

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**  
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**  
4 **SPRING ROADS, ON THURSDAY, FEBRUARY 28, 2013 AT 9:00 A.M.,**  
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**  
6 **FEBRUARY 11, 2013, AND FEBRUARY 18, 2013.**  
7

Members Present: R. A. Wright, Chairman  
Greg Baka  
Gentry Bell  
Helen E. Harris

Member Absent: James W. Nunnally, Vice Chairman

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning  
Benjamin Blankinship, Secretary  
R. Miguel Madrigal, County Planner

8  
9 [Reciting Pledge of Allegiance.]

10  
11 Mr. Wright - Thank you. Mr. Blankinship, would you read the rules  
12 for us, please.

13  
14 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,  
15 ladies and gentlemen. The rules for this meeting are as follows. Acting as  
16 secretary, I will announce each case. And as I'm speaking, the applicant is  
17 welcome to come to the podium. We'll then ask everyone who intends to speak  
18 to that case to be sworn in. Then the applicant will speak. Then anyone else who  
19 intends to speak will be given the opportunity. After everyone has spoken, the  
20 applicant, and only the applicant, will have an opportunity for rebuttal. After the  
21 Board had heard the case and asked any questions, they will take it under  
22 advisement and go on to the next case. They will make all of their decisions at  
23 the end of the meeting. It's not going to be that long of a meeting; you will  
24 probably just want to stay until the end. But if not, you can check the Planning  
25 Department website or call the Planning Department this afternoon.

26  
27 This meeting is being recorded, so we'll ask everyone who speaks to speak  
28 directly into the microphone on the podium, state your name, and please spell  
29 your last name so that we get it correctly in the record.

30  
31 Finally, there is a binder containing the staff reports out in the foyer. It's  
32 important particularly for the applicants to be familiar with the conditions that  
33 have been recommended by the staff.  
34

35 Mr. Wright - Ladies and Gentlemen. One of our members is ill  
36 today and not able to attend. We have a policy that in order to approve any case  
37 or application it takes three affirmative votes. We have a policy that if anyone  
38 would desire to defer their case until the next meeting when we can have the full  
39 Board, you have an opportunity to do so. We have two cases today. Does either  
40 one of the applicants desire to defer their case until we have a full Board?

41  
42 Male: [Speaking off microphone; unidentified.] Mr. Jeffers  
43 does not.

44  
45 Mr. Wright - All right.

46  
47 Male: [Speaking off microphone; unidentified.] No.

48  
49 Mr. Wright - Okay. Then we will proceed. Please call the first case.

50  
51 **CUP2013-00002 MILTON JEFFERS** requests a conditional use permit  
52 pursuant to Section 24-95(i)(4) of the County Code to allow accessory structures  
53 in the front yard at 1733 Old Oakland Road (Parcel 807-705-5976) zoned A-1,  
54 Agricultural District (Varina).

55  
56 Mr. Wright - Will all those who desire to speak on this case,  
57 whether you're for or against, please stand to be sworn.

58  
59 Mr. Blankinship - Raise your right hands, please. Do you swear the  
60 testimony you're about to give is the truth and nothing but the truth so help you  
61 God?

62  
63 Mr. Tacey - Yes, I do.

64  
65 Mr. Wright - All right, sir, please state your name for the record  
66 and spell it, and then present your case.

67  
68 Mr. Tacey - My name is Brian Tacey—last name is T-a-c-e-y—on  
69 behalf of Mr. Jeffers.

70  
71 Mr. Wright - All right. Mr. Tacey, please present your case.

72  
73 Mr. Tacey - Mr. Jeffers, who I've known for quite sometime,  
74 contacted me with regards to this permit. While it's not my usual practice as far  
75 as real estate and zoning, I told him that I would come assist him as he didn't  
76 understand some of the regulations that had been set forth.

77  
78 Based on my review of the agenda and I guess the suggested remedies, it  
79 appears that all of the structures that Mr. Jeffers had built on his property do fall  
80 within the code as permissible buildings. Obviously the problem here is that he

81 has not obtained the necessary permits. I think that there was some confusion in  
82 that regard with the fact that he'd had a contactor who constructed these  
83 buildings and had told—as it's been relayed to me, had told him that he would  
84 obtain the permits as necessary. That individual is essentially no longer around.  
85 Mr. Jeffers wants to comply with all the zoning regulations, whatever they may  
86 be. I think that would involve an inspector coming out to the property. There's  
87 obviously no objection to that. These structures are not being used for any  
88 individual residential purpose, but rather are essentially storage units. They have  
89 no running water. There's no gas going to them. There is no plan to install  
90 anything that would make them a separate residential unit apart from the main  
91 existing house. I think certainly an inspection on site could vouch for that. So Mr.  
92 Jeffers is asking for the conditional use permit so that these structures may  
93 remain during the sixty-day process in which an inspector would be able to come  
94 out, review these buildings, provide evidence to the Board that they aren't being  
95 used for any purpose other than storage.

