rental. Second, they are requesting permission to
741 rent for over 60 days per year.

742
743 In evaluating this request, the use of the property for a one-family dwelling is consistent
744 with the A-1 zoning of the property and the Rural Residential designation of the
745 Comprehensive Plan. As you can see here, the neighborhood is rather spacious with
746 acre-plus lots. There is over 130 feet between the applicant's home and the closest
747 residence. The property also has plenty of parking available onsite, as you can see
748 right here.

749
750 As you know, unhosted stays are more likely to have potential noise and other impacts
751 on neighbors, as compared to hosted stays where the owner is present. This property,
752 however, is better suited than many. As noted, it is over an acre in area and has a
753 large, fenced-in rear yard, which you can see right here. The applicants have indicated
754 they will normally be in the area when renting and if not, their daughter is the backup
755 person.

756
757 In conclusion, the applicant is requesting permission for unhosted stays, potentially for
758 more than 60 days a year. While this combination would be a concern in a denser
759 neighborhood of smaller lots, the applicant's property appears better suited given its
760 large size, fenced rear yard, and plenty of onsite parking. As a result, staff does not
761 anticipate a substantial detrimental impact from this request and can recommend
762 approval, subject to the conditions in your staff report.

763
764 This concludes my presentation. If you have any questions, I will be happy to answer
765 them.

766
767 Mr. Green - Are there any questions from the Board to the staff?
768 Hearing none, we'll hear from the applicant. ... Go to the podium.

769
770 Ms. Scudder - Hello, I'm Heather Scudder, S-C-U-D-D-E-R.

771
772 Mr. Richards - I'm Neal Richards, R-I-C-H-A-R-D-S.

773
774 Ms. Scudder - ... I wasn't sure ... Are we rebutting, or are we waiting ...?

775
776 Mr. Blankinship - No, begin with your application.

777
778 Ms. Scudder - Oh. Sorry, little nervous. I don't feel that it's going to cause
779 any problems. We have had some short-term rentals already and we haven't had any
780 complaints. The two neighbors that are behind ... if you can see in the picture up there

781 ... it's right behind us. And the neighbor to the left, they both help us when we are not
782 there ... like when the guests are there. The mail carrier helps us. We have a lot of people
783 watching. We have six exterior cameras ... seven ... to monitor as well. So when we are
784 not physically there, we can hear, we can talk to the guests through the cameras so that
785 we see how many people coming in and out. And the parking is here, you can park, you
786 can close the fence so it's not bothering our neighbors.

787

788 Mr. Richards - We put most of the cameras in the back. No cameras in the
789 house, of course. And, two cameras in the front just to make sure everything is going ok,
790 or if there's anything we see that's wrong, we will be on that first. Our phone buzzes. We
791 have four Ring cameras, and Vivint, which is a security company as well. And we have
792 smart locks. They enter in through the back door, so that no one is coming through the
793 front. So they drive into the driveway, and they enter through that back door, right there.
794 And, we have smart locks where we can assign them a code, or we can open from our
795 phones. And smart thermostats, and ...

796

797 Ms. Scudder - Carbon Monoxide detectors.

798

799 Mr. Richards - Also glass shattering, things like that and I read something
800 about a decibel meter that we stick outside.

801

802 We have a spacious lot there. We also installed, yesterday, solar panels. So, on the roof
803 now, there's solar panels. I spent about fifty-five thousand. We put in over a hundred and
804 twenty-thousand this year into the house because that's the house that we're going to live
805 in eventually. We're staying in my house in Chesterfield County, so we are not that far
806 away. And I commute every day to Virginia Beach and back, for work. So, once I'm retired,
807 I plan on staying there.

808

809 Ms. Scudder - I mean we stay there half. This is in between, but this is our
810 retirement home so it's an investment. I don't know if I should address the emails that
811 you were sent?

812

813 Mr. Blankinship - Please.

814

815 Ms. Scudder - One of them ... which I spoke to my neighbor across the
816 street, which I totally understand his concern. It's a quiet neighborhood. That's why I
817 bought the house there because I want to live in a quiet neighborhood. We are increasing
818 the ... We added the fence, the solar panels, we've done the garage. We've updated
819 work, improving the home to increase the value, and not decrease it because this is our
820 long-term ... we want to own this home. And then one of the letters, so you are aware, is
821 behind us, is our old neighbor who no longer lives there. He lives down the street, Charlie
822 Rourke. He was the one who was arrested because he was robbing the houses, our
823 house included. And we brought the paperwork of his conviction if you need to see it. So
824 that's one of the letters that's in the complaint. It's him.

