

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 22, 2018 AT 9:00 A.M., NOTICE  
5 HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH  
6 FEBRUARY 5, 2018 AND FEBRUARY 12, 2018.

7  
8

Members Present: William M. Mackey, Jr., Chair  
Helen E. Harris, Vice Chair  
Gentry Bell  
James W. Reid

Member Absent: Terone B. Green

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

9

10

11 Mr. Mackey - Good morning and welcome to the February 22, 2018  
12 meeting of the Board of Zoning Appeals. All who are able, will you please stand  
13 and join us in the Pledge of Allegiance.

14

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

17

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

26

27 After the Board finishes the first public hearing, they will continue to the second  
28 public hearing. After both public hearings are over, they'll go back and make their  
29 decisions on the two cases. It probably won't take that long this morning, but if you  
30 don't care to stay, we do usually update the Planning Department website within  
31 an hour of the end of the meeting. Or you can call the Planning Department this  
32 afternoon if you need to leave and wish to know the decision on a case.

33

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

37  
38 Also you'll see there is one member absent this morning. Mr. Green is traveling.  
39 The Code of Virginia provides that in order to rule in favor of an applicant, there  
40 must be three affirmative votes. Since we have one member absent, anyone who  
41 wishes to can defer your case until next month so that you can be more certain if  
42 you're concerned about having that third vote. Just let the Board know that when  
43 your case is called.

44  
45 The first case, Mr. Chair, has requested deferral. That is CUP2018-00003,  
46 Christine F. Morlino, DVM.

47  
48 **CUP2018-00003**           **CHRISTINE F. MORLINO, DVM** requests a conditional  
49 use permit pursuant to Section 24-116(d)(1) of the County Code to allow a  
50 temporary office trailer at 4730 Pouncey Tract Road (Parcel 739-767-3152) zoned  
51 Business District (B-3) (Three Chopt).

52  
53 Mr. Blankinship -           Miguel, am I correct that they wanted to defer until  
54 May?

55  
56 Mr. Madrigal -           Yes.

57  
58 Mr. Blankinship -           They're requested deferral to the May meeting.

59  
60 Mr. Mackey -           All right, so that will be May 24th?

61  
62 Mr. Blankinship -           Yes sir.

63  
64 Mr. Mackey -           All right. What is the pleasure of the Board? Is there a  
65 motion to accept the deferral to May 24th?

66  
67 Mr. Bell -           I move we accept the deferral to May 24th.

68  
69 Mr. Mackey -           Is there a second?

70  
71 Ms. Harris -           I second.

72  
73 Mr. Mackey -           It's been moved by Mr. Bell, seconded by Ms. Harris.  
74 All in favor say aye. Those opposed say no. There is no opposition. The ayes have  
75 it 4 to 0.

76  
77 After an advertised public hearing and on a motion by Mr. Bell, seconded by  
78 Ms. Harris, **CUP2018-00003, CHRISTINE F. MORLINO, DVM**, has been deferred  
79 until the May 24, 2018 meeting.