96  
97 I think there were also some issues with regards to the storage of commercial  
98 vehicles on the property. I've discussed that with Mr. Jeffers and informed him  
99 that—I think there was some miscommunication as to what is permissible, what  
100 is not permissible. At this time he understands that he can have no more than  
101 one commercial-use vehicle on that property. These are primarily taxis, a  
102 limousine, and also a—for lack of a better term, a van in which—it serves that  
103 same purpose, though. And he is aware now that there would only be able to be  
104 one vehicle stored on that property. He's made arrangements to where the  
105 vehicles can be moved off of said property. And he's aware of that now.

106  
107 If the Board has any other concerns as to getting these buildings within  
108 compliance, I'm sure that Mr. Jeffers would be—

109  
110 Mr. Wright - Well, the concern we have is I know there is some  
111 enforcement—there's something going on in that regard, is there not, Mr.  
112 Blankinship.

113  
114 Mr. Blankinship - Yes sir.

115  
116 Mr. Wright - To take care of these other things.

117  
118 Mr. Blankinship - Yes sir.

119  
120 Mr. Wright - And obviously we're concerned about those. But the  
121 issue here today is the question of the—I think the garage is in the front yard,  
122 which is not permitted by the code. That's what we need to address. I see we  
123 have a picture here showing the garage. And the front yard is where, Mr.  
124 Blankinship?

126 Mr. Blankinship - It's kind of a confusing site because there is no public  
127 street frontage. But you see the driveway that provides access to the site at the  
128 top or north side of the map there. So that's considered the front where the  
129 access is obtained. So everything below or south of the house would be the rear  
130 yard. So the shed, the well house, the two-story accessory building—those are  
131 all in the rear yard. What we've labeled *Garage Expansion* and *Second-Story*  
132 *Addition*—it should be—a two-story accessory structure is what that is. Those  
133 are in the side and front yards.

134  
135 Mr. Wright - Is it possible to move the garage so it would not be in  
136 the front yard?

137  
138 Mr. Tacey - Realistically I would say no, as it is a relatively large  
139 structure. However, given that there is no, I guess for lack of a better term, street  
140 frontage to that, it seems as through—and obviously we would defer to the Board  
141 about this decision—it's not necessarily falling under the same violation which  
142 would occur had a person—you know, in a more suburban area, constructed a  
143 garage in their front yard with the street frontage there to where any passerby  
144 would then be seeing that. It seems as through the actual front of the house is  
145 not the same as what would be the closest access to the street frontage. Never  
146 having been there I can't testify to that. I'm sure Mr. Jeffers could. And I think  
147 that there have been some individuals that have been out there. But it seems  
148 that where the problem lies is the labeling as to what the front of house is with  
149 regards to its perspective to street frontage.

150  
151 Mr. Wright - It appears here on our diagram that if you were to  
152 move the garage toward the rear in the same perspective line it is, it would still  
153 be seen from the other properties around it about the same way. I don't see how  
154 that would change a whole lot. What is the upper story of the garage used for,  
155 the second floor?

156  
157 Mr. Tacey - It's my understanding, based on my discussion with  
158 Mr. Jeffers, that that is storage.

159  
160 Mr. Wright - It looks like a house to me.

161  
162 Mr. Blankinship - It does look like it from that side.

163  
164 Mr. Jeffers - It's unfinished storage. I had a trailer in the yard, but  
165 one of the gentlemen came through and said that the trailer had to be moved. So  
166 all of the storage from the trailer had to be put into the upstairs part of the house.  
167 And that's pretty much what it's used for—household goods, things that I've  
168 collected over some time, basically are the things inside the garage. The garage  
169 was there before the addition was put on. It was already there when we bought  
170 the house, but we just added another story to it. From what Mr. Tacey has said,  
171 from my understanding from the contract, he told me he would—all I had to do

172 was get the electrical permit and he would take care of everything else. When it  
173 all boiled down, he didn't. We tried to contact him and find out where he was at.  
174 It was like a puff of smoke; he was just gone.

175  
176 Mr. Wright - I don't think you identified yourself for the record.  
177

178 Mr. Jeffers - I'm sorry. My name is Milton Jeffers. Last name J-e-f-  
179 f-e-r-s.

180  
181 Mr. Wright - Right. Thank you, sir.  
182

183 Mr. Blankinship - Mr. Jeffers, is there a bathroom in that building?  
184

185 Mr. Jeffers - No sir.  
186

187 Mr. Blankinship - And no kitchen.  
188

189 Mr. Jeffers - No sir. And the well and septic—the septic tank is on  
190 the other side of the regular house. So it's what, 200, 300 feet from there. There  
191 are no plans in there for anything like that.