825

826 Mr. Richards - It states that people from the city coming in and ...

827
828 Ms. Scudder - ... and drug addicts. It's his son that lives with him, at 4932,
829 and his name is the same, Charlie Rourke. His son is the drug addict. ... Extra.
830
831 Mr. Blankinship - Let's try to stay focused on your application.
832
833 Ms. Scudder - I'm just trying to ...
834
835 Mr. Blankinship - I understand your point, and its well-made, but let's move on.
836
837 Ms. Scudder - So, there's no drug addicts staying at the house.
838
839 Mr. Richards - No gambling.
840
841 Ms. Schudder - No, it's not a recovery home. It's just short-term rentals. And,
842 we use a company called Evolve. They manage and they do background checks, credit
843 checks on our guests. So, it's not just Airbnb where anyone is more open ... we use an
844 actual management company. None of our guests are under 30 years old. We have like
845 stricter rules because this is our house.
846
847 Mr. Richards - Families, we want families there. No partying, no loud noise.
848 And it states it as well in our rental agreement.
849
850 The front yard, I'm trying to get the grass to grow. I have Chemlawn, and I do have a
851 maintenance man coming around once a week cutting grass and trimming. I know one
852 of the letters said we don't have the grass cut, but we have a contract with a guy ... I have
853 Chemlawn coming out. The grass is looking bad in that one picture. You can see a bald
854 spot, but I'm trying to improve upon the area.
855
856 Mr. Green - Ok, thank you. We'll now hear from anyone on WebEx.
857
858 Mr. Peterman - Yes, we have Mr. Chavin on WebEx and he is ready to speak.
859
860 Mr. Green - Would Mr. Chavin please let us know if he is speaking for or
861 against this.
862
863 Mr. Peterman - I don't think he can hear you.
864
865 Mr. Chavin - Can you guys hear me?
866
867 Mr. Blankinship - Yes. Yes sir, we can.
868
869 Mr. Chavin - Excellent. First and foremost, my name is Mark Chavin. C-H-
870 A-V-I-N. I am speaking against this measure, at this point in time. I would like to review
871 a few things first and foremost. Mr. Chair and Board, I would like to thank you for allowing
872 me to chat with you this morning, and I apologize that I could not be there in person.

873
874 I'm very familiar with Henrico County. I'm an appointee on the Virginia Real Estate
875 Appraisal Board, and called the designated appraiser. I live at 6621 Thicket Drive, which
876 is basically across the street. If you are looking at your image, if you go due north, my
877 house is across Thicket Place. ... Nope ... move over to the right there with your pointer.

878
879 That's me. Excellent. So, if you will, I would be the person, probably be one of the two
880 or three that would be most highly impacted if something adverse went wrong with short-
881 term rentals in this house.

882
883 The second point of reference I'd like to make is, I absolutely would like to reach my hand
884 out to thank Heather Scudder for coming by my home yesterday, chatting with me at
885 length. She is right. She and Mr. Richardson have made significant improvements to this
886 house over the last year to make it a much nicer property.

887
888 The reason though, that I'm speaking against this measure is if you look at White Oak
889 Hills and White Oak Estates ... As I wrote your Board, this is a quiet large-sized
890 neighborhood. People pride themselves on maintaining their yards, and having that
891 friendly rural feel to the neighborhood. As a matter of fact when we were chatting
892 yesterday on my front porch, Ms. Scudder and I, some of the neighbors walked by, people
893 waved. People know each other. We don't have a ton of children playing in the street or
894 things like that. But we do appreciate the idea that while White Oak Hills has that rural
895 feel. It's convenient to the West End of Richmond, or the western end of Williamsburg
896 for that matter. We like that feel. We don't like, if I can steal a phrase from your last case,
897 that revolving door.

898
899 I understand that the applicants are going to use a management company, which will help
900 them take care of what they do with this particular house. And, Mr. Richards and Ms.
901 Scudder, I'm thrilled to know that your ultimate plan is to become my permanent neighbor.
902 I would like that very much. I know, Ms. Scudder, if you'd pass in your red car, you'd get
903 waves from me every day. So, I'm not here in an adverse capacity on a personal level,
904 but I am here in an adverse capacity just out of the concept that your Board would look
905 at something in a suburban to rural neighborhood of large estate homes, and look at the
906 idea that it is ok to have, in my business, the appraisal business, what we call a hotel
907 situation. In reading this, and I may be wrong, but you guys can certainly correct me if I
908 am. The short term rental, it could be for six months or longer ..., and it could also be for
909 a weekend. And so, as any resident would have, whether it was here or in White Oak Hills
910 or somewhere else, I'm just a little uneasy about the idea of having something go awry,
911 interrupting the quiet sanctity of my yard. Every night I have deer on one side and I have
912 a ground named Harold who lives under my garden. So that's kind of my point for
913 speaking today. I'd like to believe, and I think I do, that the Richards/Scudder family will
914 keep this property up nicely. But, I am a little uneasy about the idea that people will be
915 coming near where the predominance of folks who are in this neighborhood are longtime
916 residents, much longer than my six years. I think that might change the ...