80  
81  
82 Affirmative: Bell, Harris, Mackey, Reid 4  
83 Negative: 0  
84 Absent: Green 1  
85  
86  
87 Mr. Blankinship - All right. That is the only conditional use permit on this  
88 morning's agenda. The other two cases are variances. The first is VAR2018-  
89 00001, Bruce Taylor.  
90  
91 **VAR2018-00001** BRUCE TAYLOR requests a variance from Sections  
92 24-95(c)(1), 24-95(c)(4) and 24-95(i)(1) of the County Code to allow a one-family  
93 dwelling to remain at 8 N Kalmia Avenue (HIGHLAND SPRINGS) (Parcel 823-724-  
94 5508) zoned One-Family Residence District (R-4) (Varina). The least side yard  
95 setback, front yard setback and setback for steps are not met. The applicant  
96 proposes 26 feet front yard setback, 23 feet setback for steps, and 4 feet least side  
97 yard setback, where the Code requires 35 feet front yard setback, 25 feet setback  
98 for steps, and 7 feet least side yard setback. The applicant requests a variance of  
99 9 feet front yard setback, 2 feet setback for steps, and 3 feet least side yard  
100 setback.  
101  
102 Mr. Blankinship - Would everyone who intends to speak to this case  
103 please stand and be sworn in. Raise your right hand, please. Do you swear the  
104 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
105 so help you God?  
106  
107 Mr. Taylor - I do.  
108  
109 Mr. Blankinship - Thank you. Mr. Gidley, you may begin.  
110  
111 Mr. Gidley - Thank you, Mr. Secretary. Good morning,  
112 Mr. Chairman, members of the Board.  
113  
114 The applicant's property is located in Highland Springs on the west side of N.  
115 Kalmia Avenue just north of its intersection with Nine Mile Road. Here's a picture  
116 of the home right here. Eight N. Kalmia consists of two individual lots. One is lot  
117 10, which is vacant. The other one is lot 12, which contains a single-family home.  
118 The single-family home was built in 1937. And again, this is a view of the home.  
119  
120 The applicant would like to use lot 10, the vacant lot, as a separate building lot.  
121 However, because the home on lot 12 is too close to the side property line, lot 10  
122 is needed in order to meet setbacks. In addition, there is an encroachment in the  
123 front. The 33.3 feet here is to the actual house. The covered front porch is located  
124 26.4 feet from the right of way rather than the required 35 feet, and the steps come  
125 within 23.5 feet of the right of way. When the home was built, it was actually built

126 in compliance with the Zoning Ordinance back in 1937. However, due to changes  
127 in code since that time, the home is considered legal, though not in conformance,  
128 regarding front yard setbacks.

129  
130 In evaluating this case, when the home was constructed in 1937, the Zoning  
131 Ordinance required a minimum side yard of five feet. The placement of home, as  
132 you can see here—4.4 feet off the side yard—appears to be more of a surveying  
133 error, and we believe that's the case because lot 12 is large enough to  
134 accommodate the home independent of lot 10. So it appears that it's just been  
135 placed over a slight distance here into the setback. Although a surveying error is  
136 typically not a reason to grant a variance, in this case the home was built several  
137 owners ago back in 1937. After eighty-one years, it's arguably unreasonable to  
138 require part of a home to be demolished in order to meet 0.6 of a foot of setback.  
139

140 As far as the front yard setback, as I said, when it was constructed, it was  
141 constructed in compliance with the Zoning Ordinance. Changes in the Zoning  
142 Ordinance since this time have made it non-conforming. Under state code, a  
143 change in state law that brings about a non-conformity is justification for a variance.  
144

145 As far as the five subtests are concerned, the property was acquired in good faith  
146 by the owner in November 2017. The owner obviously didn't cause the situation in  
147 question.  
148

149 As far as detrimental impact, as you can see here, there are fifteen homes along  
150 this section of N. Kalmia Avenue. Of these fifteen, only three are on two or more  
151 lots while the remaining twelve are on individual single lots. So the predominant  
152 building pattern is one home on one lot on this section of N. Kalmia. Because this  
153 property is an existing home, and the owner's plan to put a new home on one lot  
154 is consistent with the predominant development pattern in the area, staff does not  
155 really anticipate any detrimental impact if this variance were granted.  
156

157 As far as an unusual situation and an ordinance amendment as a solution, in this  
158 case it is an unusual situation, and it's one that the BZA probably should address  
159 on a case-by-case basis rather than having a broad Zoning Ordinance amendment  
160 that would run across the board.  
161

162 It is not an illegal use variance. The property is zoned R-4, and a single-family  
163 residence is permitted in the R-4 District.  
164

165 And finally, a special exception or modification is not an option in this case.  
166

167 Staff believes the five subtests are met.  
168

169 In conclusion, the existing home on lot 12 was constructed in 1937. The lot  
170 complies with lot area and lot width requirements. A surveying error appears to  
171 have resulted in the home being placed .6 feet too close to the side property line

172 than what was required at the time. After eight-one years, it's arguably  
173 unreasonable to require part of the building to be demolished to bring it into  
174 compliance.

175  
176 As far as the front yard setback, it was built in conformance with the Zoning  
177 Ordinance in 1937. As I mentioned, changes in the Zoning Ordinance since that  
178 time are a justification under state law to grant a variance to clean this up.