192  
193 Mr. Blankinship - With the carriage lanterns and everything it looks like  
194 a—it's a very nice building.  
195

196 Mr. Jeffers - Thank you.  
197

198 Mr. Blankinship - It looks nice enough to be a dwelling.  
199

200 Mr. Wright - Yes.  
201

202 Mr. Jeffers - One of the reasons I just applied for the conditional  
203 use permit is because I didn't want to combine the two. I have another acre of  
204 land on the other side. I didn't want to combine those two together because we  
205 have some plans for something later on down the line.  
206

207 Mr. Blankinship - Yes. If the Board will look at the screen, you see the  
208 subject property highlighted in yellow there. To the right or the east there's  
209 another rectangular lot about the same size. Mr. Jeffers owns that. And if he  
210 were to consolidate the two properties, then it would have frontage on North  
211 Midview, and then these structures would be in the rear yard. But of course then  
212 he would also lose a very valuable asset of having a separate building lot with  
213 public street frontage. We suggested that to him, but when he declined, of  
214 course we didn't press.  
215

216 Mr. Wright - Describe the buildings around you, those that would  
217 be in front of you—I guess this is Old Oakland Road.

218  
219 Mr. Jeffers - Yes sir.  
220  
221 Mr. Wright - That's the way you access your property is from Old  
222 Oakland Road?  
223  
224 Mr. Jeffers - Yes, Old Oakland.  
225  
226 Mr. Wright - What building or what residences are around you or  
227 in front of you?  
228  
229 Mr. Jeffers - There is only one residence in front of me and that's  
230 my neighbor and we pretty much concur together on everything. We have no  
231 problems with each other; we help each other out pretty much. Behind us there's  
232 a gate that separates our house from a set of apartments in the back. We're  
233 pretty much the only ones around there. My neighbor pretty much owns most of  
234 the property—most of the land around there, about five or six acres. So we pretty  
235 much are the only ones in that little area other than the apartments on the other  
236 side of the gate behind us.  
237  
238 Mr. Baka - And there are no objections from that neighbor or any  
239 other adjacent parcels?  
240  
241 Mr. Jeffers - No sir.  
242  
243 Mr. Blankinship - We have not heard from anybody. We notified all of  
244 the neighbors, of course, and have not heard anything.  
245  
246 Ms. Harris - Do you have a common access road with your  
247 neighbor?  
248  
249 Mr. Jeffers - Yes. We share the access road. I guess the access  
250 road was pretty much for the house that I'm in now. My neighbor's house came  
251 up a little later down the line, so we share that road with no problem.  
252  
253 Ms. Harris - How many cars can you keep in the garage?  
254  
255 Mr. Jeffers - Two cars.  
256  
257 Ms. Harris - Two-car garage.  
258  
259 Mr. Jeffers - It's a one-car garage, but the carport that was built on  
260 the back of the house during the time the contractor did the work to the garage.  
261 There's a carport in the back.  
262

263 Ms. Harris - My question when I initially saw this was why so much  
264 storage? You have quite a bit. Are you utilizing all of this storage?

265  
266 Mr. Jeffers - Yes ma'am. I can take pictures of pretty much  
267 everything and show you that everything that's in there is pretty much definitely  
268 storage use.

269  
270 Mr. Wright - Actually, it doesn't violate the ordinance.

271  
272 Ms. Harris - No it doesn't.

273  
274 Mr. Blankinship - Because it's A-1 zoning, the total lot area of  
275 accessory structures is not as limited as it is in the residential districts.

276  
277 Mr. Baka - And Mr. Jeffers, you have no concerns with proposed  
278 Condition #5 that says it won't be converted to a dwelling in the future?

279  
280 Mr. Jeffers - No sir.

281  
282 Mr. Baka - Okay. No objections even down the road that would  
283 jeopardize the permit. Thanks.

284  
285 Mr. Tacey - I reviewed all of the Board's suggested conditions  
286 with Mr. Jeffers, and he has no objections.

287  
288 Mr. Wright - Now you're in accord with all of the conditions that  
289 have been proposed by the staff?

290  
291 Mr. Tacey - Within the agenda the six suggested conditions, I've  
292 reviewed those with Mr. Jeffers and he would have no issues with any of those,  
293 to include obtaining the necessary permits within the sixty days and/or any  
294 inspections that would go along with that.

295  
296 Mr. Blankinship - That's the enforcement action that you referred to  
297 earlier.

298  
299 Mr. Wright - If the Board approves this, it would be approved with  
300 all of these conditions. You'd have to be subject to these conditions and you'd  
301 have to comply with all of these.

302  
303 Mr. Jeffers - Yes sir.