917

918 I'd like to leave you with a couple of things. It's always good to think about what you are
919 doing and how you are going to move forward. Many, many years ago, back in the 1990's,
920 a county musician by the name of Travis Tritt wrote a song called "Best of Intentions."
921 Everybody has that. I believe that Mr. Richards and Ms. Scudder do have that. But I also
922 believe that if you are going to do a three-night rental, something short like that ... that's
923 a little scary. Because even with the best of intentions out there, things can get a little bit
924 sideways. And, for a second, I'd like to leave the Board members with ...and even Mr.
925 Richards and Ms. Scudder. Would any of you who live in a nice quiet neighborhood just
926 immediately be ok with the idea that you're going to have a hoteling situation next door to
927 you?

928
929 Again, I'd like to thank Ms. Scudder for talking to me yesterday about it and thank the
930 board for listening to me today. And, win, lose, or draw, I hope everyone has a good day
931 and the rest of the week. Thank you.

932
933 Mr. Green - Any other individuals on WebEx who would like to speak for
934 or against this? ... Thank you, sir, first.

935
936 Mr. Peterman - No one else on WebEx.

937
938 Mr. Green - Fine. Would you like to rebut?

939
940 Mr. Richards - I would just like to say that since this is out in a rural area,
941 there is not a lot of bars or anything like that. People come there, they enjoy the back
942 yard. Families come to our Airbnb. We have, probably with the 180 days, have 50 percent
943 occupancy. So, that's going to be about 90 days, at the most. And, all of our tenants so
944 far have been families coming out, and they just wanted to get together. We have
945 testimonies about going to a wedding, three families got together and stayed at a house
946 ... especially during Covid. They didn't want to stay to stay at a hotel, so it's mostly
947 families that's going to come out to this area. The partying and everything else, that is
948 maybe towards the city where everything is close by. You have to drive almost two miles
949 to get to the local grocery store. I do have the best intentions. That's why I have a lot of
950 security cameras because we don't know what anyone's going to do. My permanent
951 neighbors did something. So, with best intentions they could be short term or it could be
952 your next door neighbor.

953
954 Mr. Green - Alright. Any questions from the Board to the applicant on their
955 rebuttal?

956
957 Mr. Johnson - Yes. Do you have an idea of how many occupancies you're
958 going to have in? How many bedrooms do you have, as well?

959
960 Ms. Scudder - We have four bedrooms, but we did six as the maximum
961 amount of people. Is that what you are asking about ... occupancy?

962
963 Mr. Johnson - Yes, I'm asking the maximum. Ok.

964
965 Ms. Scudder - We don't want to do too many people because we figure six
966 ... We don't need too many people within the house.
967
968 Mr. Johnson - That's one of the reasons for each bedroom they have two
969 people. So, you couldn't have any more than that. ... And, let's see, you're saying they
970 are all are over 18, right?
971
972 Ms. Scudder - No, sir. We set a rule for 30. It was recommended. I did a lot
973 of research before we started. I've seen a lot of horror stories and they all recommend
974 over thirty. So, that's what we set our rule for.
975
976 Mr. Blankinship - That's interesting.
977
978 Mr. Johnson - Alright, thank you. It's a nice facility out there. Plus, a nice
979 long driveway as well.
980
981 Ms. Scudder - Thank you.
982
983 Mr. Richards - You should come on out. Get out to the suburbs ...
984
985 ... [Laughter] ...
986
987 Mr. Johnson - Thank you.
988
989 Ms. Scudder - Is that it?
990
991 Mr. Green - Yes, before we close this case I'd like to say something. I've
992 been on this Board for five years and we've been talking about short-term rentals. And
993 one thing I think we need to be cognizant of and have all of those who are looking at this
994 and weighing in on it that there is a presumption there's gonna be a lot of noise. It's always
995 a presumption. The first assumption there is a potential for a lot of noise without the
996 evidence to show that there is a lot of noise. And, I think that's something we all need to
997 be cognizant of and be concerned about. While we have heard that there's a potential,
998 I've heard more "potential" for loud noise than I've heard the actuality of it being the case.
999 So, being fair and objective to individuals who want to do these short-term rentals, I think
1000 we need to take that into consideration.
1001
1002 The other thing that I'd like to say is that the county has changed. The county is allowing
1003 these short-term rentals, just like they are allowing chickens. [Inaudible background
1004 comment] ... no, the reality is they are allowing chickens to come into individuals' yards.
1005 So, we have to respond to the mandates that are coming down from the county.
1006
1007 I live, and I'll use myself as an example. I live in what I consider a very nice subdivision,
1008 but next door my neighbor has a pool and he has a 15, 16 year old and 12 year old, and
1009 it is not uncommon for them to have parties. The kids have parties. A couple of weeks

1010 ago ... Did they get very, very loud? ... Without a doubt! Did the party go beyond twelve?
1011 Without a doubt! But sometimes we've got to recognize that as neighbors we've got to
1012 recognized who's giving the party, who's there ... and deal with it. Rather than me calling
1013 the Police, or going over knocking on the door saying the party's too loud, basically, my
1014 wife and I and family just drowned it out, because you want to create harmony in the
1015 neighborhood. And, fortunately, the young kid who gave the party, sent a note saying he
1016 was giving a party and if it got too loud, just let him know. He's such a nice kid that
1017 sometimes you've just got to ignore it because you want to be good neighbors.