179  
180 Because staff does not anticipate any detrimental impact from this case and  
181 because all four of the other subtests appear to be met, staff can recommend  
182 approval of this request subject to the conditions in your staff report.

183  
184 This concludes my presentation. If you have any questions, I'll certainly be happy  
185 to answer them.

186  
187 Mr. Mackey - All right. Thank you, Mr. Gidley. Does anyone have  
188 questions? I have one quick question. If they were forced to use lot 10, then  
189 obviously lot 10 wouldn't be a buildable lot for a new home, correct?

190  
191 Mr. Gidley - Yes sir, that's correct.

192  
193 Mr. Mackey - Okay. All right. Thank you, Paul.

194  
195 Mr. Gidley - Yes sir.

196  
197 Mr. Taylor - I really don't know what to say. Sounds like he said  
198 most of it.

199  
200 Mr. Mackey - For the record, will you say and spell your name?

201  
202 Mr. Taylor - Bruce Taylor. B-r-u-c-e, T-a-y-l-o-r.

203  
204 Mr. Mackey - Thank you, Mr. Taylor.

205  
206 Mr. Taylor - The only thing I can say is I'd rather keep the old house  
207 that's there. It's in fairly good shape. Those pictures really don't do it justice other  
208 than the front porch. All the siding and windows, everything's been replaced, in the  
209 last seven years, heat pump. Rather than tear it down to get two lots. I'd like to  
210 leave it.

211  
212 Mr. Mackey - Okay.

213  
214 Mr. Blankinship - How long have you owned the property?

215  
216 Mr. Taylor - Since November.

218 Mr. Blankinship - What was your intention when you bought it?  
219  
220 Mr. Taylor - I was going to rent this house out and build a new one  
221 beside it. But after the survey, it was just a few inches short.  
222  
223 Mr. Mackey - Are there any questions for Mr. Taylor from anyone on  
224 the Board? All right, thank you, Mr. Taylor.  
225  
226 Mr. Blankinship - Is there anyone else who would like to speak to this  
227 case?  
228  
229 Mr. Mackey - I'm sorry. Yes, is there anyone who would like to speak  
230 in opposition of the application? Anyone who would like to speak in favor? All right,  
231 thank you.  
232  
**[After the conclusion of the public hearings, the Board discussed the case  
233 and made its decision. This portion of the transcript is included here for  
234 convenience of reference.]**  
235  
236 Mr. Mackey - What is the pleasure of the Board? Being the Varina  
237 magistrate, I make a motion that we approve the variance as requested. I feel that  
238 all five subtests were met, and I don't think it will be a detriment to the community  
239 if it were approved to allow the house to remain. That's why I'm in support of it.  
240  
241 Ms. Harris - Second the motion. Further, under state law, the home  
242 construction can justify this variance since the change was made after the home  
243 was constructed.  
244  
245 Mr. Mackey - Right, exactly. We have a motion by Mr. Mackey to  
246 approve and a second by Ms. Harris. Oh, is there any other discussion? No  
247 discussion, all right. We have a motion by Mr. Mackey, seconded by Ms. Harris.  
248 All in favor say aye. Those opposed say no. There is no opposition. The ayes have  
249 it 4 to 0. The motion is carried.  
250  
251 After an advertised public hearing and on a motion by Mr. Mackey, seconded by  
252 Ms. Harris, the Board **approved** application VAR2018-00001, BRUCE TAYLOR's  
253 requests a variance from Sections 24-95(c)(1), 24-95(c)(4) and 24-95(i)(1) of the  
254 County Code to allow a one-family dwelling to remain at 8 N Kalmia Avenue  
255 (HIGHLAND SPRINGS) (Parcel 823-724-5508) zoned One-Family Residence  
256 District (R-4) (Varina). The Board approved the variance subject to the following  
257 condition:  
258  
259 1. This variance applies only to the front yard and least side yard setbacks for the  
260 existing dwelling only. All other applicable regulations of the County Code shall  
261 remain  
262 in force.

264  
265  
266 Affirmative: Bell, Harris, Mackey, Reid 4  
267 Negative: 0  
268 Absent: Green 1

269  
270  
271 [At this point, the transcript continues with the public hearing on the next  
272 case.]