304  
305 Mr. Wright - I just wanted to make sure you understand.

306  
307 Mr. Jeffers - Yes sir, understood.

308

309 Mr. Wright - Are there any other questions from members of the  
310 Board? Is there anyone here in opposition to this request? Hearing none, that  
311 concludes the case. Thank you very much for appearing.

312  
313 Mr. Jeffers - Thank you, sir.

314  
315 **[After the conclusion of the public hearings, the Board discussed the case**  
316 **and made its decision. This portion of the transcript is included here for**  
317 **convenience of reference.]**

318  
319 Mr. Wright - Do I hear a motion?

320  
321 Ms. Harris - I move that we approve this conditional use permit on  
322 the grounds that this one acre of land would not cause any type of adverse effect  
323 on the neighborhood nor adversely affect the health and welfare of the  
324 community.

325  
326 Mr. Wright - Is there a second to this motion?

327  
328 Mr. Bell - I'll second the motion.

329  
330 Mr. Wright - Is there any discussion with respect to this motion?  
331 Hearing none, all in favor say aye. All opposed say no. The ayes have it; the  
332 motion passes.

333  
334 After an advertised public hearing and on a motion by Ms. Harris, seconded by  
335 Mr. Bell, the Board **approved** application **CUP2013-00002, MILTON JEFFERS'**  
336 request for a conditional use permit pursuant to Section 24-95(i)(4) of the County  
337 Code to allow accessory structures in the front yard at 1733 Old Oakland Road  
338 (Parcel 807-705-5976) zoned A-1, Agricultural District (Varina). The Board  
339 approved the conditional use permit subject to the following conditions:

340  
341 1. Only the improvements shown on the site plan and building design filed with  
342 the application may be constructed pursuant to this approval. Any additional  
343 improvements shall comply with the applicable regulations of the County Code.  
344 Any substantial changes or additions to the design or location of the  
345 improvements will require a new use permit.

346  
347 2. Approval of this request does not imply that a building permit will be issued.  
348 Building permit approval is contingent on Health Department requirements,  
349 including, but not limited to, soil evaluation for a septic drainfield expansion (if  
350 necessary) and reserve area, and approval of the existing well location.

351  
352 3. At the time of building permit application, the applicant shall submit the  
353 necessary information to the Department of Public Works to ensure compliance  
354 with the requirements of the Chesapeake Bay Preservation Act and the code



355 requirements for water quality standards. The applicant shall comply with the  
356 Chesapeake Bay Preservation Act and all state and local regulations  
357 administered under such act applicable to the property, and shall furnish to the  
358 Planning Department copies of all reports required by such act or regulation.

359  
360 4. The applicant shall obtain building permits for the house and garage  
361 additions, as well as the two-story accessory building no later than 60 days from  
362 approval of this permit.

363  
364 5. The detached accessory buildings shall not have cooking facilities nor be  
365 converted or used as dwellings.

366  
367 6. The applicant shall not park, keep, or store more than one commercial  
368 vehicle, not exceeding 10,000 lbs gross weight, at the subject property. All other  
369 commercial vehicles shall be removed from the site.

370  
371  
372 Affirmative: Baka, Bell, Harris, Wright 4

373 Negative: 0

374 Absent: Nunnally 1

375

376

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

379

380 **VAR2013-00001** LEE R. FONDILLER requests a variance from  
381 Section 24-94 of the County Code to build a one-family dwelling at 2000  
382 Pemberton Road (Parcel 749-751-7350) zoned A-1, Agricultural District  
383 (Tuckahoe). The lot width requirement is not met. The applicant has 98 feet lot  
384 width where the Code requires 150 feet lot width. The applicant requests a  
385 variance of 52 feet lot width

386

387 Mr. Wright - Will all those who wish to speak with respect to this  
388 case, either for or against, please stand and be sworn.

389

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

393

394 Mr. Sinnenberg - Yes.

395

396 Mr. Wright - All right, sir, please state your name for the record,  
397 spell it, and present your case.

398

399 Mr. Sinnenberg - My name is Steve Sinnenberg. That's S-i-n-n-e-n-b-e-  
400 r-g. Essentially what this case boils down to is that the house is something of an

401 antique. The inside of it just really can't be renovated. Most of the major  
402 components of the house are in some level of disrepair. It needs a new roof.  
403 We've actually made some improvements over the last two years to try to get it  
404 up to the point where it would be more livable. It is actually currently—I heard a  
405 discussion about the occupancy. It is actually currently occupied, but it's  
406 occupied in a very minimal way. It's occupied as I have a home office. And there  
407 is water running. It is County water. There's a septic tank. But essentially  
408 everything was built as a one-bedroom house so it's not—and I'm out of town  
409 three or four days a week, so it's not—it's just not occupied 100 percent of the  
410 time.