1018
1019 So, I just wish that when individuals bring forth their concerns, relative to what "potentially"
1020 could happen, they could bring forth evidence of what happened. I am an evidence-based
1021 type of individual, and I will respond to evidence-based. I can't respond to the "potential."
1022 Because just as you may have individuals at your house doesn't preclude anyone else,
1023 even including the person that spoke, to have a large party at his or her house. And you'd
1024 be as offended by that noise or that traffic that they may be offended by you. So, I think
1025 there is a balance that we've got to create, and folks need to recognize that we just can't
1026 say no to everything. Am I a big fan of Airbnb's ... no. But as I've set on this Board, I've
1027 come to the realization that I've got to be fair, objective, and weigh it out. And I wish that
1028 when individuals come to us objecting to these that they bring us hard evidence, not what
1029 I "think" might happen, because what I think may happen is not necessarily what ... it's
1030 discriminatory in actuality to do something like that ... to say what "may" happen. It's
1031 almost to say, well it's because this particular African-American might move into a
1032 particular neighborhood. This "might" do this, or they "might" do that, or this Asian couple,
1033 or this Indian family "might" do that to the property values. We don't know. This is America.
1034 The rules we follow ... We are following the rules, and we will continue to following the
1035 rules. So, I just wanted to say that ... and all too often I have heard the negatives. So, as
1036 we move forward and when you are talking to these individuals, if you could ask them to,
1037 at least, bring us some kind of evidence to show that there is a problem ... then I, quite
1038 frankly, don't want to get caught up in what "might" happen. A lot of things "might" happen.
1039 And then, as I look at all the Airbnb's that we have approved, I've yet to see anything
1040 come back. Where all of these negative concerns individuals have about us granting that
1041 all of a sudden, it has been proven that this is problematic. We've approved a lot of these.
1042 They've gone out the door and we haven't heard a peep from them. And so, I'd like
1043 everybody to start thinking along those terms, and as I exit my chairmanship and start
1044 sitting in another seat, I just don't want to get caught up in what "might" happen. I want to
1045 know what "is" happening, and if it is not happening then please limit that to just their
1046 opinion. Because that's just an opinion, and everyone's entitled to an opinion, but in being
1047 fair to the process.

1048
1049 Our staff does an excellent job of being fair to the process, and looking at all the variables.
1050 I don't think that people really recognized that a lot of time and energy is put in by our
1051 staff as professionals to look at this thing. And, they've done this long enough to know
1052 when there could potentially be some issues. And, to some degree, I think it hints at
1053 swiping at our folks and that we are not doing our due diligence and I don't appreciate
1054 that.

1056 Hearing no other comments, I'd like to close this case and move for a vote.
1057

1058 Mr. Johnson - Mr. Chair, I have one thing to say that they covered a lot of
1059 evidence on having this Airbnb. What they want done and also the ages of the people
1060 there. So, I move that we approve this conditional use permit, subject to conditions
1061 recommended by the staff. It is consistent with the Comprehensive Plan and the Zoning
1062 Ordinance. The lots in the neighborhood are large and very spacious. Also, the lot has
1063 parking for, at least, six cars and the privacy fence, which will mitigate noise and glare. I,
1064 again, move for approval.
1065

1066 Mr. Green - Is there a second?

1067
1068 Mr. Reid - Second.

1069
1070 Mr. Green - It's moved and second. Is there any discussion? Hearing
1071 none, all in favor, aye.

1072
1073 The Board - Aye.
1074 (*Minus Mr. Pollard*)
1075

1076 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved, CUP2022-**
1077 **00034 NEAL RICHARDS AND HEATHER SCUDDER's** request for a conditional use
1078 permit pursuant to Section 24-4430 of the County Code to allow short-term rental of a
1079 dwelling at 4901 Thicket Place (White Oak Hills) (Parcel 856-702-8114) zoned A-1,
1080 Agricultural District (Varina). The Board approved the request subject to the following
1081 conditions:
1082

1083 1. This conditional use permit authorizes the short-term rental of the existing dwelling,
1084 including unhosted stays, for no more than 180 days per year. Rental may include no
1085 more than six guests at a time. All other applicable regulations of the County Code shall
1086 remain in force.
1087

1088 2. This approval is subject to the County noise ordinance (Sec. 10-67 through 10-69),
1089 registry ordinance (Sec. 20-280 through 20-282), and short-term rental development
1090 standards (Sec. 24-4430).
1091

1092 3. All short-term renters must park on-site, not on the public right-of-way.
1093

1094 4. Any exterior lighting must be shielded to direct light away from adjacent property and
1095 streets.
1096

1097 5. Before listing the property for short-term rental, the applicant must obtain approval from
1098 the Department of Building Construction and Inspections to change the use of the building
1099 to a short-term rental. This must be accomplished no later than August 26, 2024, or this
1100 conditional use permit will expire. If the building permit is cancelled or revoked after that
1101 date due to failure to diligently pursue corrections, this conditional use permit will expire
1102 at that time.