273  
274 Mr. Blankinship - Moving on to the second variance, VAR2018-00002,  
275 Liberty Homes Incorporated.

276  
277 **VAR2018-00002 LIBERTY HOMES, INC.** requests a variance from  
278 Section 24-9 of the County Code to build a one-family dwelling at 11619 Patch  
279 Road (Parcel 771-778-6886) zoned Agricultural District (A-1) (Brookland). The  
280 public street frontage requirement is not met. The applicant proposes 0 feet public  
281 street frontage, where the Code requires 50 feet public street frontage. The  
282 applicant requests a variance of 50 feet public street frontage

283  
284 Mr. Blankinship - Would everyone who intends to speak to this case  
285 please stand and be sworn in. Raise your right hand, please. Do you swear the  
286 testimony you're about to give is the truth, the whole truth, and nothing but the truth  
287 so help you God? Thank you. Mr. Madrigal.

288  
289 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the  
290 Board, good morning.

291  
292 Before you is a request to allow a one-family dwelling in an agricultural district. The  
293 subject property was derived from a 28-acre tract of land purchased by the Spicer  
294 family in 1945. In 1973, the family recorded a 26-acre subdivision plat in  
295 anticipation that the property would be divided among family heirs. The family  
296 subdivision consisted of eight lots in varying size from one to six acres, four of  
297 which were fronted on a public street, and other four lots were served by a fifty-  
298 foot-wide private access easement. This is a family subdivision plat from '73, and  
299 you can see the eight lots labeled A through H.

300  
301 Since 1973, three lots have been further subdivided, and eight dwellings have been  
302 built within the family subdivision. Variances were required for four of the dwellings  
303 due to lack of public street frontage. Currently, the 26-acre parcel consists of  
304 eleven lots, eight of which are improved. The subject lot is 2-1/2 acres in size and  
305 is located towards the rear of the subdivision, which can be seen here. It is  
306 currently unimproved, heavily wooded, and fronts on the north side of the access  
307 easement. The property borders developed lots at its front and rear. It backs onto  
308 the side of this lot on the north, and then you can see these two other lots here  
309 that have homes on them. And then there's this other lot towards the rear. The two

310 adjoining lots to its sides are also unimproved, which are this lot and this lot. One  
311 would require a variance if it were to be developed.

312  
313 The subject property has been handed down through the family and is currently  
314 owned by a granddaughter. She intends to sell the property to a local homebuilder  
315 who is requesting the subject variance to allow the construction of a 2-story, 2,047-  
316 square-foot dwelling with attached two-car garage.

317  
318 With respect to the threshold question, in 1960 when the public street frontage  
319 requirement was adopted, the 26-acre tract had public street frontage. Since then,  
320 the property has been subdivided by way of family division resulting in eleven lots  
321 of varying size. At the time the subject lot was created, it complied with the County  
322 subdivision standards, which permitted a one-time lot split. The owner at that time  
323 had a reasonable expectation that the lot was developable, and the current owner  
324 inherited that expectation. Because of the small size of the lot, its limited access,  
325 and the surrounding residential development pattern, it would be impractical to use  
326 the lot for anything other than a one-family dwelling. Absent a variance, the lot  
327 would be undevelopable.

328  
329 With respect to the five subtests, item number one requires that the property was  
330 obtained in good faith and any hardship relative to the property was not created by  
331 the applicant. In this case, the lot was created in 2003, and the property owner  
332 acquired the lot in 2010 by way of a gift deed. She wishes to sell the property to  
333 the applicant who intends to build a new one-family residence. In both instances,  
334 neither the property owner nor applicant played a role in the creation of the  
335 hardship.

336  
337 Item number twp requires that the granting of the variance will not result in a  
338 substantial detriment to adjacent or nearby property. The surrounding property was  
339 developed as a family subdivision with homes on lots of one to four acres in size.  
340 Although a public street was not built with the subdivision, it was designed with a  
341 private access easement of fifty feet in width that serves the interior lots. The  
342 proposed dwelling would be consistent with the surrounding residential  
343 development pattern and should not have any detrimental impacts on the  
344 immediate surroundings.