411  
412 We did actually just put new windows in it; it's just such a drafty place. We made  
413 a couple of small improvements. The problem is to really—where the house is  
414 located is only about fifty feet off Pemberton Road. And in the last eight years  
415 there have probably been four wrecks that wound up on my front yard. It's one of  
416 these things that ultimately—it is an emergency route for—it's a state route, and  
417 it's an emergency route for ambulances and fire trucks. And I have to guess that  
418 ultimately it's going to have to be widened. I think all these factors start adding  
419 up to, it makes more sense for the house to be further back on the lot, first off.  
420 And a house that looks a little more modern than this one does. In order to  
421 renovate the house to the point where it's a modern house, it would cost just as  
422 much to tear it down and build something better.

423  
424 One of the reasons I want to move it back also is there's an easement on the  
425 back of the lot. On my drawing there it's the little tail end in the northwest corner.  
426 That's an easement for sanitary sewer. And right now it's on a septic field. If the  
427 house is moved back a little bit, it actually becomes affordable to put it on the  
428 sewer line, which I think overall makes sense. It just makes maintenance sense  
429 and everything else.

430  
431 That's really essentially it. The house itself could be renovated, but it would  
432 probably cost eighty or ninety thousand dollars to renovate it. And on the other  
433 hand, if you move it back a little bit—you'd have to take the house down to build  
434 a house behind it. The proposed area of that house is actually on the septic field,  
435 the current septic field. So it would have to be taken down in order to build the  
436 next one. I was proposing right at the fence line—you can see it in the picture on  
437 the left. That fence line is essentially the dividing line between the Pemberton  
438 Road property and the Boardman Road property. That fence line on the left  
439 there. And if we move it back to that line, I think aesthetically it will look okay.  
440 And also just from a pure safety aspect I think it would be a lot better.

441  
442 Mr. Wright - Have you considered having this property rezoned?

443  
444 Mr. Sinnenberg - It's been considered. I think one of the problems that I  
445 guess the surrounding area has with that is it would actually be big enough to put  
446 two lots in the back. I could put a road in there with two lots in the back. And

447 people don't want to build in those woods, and I don't particularly want to build in  
448 those woods. Economically feasible, that probably would make sense. But I  
449 really would prefer to stay agricultural. I'd like to clean those woods out and put  
450 an orchard back there or something.

451

452 Mr. Wright - Mr. Blankinship, it could be rezoned, couldn't it, to say  
453 R-2?

454

455 Mr. Blankinship - It probably could since the surrounding properties are  
456 largely—.

457

458 Mr. Wright - If it's rezoned, you wouldn't need to be here.

459

460 Mr. Sinnenberg - Right. It matches all the zoning—

461

462 Mr. Wright - That only requires—R-2A only requires an eighty-foot  
463 frontage.

464

465 Mr. Sinnenberg - Right.

466

467 Mr. Wright - An eighty foot width.

468

469 Mr. Baka - The surrounding neighborhoods to the south, the  
470 west, and the north look like they're all R-3. So I'm under the impression that the  
471 Comprehensive Plan would allow for and support residential rezoning in this  
472 area. If you look at the northern edge of the property, the red dashed line  
473 heading from east to west, it would almost make sense if a couple of those A-1  
474 properties could even been combined to put a road down the middle and have  
475 some type of access to lots. I guess my concern with the case, Mr. Chairman, is  
476 that we just heard previously a different type of case, a conditional use permit,  
477 and this is a variance. This is a totally different set of criteria under state law, and  
478 we have certain limitations under the variance test that this case would have to  
479 meet and I'm not certain to what extent it meets it.