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

Mr. Green - Passed. ... Mr. Blankinship.
Mr. Blankinship - Yes, sir.

The next case is Conditional Use Permit 2022, number 35, Ben Tanner.

CUP2022-00035 BEN TANNER requests a conditional use permit pursuant to Section 24-4404.A.1. of the County Code to build a detached garage in the side yard at 10001 Drouin Drive (Tuckahoe Place) (Parcel 739-737-4244) zoned R-0, One-Family Residence District (Tuckahoe)

Mr. Blankinship - Is there anyone in this room to speak to this case? I know Mr. Tanner is on WebEx. There is no one in the room to speak, so Mr. Gidley, if you'd begin with your report.

Mr. Gidley - Thank you Mr. Secretary.

The subject property is located in the Tuckahoe Place subdivision, which is along the southern line of River Road, right before one enters Goochland County. The applicant owns a roughly three-acre lot that contains an existing home and a detached garage. You can see the existing home, right here. And, in the yellow here, is the existing detached garage.

The home was built in 1988, and since 1991, much of the property has been encumbered by a Chesapeake Bay RPA buffer. The existing garage is located entirely within this buffer and also within a county utility easement as well. This is a picture of the garage, right here.

The applicant has indicated the existing garage is structurally unsafe, so he would like to replace it with a new metal building. While the existing garage is 576 square feet, the proposed replacement is more than twice that size, at 1,240 square feet. And, this is a picture of that building, right here. Because of the increased the environmental impact from a large building, the applicant had to obtain a waiver from the Planning Commission, which he did obtain.

The reason this case is before you today is because the garage would be located in the side yard and closer to the street than the existing building, so it does need the conditional use permit.

1149
1150 In evaluating this request. The property is zoned R-0, One-Family Residence District.
1151 The home is consistent with this designation. By applying for the use permit, the garage
1152 would be approved in the side yard.

1153
1154 As for impact on the surrounding neighborhood, Tuckahoe Place is a neighborhood of
1155 large, wooded lots. There are no detached structures similar to this along Drouin Drive.
1156 The garage would be visible as one enters the neighborhood since Westwick Road, as
1157 you can see here coming in from River, forms a T-intersection right across from the
1158 applicant's driveway. So, the garage would be visible as one enters the road. A metal
1159 building would not be compatible with nearby dwellings. The applicant has pointed out
1160 there is a large metal building under construction in an adjacent subdivision, but this is
1161 located in the rear yard and not in the side yard where it would be much more visible.

1162
1163 In conclusion, the applicant owns a dwelling on three acres. He would like to replace
1164 the existing garage with a new structure. He obtained the required RPA waiver from the
1165 Planning Commission. The new structure would be over twice as large as the current
1166 structure. It would be constructed of metal as noted. Staff can recommend approval of
1167 the use permit subject to the conditions in your staff report. If the Board is concerned
1168 about the impact of a large metal building being visible, a condition could certainly be
1169 added requiring the front façade to be constructed of higher quality residential materials.

1170
1171 This concludes my presentation. If you have any questions, I will be happy to answer
1172 those. Thank you.

1173
1174 Mr. Reid - Any calls from neighbors concerned about the metal?

1175
1176 Mr. Gidley - I had two or three calls asking about what was going on.
1177 One person indicated that they weren't real pleased with the metal building when they
1178 heard it was metal.

1179
1180 Mr. Reid - Ok.

1181
1182 Mr. Johnson - Another question, the current facility, are they going to move
1183 that before they bring the metal one in, or put it in the same spot?

1184
1185 Mr. Gidley - They would remove that existing detached garage due to its
1186 poor condition. ... And then the one right here would be built and so this would be the
1187 new garage and the old one would be gone.

1188
1189 Mr. Johnson - Thank you.

1190
1191 Mr. Green - Do you have a picture of it? A picture coming down
1192 Westwick Road? To see what ...

1193

1194 Mr. Gidley - Let's see. I think there is one in here. There it is. The new
1195 garage would be ...

1196

1197 Mr. Green - And this would be Westwick Road looking ...

1198

1199 Mr. Gidley - Right. You're coming in off of River Road. You hit Drouin
1200 Drive, right here. You stop ... Drouin runs east and west. Westwick comes down and
1201 you can see the driveway right here.

1202

1203 Mr. Reid - I drove out there last week and it is highly visible coming in
1204 from Westwick.

1205

1206 Mr. Green - Ok.

1207

1208 Mr. Reid - I thought it would be set back further, but it's ...

1209

1210 Mr. Gidley - It comes pretty far from where the existing one is now.

1211

1212 Mr. Green - What are your perceptions of it? Do you think it's ...?

1213

1214 Mr. Blankinship - Want to hear from the applicant?

1215

1216 Mr. Peterman - Yes, you can hear from the applicant.

1217

1218 Mr. Tanner - Yes. So there's just a couple of comments I'd like to make.

1219

1220 Mr. Green - No. Sir, first, excuse me, before you start. Staff, are you
1221 finished?

1222

1223 Mr. Gidley - Yes, sir, I am. I didn't know if Mr. Reid or anyone else was.

1224

1225 Mr. Green - Are there any questions from the Board to staff on this issue?
1226 Ok, now we'll hear from the applicant.