345  
346 Item number three, the condition of the property is not of a general or recurring  
347 nature requiring formulation of a regulation to be adopted as an amendment to the  
348 ordinance. When the 26-acre tract was subdivided in 1973, the family had the  
349 forethought to include an access easement consistent with the provisions found in  
350 the County's family subdivision regulations in effect today. Although there are  
351 many landlocked parcels in the county, few have been developed with a fifty-foot-  
352 wide private right-of-way, making this a unique feature of the property. Because  
353 this family division predates the family subdivision regulations, it does not have to  
354 conform to those standards.

356 Staff would note that any further division of the remaining two lots will require  
357 subdivision approval and necessary street improvements.

358  
359 With respect to items four and five, those items have been satisfied as outlined in  
360 the staff report.

361  
362 In conclusion, the proposed dwelling is consistent with the underlying zoning and  
363 Comprehensive Plan designations for the property. The subject lot was created in  
364 2003 by way of family division, prior to the adoption of specific standards. Access  
365 to the property is provided by way of fifty-foot-wide access easement, improved  
366 with a gravel road. It is the property owner's intent to sell the lot to a local  
367 homebuilder who intends to develop the property. Approval of the applicant's  
368 request should not have any detrimental impacts on nearby or adjoining property  
369 due to the existing development pattern in the immediate area. Absent a variance,  
370 the lot will not be developable.

371  
372 Based on the facts of the case, staff does recommend approval subject to  
373 conditions. As a side note, we have received a few calls with respect to this  
374 request. One call was just requesting basic information. We did receive one call in  
375 opposition and then another call with respect to runoff issues on the property if it  
376 were to be developed.

377  
378 That concludes my staff presentation. I'll be happy to answer any questions.

379  
380 Mr. Mackey - Thank you, Mr. Madrigal. Does anyone from the Board  
381 have any questions?

382  
383 Ms. Harris - Yes, I do. Mr. Madrigal, the calls that you received in  
384 opposition, did they say why?

385  
386 Mr. Madrigal - That was a family member that lives within the family  
387 subdivision. In essence, they were concerned that the property was going to  
388 potentially be sold to somebody that's not within the family, essentially wanting to  
389 keep the property in the family. They're concerned about non-family members  
390 using the access road, as well as maintenance issues related to the road.

391  
392 Ms. Harris - Thank you.

393  
394 Mr. Mackey - Any other questions for Mr. Madrigal? Thank you, sir.

395  
396 Mr. Madrigal - Thank you.

397  
398 Mr. Mackey - Can we hear from the applicant?

399  
400 Mr. Tuthill - Good morning.

402 Mr. Mackey - Good morning.

403

404 Mr. Tuthill - Hi. I'm Shawn Tuthill. S-h-a-w-n. Last name is Tuthill,  
405 T-u-t-h-i-l-l. I'm with Liberty Homes. The memorandum prepared by staff speaks  
406 to the case very well. We have an individual that wants to sell the property. We  
407 want to buy the property, and we want to build a home as was described in the  
408 memorandum. I can speak to any of that.

409

410 The conditions that were requested by staff, we only have one question on it,  
411 number two. It states that only the improvements shown on the plot plan and  
412 building design filed with the application shall be constructed. The only issue we  
413 have with that is my son and I have recently walked the property and have  
414 determined that the house would be best suited if we moved the house back on  
415 the lot approximately twenty-six feet. So in essence, the front of the house would  
416 now become the back of the house as described on that plat. That's because of  
417 some drainage coming across the front, between that and the engineered septic  
418 system. So we thought it would be better to have that opportunity to drain that  
419 water over to the lower area.

420

421 Mr. Blankinship - So as it shows now, the house is 93.7 feet back from  
422 the private roadway. You're saying it will be another 26 feet beyond that, so about  
423 120 feet from the right-of-way?

424

425 Mr. Tuthill - I'll try to find the plat here.

426

427 Mr. Blankinship - Can you put that up on the screen, Miguel?

428

429 Mr. Tuthill - That is correct.

430

431 Mr. Blankinship - Okay.

432

433 Mr. Mackey - Would that interfere with the street frontage now that  
434 he's turning the house around?

435

436 Mr. Blankinship - No, it wouldn't change the request. It's good to have  
437 that in the record so that when we review the building permit, we know that it's  
438 consistent with what was presented to the Board.