480

481 Could the house be rebuilt at the present location on the same footprint, a brand  
482 new house?

483

484 Mr. Sinnenberg - It could be, yes.

485

486 Mr. Blankinship - That would still require a variance.

487

488 Mr. Wright - That wouldn't change anything.

489

490 Mr. Baka - That would still require a variance?

491

492 Mr. Blankinship - A complete rebuild would.

493  
494 Mr. Wright - It would make more sense to move it back a little bit if  
495 it has to be rebuilt.  
496  
497 Mr. Sinnenberg - It's close to the road.  
498  
499 Mr. Baka - And the location to which you want to move the  
500 house, have you had any discussions with the neighboring parcels to the south  
501 that have those deep lots to acquire some of their land?  
502  
503 Mr. Sinnenberg - No, I haven't. But it would still require the variance.  
504 The only thing that's really requiring anything is this 150-foot requirement.  
505  
506 Mr. Baka - I was just wondering if you were able to attain 150  
507 foot of lot width to the south, then you wouldn't have a need for the variance.  
508  
509 Mr. Blankinship - We would measure it at the setback.  
510  
511 Mr. Baka - At the 75-foot setback line?  
512  
513 Mr. Wright - There is no way he could acquire any additional  
514 property that would help him here.  
515  
516 Mr. Blankinship - Unless the owner of 1914 Pemberton—  
517  
518 Mr. Baka - You'd have to get two or more in that case; that  
519 wouldn't help.  
520  
521 Mr. Wright - You say you're using this now as an office space?  
522  
523 Mr. Sinnenberg - I have a bed in there. There's some food in the  
524 kitchen and I have an office up front. It's just purely for the convenience of  
525 having it there.  
526  
527 Mr. Wright - It's a one-bedroom house?  
528  
529 Mr. Sinnenberg - It's four rooms. It's a very oddly-built house on the  
530 inside. It has a six-foot-wide hallway coming in all the way to the back. The bath  
531 is at the end of that hallway. And then it has four big rooms—two big rooms in  
532 the front, and a kitchen and a bedroom or whatever off to the back.  
533  
534 Mr. Wright - How many square feet?  
535  
536 Mr. Sinnenberg - About 11 or 1,200 square feet, somewhere in that  
537 neighborhood.  
538

539 Mr. Wright - Very small compared to the surrounding properties.  
540  
541 Mr. Sinnenberg - The surrounding properties I would guess are all  
542 2,500 square feet and up.  
543  
544 Mr. Wright - I was just wondering if it could be remodeled so that it  
545 could be effectively used, but it's so small you probably couldn't do much with it,  
546 could you?  
547  
548 Mr. Sinnenberg - Well, I'd be limited to the footprint. Maybe 2,200  
549 square feet if I put a second floor on it. There had been some discussion of that  
550 at some point.  
551  
552 Mr. Bell - How long have you had the property?  
553  
554 Mr. Sinnenberg - Actually I don't own it. A friend of mine owns it. He's  
555 name is Lee Fondiller. He lives in Baltimore. At the time he bought it, we thought  
556 we could subdivide the lot. That obviously for a number of reasons just doesn't  
557 really work. So I'm actually trying to get it off his hands now. We're trying to  
558 move the lot. The last six years it just hasn't been economically feasible to do  
559 that.  
560  
561 Mr. Baka - I applaud the applicant for trying to improve the  
562 house. My concern is that if the option to rezone the property is still available—  
563 typically a variance is a means of last resort. And I'm not sure why the Board  
564 would consider approving a variance when the property could still be rezoned.  
565 Just a statement. I don't mean it to be a question on that, I guess.  
566  
567 Mr. Sinnenberg - I don't know the technical side of that. All I know is the  
568 only variable involved is this width. We're not trying to sneak one through. It's  
569 just—it's 150 feet and we have 98.  
570  
571 Mr. Wright - What you're trying to do conforms to the  
572 neighborhood.  
573  
574 Mr. Sinnenberg - Right. That's what we're trying to make it.  
575  
576 Mr. Wright - The side yard—everything else would meet the  
577 requirements that are in force in the neighborhood.  
578  
579 Mr. Sinnenberg - Absolutely.  
580  
581 Mr. Wright - The surrounding property. It wouldn't change anything  
582 there.  
583

584 Mr. Sinnenberg - I think we're actually in compliance. Every other  
585 setback I think we're in compliance with. It's just the 150-foot road.

586  
587 Mr. Wright - Any further questions from members of the Board?  
588

589 Ms. Harris - I was going to ask a question of Mr. Sinnenberg why  
590 the—when the variance was granted on 2004 why didn't you go ahead and build  
591 the new dwelling then. But I think you said economic feasibility was the reason?  
592

593 Mr. Sinnenberg - Probably in hindsight we should have gone ahead  
594 and built it in 2004. We were looking at a couple of different options as to how to  
595 do that and what we actually wanted on the property. Every design we came up  
596 with was a much higher value than the neighborhood would support. I think the  
597 houses on Boardman were selling about 300 then. Every house we came up with  
598 was costing about 250 to build, plus the land it was on, and it was just—we  
599 weren't able to make something fit. And then around about 2005 or halfway  
600 through 2005 it started dipping, and it just became worse, not better, to try to  
601 build something on there. And basically it's been that way for the last six years.  
602 You can't build a house on there that will wind up being worth what the property  
603 is. I think looking at six months from now, seven months from now, I think it will  
604 be. Plus the one that's on there just—it may have three or four years of useful  
605 life left in it. I read the thing about burning it and all that.  
606

607 Mr. Blankinship - Oddly, you'd be better off in terms of granting a  
608 variance if that house fell down.  
609

610 Mr. Sinnenberg - Right, which doesn't really—I mean, you know. It  
611 doesn't make sense to do that, to wait for that point.  
612