1227

1228 Mr. Tanner - I apologize. I am walking in the airport, so unfortunately the
1229 background will be a little loud.

1230

1231 **[Several parts of the applicant's statement are unintelligible due to background**
1232 **noise and static]**

1233

1234 I have actually talked to all of my direct neighbors, certainly any who have a property line
1235 with me, and nobody has complained about the metal building at all. As I mentioned
1236 earlier, there's a similar building being built just up the road from me. I'm not sure how it's
1237 not in the same neighborhood because it is still within Drouin Hills. It may not be in the
1238 exact like same spot as mine, but it is ... It is behind the house, but it is to the right of the
1239 house, but we are on the street ... Mine is set back from the road a little bit.... But they

1240 are colored match to our house. So the garage will be the same color as our house now.
1241 I'm hoping there will be minimum impact ... We've done quite a bit of work to ensure the
1242 quality... done a really good job of partnering with the County to make sure this building
1243 is in the right place ... for a very long period of time with....and we plan to stay
1244 there.....adding to our property value as the current building is essentially falling apart.

1245
1246 Mr. Green - Are there any individuals on WebEx or in the audience to
1247 speak for or against this proposal/project?

1248
1249 Mr. Peterman - No one else on WebEx.

1250
1251 Mr. Green - Hearing none, I'd like to ... Mr. Johnson.

1252
1253 Mr. Johnson - Was it mentioned that the garage is going to be the same color
1254 as the house.

1255
1256 Mr. Green - That's what he said.

1257
1258 Mr. Johnson - The same colors?

1259
1260 Mr. Green - That's what he said. He just said that.

1261
1262 Mr. Johnson - He did?

1263
1264 Mr. Reid - I would say if that was the case, I think it would work. It'll blend
1265 in with the wooded lot and provide some type of ... it won't just pop out. And especially if
1266 there's no written opposition from neighbors, I'm with what's proposed.

1267
1268 Mr. Green - Hearing no other discussion, I'm going to close the hearing to
1269 vote on this. Do I hear a motion to approve or deny?

1270
1271 Mr. Reid - I move that we approve the conditional use permit, subject to
1272 the conditions recommended by staff. This is consistent with the Comprehensive Plan
1273 and Zoning Ordinance. There's been a garage in this location for many years and the
1274 Planning Commission has approved the Chesapeake Bay Exception on this project.

1275
1276 Mr. Green - Is there a second?

1277
1278 Mr. Bell - Second.

1279
1280 Mr. Green - Mr. Johnson, discussion?

1281
1282 Mr. Johnson - No discussion.

1283
1284 Mr. Green - Hearing no discussion, all in favor say, aye.

1285

1286 The Board - Aye.
1287 (Minus Mr. Pollard)

1288
1289 Mr. Green - Passed. ... Thank you, Mr. Tanner.
1290

1291 On a motion by Mr. Reid, seconded by Mr. Bell, the Board **approved, CUP2022-00035**
1292 **BEN TANNER's** request for a conditional use permit pursuant to Section 24-4404.A.1. of
1293 the County Code to build a detached garage in the side yard at 10001 Drouin Drive
1294 (Tuckahoe Place) (Parcel 739-737-4244) zoned R-0, One-Family Residence District
1295 (Tuckahoe). The Board approved the request subject to the following conditions:
1296

1297 1. This conditional use permit authorizes the replacement of the existing garage in the
1298 side yard with a new garage. All other applicable regulations of the County Code remain
1299 in force.
1300

1301 2. The new garage must not exceed 31 feet in width or 40 feet in depth and must be
1302 located as approved by the Planning Commission on June 9, 2022 (SUB2022-00056).
1303 Any additional improvements must comply with the applicable regulations of the County
1304 Code. Any substantial changes or additions to the design or location of the improvements
1305 will require a new conditional use permit.
1306

1307 3. This approval is subject to all conditions placed on the Chesapeake Bay Resource
1308 Protection Area Exception (SUB2022-00056).
1309

1310 4. Any exterior lighting must be shielded to direct light away from adjacent property and
1311 Drouin Drive.
1312

1313 5. The applicant must obtain a building permit for the proposed garage by August 26,
1314 2024, or this conditional use permit will expire. If the building permit is cancelled or
1315 revoked after that date due to failure to diligently pursue construction, this conditional use
1316 permit will expire at that time.
1317

1318
1319 **Affirmative:** Bell, Green, Johnson, Reid 4
1320 **Negative:** 0
1321 **Absent:** Pollard 1
1322

1323
1324 Mr. Blankinship - Alright, the last case on this morning's agenda is Conditional
1325 Use Permit 2022, number 36, Jayne Y. Feminella.
1326