439

440 Mr. Tuthill - Again, we just want to slide the house back. Same  
441 orientation, just slide it back twenty-six feet so there will be more front yard.

442

443 Ms. Harris - Question. Would that place the house closer to Patch  
444 Terrace?

445

446 Mr. Blankinship - Yes it would.

447

- 448 Ms. Harris - But your entry will not be at Patch Terrace, right? It's  
449 going to be on Patch Road?
- 450
- 451 Mr. Tuthill - It'll be on the gravel road that's shown on the bottom of  
452 that plat, if you will. The whole back of that, the rest of it leading up to it actually  
453 doesn't even touch Patch Terrace. The property doesn't touch Patch Terrace.
- 454
- 455 Ms. Harris - Is there a private road between the property and Patch  
456 Terrace? Go to the other side with the cursor.
- 457
- 458 Mr. Tuthill - Where are you referring?
- 459
- 460 Ms. Harris - Okay. Look at Patch Terrace. There seems to be a cul-  
461 de-sac or a circle there. Is there a private road when you leave? Yes, come  
462 horizontally to the property.
- 463
- 464 Mr. Tuthill - I do not know. It appears to be a county road.
- 465
- 466 Mr. Blankinship - Patch Terrace is a county road. I believe you're asking,  
467 Ms. Harris, about maybe a driveway serving one of the houses that fronts on Patch  
468 Terrace.
- 469
- 470 Ms. Harris - Right. I was just wondering if there was anything there  
471 that you could use to gain access to this property.
- 472
- 473 Mr. Blankinship - I doubt it would work because of the location of that  
474 house immediately north of the subject property.
- 475
- 476 Ms. Harris - Okay, thank you.
- 477
- 478 Mr. Mackey - Are there any other questions?
- 479
- 480 Mr. Bell - Yes. In looking at the plat here, you said you walked  
481 the area. And due to runoff and drainage, you moved the house back. Did you walk  
482 the circumference to see how much runoff on the property runs off on other  
483 people's property? Or have you had anybody come to talk to you about that?
- 484
- 485 Mr. Tuthill - No. There was an individual—referred to earlier—that  
486 met with my son and one of the family members on site. To my understanding,  
487 they've resolved his concern.
- 488
- 489 Mr. Bell - Okay, thank you.
- 490
- 491 Ms. Harris - I have another question. Do we know how many people  
492 actually use that access road? I think the opposition was opposed to having more  
493 people use the access road.

494  
495 Mr. Blankinship - I believe there are four existing homes, Ms. Harris, and  
496 this would be the fifth.

497  
498 Ms. Harris - Okay.

499  
500 Mr. Tuthill - With potentially two more.

501  
502 Mr. Blankinship - Right.

503  
504 Ms. Harris - And that's a fifty-foot-wide access road.

505  
506 Mr. Blankinship - It is fifty feet wide, yes ma'am.

507  
508 Ms. Harris - Thank you.

509  
510 Mr. Mackey - All right. Are there any other questions for the  
511 applicant?

512  
513 Mr. Blankinship - Do you have a photograph of the road?

514  
515 Mr. Mackey - That's the access to all of the properties?

516  
517 Mr. Tuthill - Correct.

518  
519 Mr. Mackey - Okay. All right. Are there any more questions? Thank  
520 you, Mr. Tuthill.

521  
522 Mr. Tuthill - Okay.

523  
524 Mr. Mackey - Is there anyone else who would like to speak in support  
525 of this application? Anyone who would like to speak in opposition of the  
526 application? All right, thank you. I believe we've heard our final application for the  
527 day, so we'll move on to the motion portion.

528  
529 [After the conclusion of the public hearings, the Board discussed the case  
530 and made its decision. This portion of the transcript is included here for  
531 convenience of reference.]

532  
533 Mr. Mackey - What is the pleasure of the Board?

534  
535 Mr. Bell - I move that we accept the motion.

536  
537 Mr. Mackey - Is there a second.

538  
539 Mr. Reid - Second.