613 Mr. Wright - What do you propose to build on it if this variance is  
614 approved?  
615

616 Mr. Sinnenberg - Right now the plan would be about a 2,000 square  
617 foot to 2,500 square foot. It depends if you include the garage or not. But more  
618 of a ranch-style house, something that spreads out. I think I have about forty-five  
619 feet across that I can build on and keep the side yard. And then it would be  
620 maybe sixty feet deep. There is going to be a garage on there. Oddly enough, if  
621 you build it—the land drops about a foot every ten feet going back towards the  
622 back of the property. So the longer you build it, say a sixty- or seventy-foot  
623 house, you actually could put a garage underneath it and still be on grade. We're  
624 sort of playing with those numbers right now.  
625

626 Mr. Wright - How many bedrooms?  
627

628 Mr. Sinnenberg - At least three. It has to be economically feasible to do  
629 something with it down the line.

630  
631 Mr. Baka - Have all the adjacent property owners been notified of  
632 this?  
633  
634 Mr. Blankinship - Yes sir.  
635  
636 Mr. Wright - Have you read all of the conditions proposed here?  
637  
638 Mr. Sinnenberg - Yes.  
639  
640 Mr. Wright - Are you in accord with those?  
641  
642 Mr. Sinnenberg - Yes.  
643  
644 Mr. Wright - Any other questions?  
645  
646 Ms. Harris - Yes. I have a question, Mr. Blankinship. Condition #7.  
647 Why are we saying 170 feet from the property line? Is that because of the  
648 easement on the land or? Condition #7.  
649  
650 Mr. Sinnenberg - I think in my application I mentioned about 170 feet.  
651  
652 Mr. Baka - It slopes back.  
653  
654 Mr. Blankinship - It would have more of an impact on the homes to the  
655 rear because the property is pretty heavily wooded now.  
656  
657 Male - [Speaking off microphone; unidentified.] And then the  
658 ones on the south property line, you'd been looking at all their backyards.  
659  
660 Mr. Blankinship - Right.  
661  
662 Mr. Baka - The back portion of the lot when I drove through the  
663 neighborhood—not through your lot—is all thick, tall, mature trees.  
664  
665 Mr. Sinnenberg - Right.  
666  
667 Mr. Baka - So by going no more than 170 feet that allows this  
668 wooded area in the back to just remain natural? Is that what you're saying?  
669  
670 Mr. Blankinship - Yes.  
671  
672 Mr. Wright - How far back did you propose to locate the house  
673 from the front property line?  
674

675 Mr. Sinnenberg - Right at that 2228 Boardman Lane. The east side of  
676 that property has a fence. Right there at that corner where that gizmo is.

677  
678 Mr. Wright - Right there?

679  
680 Mr. Sinnenberg - Right about there. To me it would just make aesthetic  
681 sense to tie into that fencing. And I'd also be at the back of my next-door  
682 neighbor's house at 2002. Now he has a little bit of a—it's an artist studio now,  
683 but it's a little bit of a house right there along that line. So I'd have to look at that  
684 and how we would tie into that. It's right on the property line.

685  
686 Mr. Wright - All right. Any further questions from members of the  
687 Board? Is there anyone here in opposition to this request? Hearing none, that  
688 concludes the case. Thank you very much.

689  
690 Mr. Sinnenberg - Thank you.

691  
692 **[After the conclusion of the public hearings, the Board discussed the case**  
693 **and made its decision. This portion of the transcript is included here for**  
694 **convenience of reference.]**

695  
696 Mr. Wright - Variance 2013-00001. Is this the first one?

697  
698 Mr. Blankinship - Yes sir, the first variance of the year.

699  
700 Mr. Wright - Do I hear a motion on this case?

701  
702 Mr. Baka - Mr. Chairman, I'll go ahead and make a motion to  
703 approve the variance with the following discussion. Approve it with the conditions  
704 that are listed in the staff report, all seven conditions, and on the grounds that  
705 number one, the lot is exceptionally narrow compared to the properties in the  
706 area at only 98 feet wide. Number two, it won't be of substantial detriment to the  
707 adjacent properties and the community because the house proposed would be  
708 similar to what's there in the neighborhood around it. And number three, it is not  
709 so generally of a recurring nature. It has some unique elements to that. So with  
710 that information, I'd make a motion to approve.

711  
712 Mr. Wright - Okay. Motion is made. Is there a second?

713  
714 Ms. Harris - I second. And I'm seconding it on the basis that when  
715 you consider the threshold question for this case, I really don't see the difference  
716 when it was granted in 2004 from this year, 2013. I think that when we look at the  
717 neighborhood, it seems that it was pretty much in place, a stable neighborhood.  
718 And I feel that in this case we do need to grant this variance.