1327 **CUP2022-00036 JAYNE Y. FEMINELLA** requests a conditional use permit pursuant to
1328 Section 24-4404.A.1. of the County Code to build a detached garage in the front yard at
1329 5201 Pickett River Drive (Pickett River Estates) (Parcel 841-666-9831) zoned A-1,
1330 Agricultural District (Varina)
1331

1332 Mr. Blankinship - Would everyone who intends to speak to this case please
1333 stand and be sworn in. Raise your right hand please. Do you swear the testimony you
1334 are about to give is the truth, the whole truth, and nothing but the truth so help you God?
1335

1336 Background - I do.
1337

1338 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chairman, Members of the
1339 Board.
1340

1341 Before you is a request to build a detached garage in the front yard of a one-family
1342 dwelling. The subject property is part of a 10-lot subdivision. Pickett River Estates,
1343 recorded in 1973. And, it might look familiar to you. You did have a case earlier this year
1344 with a person wanting to add a swimming pool in the side yard. So it's the same
1345 neighborhood.
1346

1347 The property is 3.8 acres in area and sits atop the northern bluff of the James River.
1348 The lot is improved with a 1.5-story, 3,400 square-foot Cape Cod residence with open
1349 parking, and it was built in 1920. Other improvements include a 1,440-square-foot pole
1350 barn, and a 256-square-foot shed, both located in the front yard. Access to the property
1351 is by way of a 14-foot wide concrete and gravel driveway that leads to a large asphalt
1352 oval driveway at the front of the home. The majority of the parcel is relatively flat with the
1353 exception of the front 100 feet, which slopes up, approximately 10 feet above street grade,
1354 and the rear 80 feet, which drops off towards the James River.
1355

1356 The area is rural in nature and is actively farmed. The existing residence is set back
1357 approximately 360 feet from the front lot line and is consistent with the other homes on
1358 the street.
1359

1360 The applicant would like to build a one-story 576-square-foot garage on the eastern side
1361 of the lot, opposite the existing shed and to the rear of the barn. The proposed garage
1362 would be approximately 90 feet from the home, 28 feet from the side property line, and
1363 120 feet from the barn. Its placement would be symmetrical with the shed and would
1364 maintain the line of sight to the river from both sides of the home. Because the structure
1365 would be located in the front yard that does require the approval of a conditional use
1366 permit.
1367

1368 The proposed use is consistent with both the Zoning and Comprehensive Plan
1369 designations on the property. The property is located east of Curles Neck, is surrounded
1370 by active farmland and is part of a subdivision that is nearly built out, with only two
1371 undeveloped lots remaining from the 10-lot subdivision. A one-family dwelling on a large
1372 lot is consistent with the general character of the area. The proposed two-car garage will
1373 not be out of scale or intensity considering the size of the property, proposed setbacks,
1374 and distances between homes.
1375

1376 The proposed garage will be 120 feet behind the existing barn and over 250 feet from the
1377 front property line. It will be screened from view by the lot's topography, the existing barn,

1378 and tree lines along both sides of the property. The nearest neighbor is over 200 feet to
1379 the east and their view is obscured by the existing tree lines between the properties.

1380
1381 The proposed structure will be architecturally compatible with the existing home and the
1382 shed. Because of the size of the parcel, the existing screening, and the significant
1383 distance between on-site and adjacent buildings, staff finds no adverse impacts by this
1384 proposal.

1385
1386 In conclusion, the river was historically considered to be at the front of the lot and
1387 accessory structures had been placed behind the homes, this request is consistent with
1388 that pattern of development in this area. Although the garage will be placed in the front
1389 yard, there is existing screening, and it will take advantage of the existing driveway for
1390 access and will be consistent with the character of the area and architectural style of the
1391 home. Since no adverse impacts are anticipated, staff does recommend approval. That
1392 concludes my presentation. I'll be happy to answer any questions.

1393
1394 Mr. Green - Any questions from the Board to staff? Hearing none, we'll
1395 now hear from the applicant.

1396
1397 Ms. Feminella - Good morning. I'm Jane Feminella. F as in Frank E-M-I-N-
1398 E-L-L-A. I am the owner of the property in question, and I'm here to ask about the
1399 garage that I would like to have built.

1400
1401 As I am getting older, I would like to have my car in a garage, and was aptly stated, in
1402 the past, the river side was considered the front of the home, and all of your buildings
1403 would be as you approached the rear of the home. So that's why I would like for the
1404 garage to be built ... It's not going to be built exactly in the front of the house, it's going
1405 to be to the left ... built in the Williamsburg style and would, of course, match and be
1406 esthetically the same as the home.

1407
1408 Mr. Green - Are there any questions from the Board to the applicant?
1409 Mr. Johnson.

1410
1411 Mr. Johnson - Where you plan on putting the facility, you have one on the
1412 opposite side as well, don't you?

1413
1414 Ms. Feminella - Yeah. That's a shed. It would not be able to house a car.