540  
541 Mr. Bell - The reason is that it meets the justification of Virginia  
542 Code 15.2.2309 with some exceptions in that. Also, it is not detrimental to or unsafe  
543 for the area. It fits in with the area. Because of those reasons, I move that it's  
544 accepted.

545  
546 Mr. Mackey - All right. It's been moved by Mr. Bell. Is there a second?

547  
548 Mr. Reid - Second.

549  
550 Mr. Mackey - Seconded by Mr. Reid. Discussion.

551  
552 Ms. Harris - Yes. I heard the opposition, and I understand how we  
553 feel when we cannot select our neighbors. Our neighbors are not usually family  
554 members. That's a universal problem. We all wish we could select our neighbors,  
555 so I don't think that's a good enough reason to object to this.

556  
557 Mr. Mackey - I agree, Ms. Harris. Thank you for that. All right. It's  
558 moved by Mr. Bell and seconded by Mr. Reid. All in favor say aye. Those opposed  
559 say no. There is no opposition. The ayes have it, and the motion is carried 4 to 0.

560 After an advertised public hearing and on a motion by Mr. Bell, seconded by  
561 Mr. Reid, the Board **approved** application **VAR2018-00002, LIBERTY HOMES,**  
562 **INC.** requests a variance from Section 24-9 of the County Code to build a one-  
563 family dwelling at 11619 Patch Road (Parcel 771-778-6886) zoned Agricultural  
564 District (A-1) (Brookland). The Board approved the variance subject to the  
565 following conditions:

566  
567 1. This variance applies only to the street frontage requirement for one dwelling  
568 only. All other applicable regulations of the County Code shall remain in force.

569  
570 2. Only the improvements shown on the plot plan and building design filed with the  
571 application may be constructed pursuant to this approval. Any additional  
572 improvements shall comply with the applicable regulations of the County Code.  
573 Any substantial changes or additions to the design or location of the improvements  
574 will require a new variance.

575  
576 3. Approval of this request does not imply that a building permit will be issued.  
577 Building permit approval is contingent on Health Department requirements,  
578 including, but not limited to, soil evaluation for a septic drainfield and reserve area,  
579 and approval of a well location.

580  
581 4. Clearing, grading, or other land disturbing activity shall not begin until the  
582 applicant has submitted, and the Department of Public Works has approved, an  
583 environmental compliance plan.

584  
585

586 5. The applicant shall present proof with the building permit application that a legal  
587 access to the property has been obtained. The driveway shall be improved with a  
588 durable asphalt or compacted gravel surface at least 10 feet wide with 12 feet of  
589 horizontal clearance and 14 feet of overhead clearance to provide access for  
590 police, fire, emergency medical services, and other vehicles. The owners of the  
591 property, and their heirs or assigns, shall accept responsibility for maintaining  
592 access to the property until such a time as the access is improved to County  
593 standards and accepted into the County road system for maintenance.

595 6. The applicant shall install an address marker at the intersection of the lot's  
596 private drive and the private road as per §R319.1 of the Virginia Residential Code.

604 Mr. Mackey - We'll now move on to the approval of the minutes from  
605 the January 25, 2018 meeting. Is there a motion?

607 Ms. Harris - Mr. Chairman, I move that we accept the minutes as  
608 presented.

610 Mr. Mackey - It's been moved by Ms. Harris. Is there a second?

612 Mr. Bell - Second it.

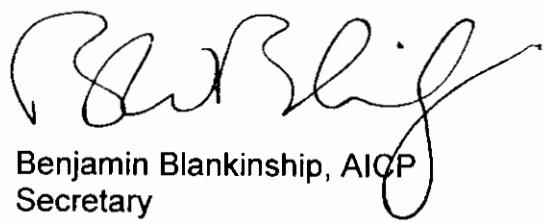
613  
614 Mr. Mackey - Seconded by Mr. Bell. All in favor say aye. Those  
615 opposed say no. There is no opposition. The ayes have it 4 to 0. The motion is  
616 carried.

618  
619 Affirmative: Bell, Harris, Mackey, Reid 4  
620 Negative: 0  
621 Absent: Green 1

624 I believe that is everything. The meeting is adjourned.

*William Mackey Jr.*

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Benjamin Blankinship, AICP  
Secretary