719



720 Mr. Wright - All right, the motion is made and seconded. Is there  
721 any further discussion?

722  
723 Mr. Bell - Yes, I have one question of Mr. Blankinship. Since  
724 there is the option to rezone, the relationship between our Board and the Board  
725 of Supervisors, are we overriding what they originally set up when we take and  
726 vote to approve something like this?

727  
728 Mr. Blankinship - You could make that argument, yes sir. I wouldn't say  
729 this is really an egregious case of that because of the unique facts of this lot. But  
730 you could certainly make that argument, yes sir.

731  
732 Mr. Bell - Okay, thank you.

733  
734 Ms. Harris - And though you did not ask the question of me, I do  
735 know that the Board of Supervisors intends for us to do what we can do to make  
736 their load a little lighter. If there's a case that we can solve without coming before  
737 them, I think they wish that we would solve it, such as the case here.

738  
739 Mr. Bell - Okay, thank you.

740  
741 Mr. Wright - Okay. Any further discussion? Hearing none, all in  
742 favor say aye. All opposed say no. The ayes have it; the motion passes.

743  
744 After an advertised public hearing and on a motion by Mr. Baka, seconded by  
745 Ms. Harris, the Board **approved** application **VAR2013-00001** **LEE R.**  
746 **FONDILLER's** request for a variance from Section 24-94 of the County Code to  
747 build a one-family dwelling at 2000 Pemberton Road (Parcel 749-751-7350)  
748 zoned A-1, Agricultural District (Tuckahoe). The Board approved the variance  
749 subject to the following conditions:

750  
751 1. This variance applies only to the lot width requirement for one dwelling only.  
752 All other applicable regulations of the County Code shall remain in force.

753  
754 2. Only the improvements shown on the plot plan filed with the application may  
755 be constructed pursuant to this approval. Any additional improvements shall  
756 comply with the applicable regulations of the County Code. Any substantial  
757 changes or additions to the design or location of the improvements will require a  
758 new variance.

759  
760 3. Approval of this request does not imply that a building permit will be issued.  
761 Building permit approval is contingent on Health Department requirements,  
762 including, but not limited to, soil evaluation for a septic drainfield and reserve  
763 area.

764

765 4. At the time of building permit application, the applicant shall submit the  
766 necessary information to the Department of Public Works to ensure compliance  
767 with the requirements of the Chesapeake Bay Preservation Act and the code  
768 requirements for water quality standards.

769  
770 5. The proposed dwelling on the property shall be served by public water.

771  
772 6. At the time of building permit application for the proposed one-family dwelling,  
773 the owner shall also apply for a demolition permit to remove the existing dwelling.  
774 Prior to the issuance of a certificate of occupancy for the new home, the existing  
775 dwelling shall be demolished.

776  
777 7. The proposed one-family dwelling shall be set back no further than 170 feet  
778 from the front property line.

779  
780  
781 Affirmative:                   Baka, Bell, Harris, Wright                   4  
782 Negative:                        0  
783 Absent:                         Nunnally                                       1

784  
785  
786 Mr. Wright -                   Now the next business is approval of our minutes. Do  
787 I hear a motion that we approve the minutes as submitted?

788  
789 Mr. Baka -                      So moved.

790  
791 Mr. Wright -                   All right. Motion is made by Mr. Baka. Is there a  
792 second?

793  
794 Mr. Bell -                      Second.

795  
796 Mr. Wright -                   Second by Mr. Bell. Any discussion? Hearing none,  
797 all in favor say aye. All opposed say no. The ayes have it; the motion passes.

798  
799 On a motion by Mr. Baka, seconded by Mr. Bell, the Board **approved as**  
800 **submitted the Minutes of the January 24, 2013**, Henrico County Board of  
801 Zoning Appeals meeting.

802  
803  
804 Affirmative:                   Baka, Bell, Harris, Wright                   4  
805 Negative:                        0  
806 Absent:                         Nunnally                                       1

807  
808  
809 Mr. Wright -                   That's the shortest group of minutes.


810

811 Mr. Blankinship - And next month will be short too.  
 812  
 813 Mr. Wright - Any further business to come before the Board? Do I  
 814 hear a motion we adjourn?  
 815  
 816 Mr. Baka - Motion to adjourn.  
 817  
 818 Mr. Wright - Motion is made. Is there a second?  
 819  
 820 Mr. Bell - Second.  
 821  
 822 Mr. Wright - Any discussion? Hearing none, all in favor say aye.  
 823 All opposed say no. The ayes have it; the motion passes. The Board is  
 824 adjourned until its next meeting.

825  
 826  
 827 Affirmative: Baka, Bell, Harris, Wright 4  
 828 Negative: 0  
 829 Absent: Nunnally 1

830  
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 R. A. Wright  
 Chairman

  
 Benjamin Blankinship, AICP  
 Secretary