1415
1416 Mr. Johnson - Ok. Also, the house is next to the river in the back as well so
1417 it kind of makes it a little bit awkward to put something back there as well, wouldn't it?

1418
1419 Mr. Feminella - Excuse me, I did not understand the question.

1420
1421 Mr. Johnson - Your house ... in the back is the river, right?

1422
1423 Ms. Feminella - Correct.

1424
1425 Mr. Johnson - And there is not that much room for ...
1426
1427 Ms. Feminella - Well that would obstruct the river view. All of the rooms in
1428 my home, with the exception of one, have a river view, and I would not want to obstruct
1429 the view of the river. That's why the permit is required.
1430
1431 Mr. Johnson - You have a nice view coming in, nice house there. Other
1432 than that, that's all I need.
1433
1434 Mr. Green - Is there anyone on WebEx to speak for or against this
1435 project?
1436
1437 Mr. Peterman - There's no one on WebEx, sir.
1438
1439 Mr. Green - Hearing none, and there is no rebuttal, I'd like to close the
1440 hearing and entertain a motion.
1441
1442 Mr. Johnson - Mr. Chair, I move that we approve the conditional use
1443 permit, subject to the conditions recommended by staff. And this is consistent with the
1444 Comprehensive Plan and the Zoning Ordinance. The existing barn would screen the
1445 proposed building from view as well, and the garage will not be visible from the street or
1446 other houses as well. Again, I move for approval.
1447
1448 Mr. Green - Is there a second?
1449
1450 Mr. Reid - Second.
1451
1452 Mr. Green - The motion has been made by Mr. Johnson, seconded by
1453 Mr. Reid. Any discussion? All in favor say, aye.
1454
1455 The Board - Aye.
1456 (*Minus Mr. Pollard*)
1457
1458 Mr. Green - All opposed. ... It passes.
1459
1460 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved, CUP2022-**
1461 **00036 JAYNE Y. FEMINELLA's** request for a conditional use permit pursuant to Section
1462 24-4404.A.1. of the County Code to build a detached garage in the front yard at 5201
1463 Pickett River Drive (Pickett River Estates) (Parcel 841-666-9831) zoned A-1, Agricultural
1464 District (Varina). The Board approved the request subject to the following conditions:
1465
1466 1. This conditional use permit authorizes the placement of a garage in the front yard. All
1467 other applicable regulations of the County Code remain in force.
1468
1469 2. This conditional use permit applies only to the improvements shown on the "Plan
1470 Showing Proposed Garage Addition on Lot 4 of Pickett River Estates Section A" by

1517 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved the minutes**
1518 of the July 28, 2022, Board of Zoning Appeals meeting.

1519
1520

1521	Affirmative:	Bell, Green, Johnson, Reid	4
1522	Negative:		0
1523	Absent:		1

1524
1525

1526 Mr. Blankinship - Alright.

1527

1528 Mr. Green - We're over.

1529

1530 Mr. Madrigal - I've got a couple of points, just for your information, for the
1531 Board ... relative to the Airbnb issue. It's just general information you should have. I tend
1532 to keep a keen eye on news surrounding this issue. Just three items, essentially.

1533

1534 About a year ago, within the year, there were two items that made the news. There was
1535 one issue in Newport Beach, and one here in Richmond. The Newport Beach issue,
1536 Airbnb rental ... they had a party ... a lot of people were on the outside deck, overlooking
1537 the beach, a walk area, and it collapsed. The second issue was the home in Richmond
1538 that was rented through Airbnb and they had a party and actually the floor collapsed and
1539 fell into the basement and a lot of people injured. I think as a result of that and whatever
1540 other issues that we might not be aware of, Airbnb did set a limit, as a corporation, on the
1541 number of people that are allowed to be in a residence to 16. So, they've set that limit
1542 themselves. And then the other issue is that they've developed an algorithm that,
1543 hopefully, will help prevent parties. So, I'm not sure how it works, but they are saying that
1544 certain factors and when someone looks to rent a facility, and if some of those factors do
1545 show up on the application in the process, then they will block that rental. So that's just a
1546 little bit of information to keep you aware of what's going on with this issue.

1547

1548 Mr. Green - Point of clarification, the Newport Beach was California?

1549

1550 Mr. Madrigal - I'm sorry.

1551

1552 Mr. Green - The Newport Beach issue was California?

1553

1554 Mr. Madrigal - Yes, sir.

1555

1556 Mr. Green - And the one you said in Richmond was Richmond, Virginia?
1557 Not Henrico County, correct?

1558

1559 Mr. Madrigal - Yes, that's correct. That's what I was keen to say.

1560

1561 Mr. Green - Let the record show we are doing our job.

1562

1563 Mr. Johnson -

Thank you.

1564
1565 Mr. Green -

Alright, thank you everybody. ... Mr. Chair, here you go

1566
1567 ... [Laughter] ...

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1569

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Mr. Terone B. Green, Chair



Mr. Benjamin W. Blankinship, Secretary