

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE
3 GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON
4 THURSDAY FEBRUARY 25, 2021 AT 9:00 A.M., NOTICE HAVING BEEN
5 PUBLISHED IN THE *RICHMOND TIMES-DISPATCH* FEBRUARY 8, 2021 AND
6 FEBRUARY 16, 2021.

7
8 Members Present: Terone B. Green, Chair
9 Walter L. Johnson, Jr., Vice-Chair
10 Gentry Bell
11 Terrell A. Pollard
12 James W. Reid

13
14 Also Present: Benjamin Blankinship, Secretary
15 Paul M. Gidley, County Planner
16 R. Miguel Madrigal, County Planner
17 Rosemary Deemer, County Planner
18 Kristin Smith, County Planner
19 Kuronda Powell, Account Clerk
20

21 Mr. Green - Good morning, and welcome to today's Board of Zoning Appeals
22 meeting. Today is February 25th. Those who are able please stand and join us in the
23 Pledge of Allegiance.

24
25 **[Recitation of the Pledge of Allegiance]**
26

27 Mr. Blankinship, will you now read our rules.

28
29 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board. We
30 don't have anyone in the room with us at this point of the meeting, but there are also two
31 remote options for participating in the meeting. There's a livestream on the Planning
32 Department webpage and we are hosting a video conference using Webex.

33
34 I'd like to welcome everyone who is joining us remotely. If you wish to observe the
35 meeting, but you do not intend to speak, welcome. Thank you for joining us. For those
36 of you on Webex who intend to speak, we need to know that in advance so we can
37 connect you at the appropriate time.

38
39 So if you are an applicant, or if you have questions or comments on one of the cases,
40 please press the chat button now that's located in the bottom-right corner of the screen.
41 And when the chat window opens please select Kristin Smith from the list of participants
42 and let her know your name and which case you are interested in. The chat feature is
43 only being used to identify speakers, so please do not type questions or comments into
44 a chat. But please send a chat to Kristin Smith now, so we can organize the queue.
45

46 Acting as secretary I will call each case and then if there is anyone in the room at the
47 time, we will ask them to stand and be sworn in. There is one appeal on the agenda. I'm
48 sorry, there's no appeals this morning, only conditional use permits and variances.

49
50 A member of the Planning Department staff will give a brief presentation and then the
51 applicant will speak. And then anyone else who wishes to speak will be given the
52 opportunity. We'll hear from citizens in the room first and then from those on Webex.
53 After everyone has had a chance to speak, the applicant and only the applicant will have
54 an opportunity for rebuttal.

55
56 This meeting is being recorded, so for those in the room, we will ask you to speak into the
57 microphone at the lectern at the back of the room and we will ask everyone to state your
58 name and please spell your last name so we get it correctly in the record.

59
60 And with that, Mr. Chair, would you like me to call the first case?

61
62 Mr. Green - Yes, sir.

63
64 Mr. Blankinship - All right. Conditional use permit 2021, number 3, William and
65 Miranda Saunders.

66
67 **CUP2021-00003 WILLIAM AND MIRANDA SAUNDERS** request a conditional
68 use permit pursuant to Section 24-95(i)(4) of the County Code to build an accessory
69 structure in the side yard at 9700 Cragmont Drive (CARTER OAKS) (Parcel 742-736-
70 1649) zoned One-Family Residence District (R-0) (Tuckahoe).

71
72 Mr. Blankinship - And Mr. Gidley will give the staff report.

73
74 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chairman,
75 members of the Board. The subject property is located at the northwestern corner of the
76 intersection of South Gaskins Road and Cragmont Drive.

77
78 Normally the shortest road frontage is the front yard, which in this case would be South
79 Gaskins Road. However, there is a planning strip easement that runs along there. And
80 on the subdivision plat there's also a prohibition against ingress and egress to and from
81 the property from South Gaskins Road. So the front defaults to Cragmont Drive and that's
82 how the lot was approved on the subdivision plans and that's how the home was built.

83
84 With that being the front, however, it rears upon the side-lot line of the home to the rear
85 at 221 Cragmont Circle. This makes it a reverse-corner lot, which I'm sure you're familiar
86 with by now.

87
88 The applicants plan on building two additions. One, is an attached garage beside the
89 home. The second is a detached structure in the rear yard which is a pool house, as in
90 the future they plan on adding a pool behind the home.

91

92 Here's the house right here and you see the attached garage here and then the detached
93 pool house.

94
95 The proposed garage, because it's attached to the home, it actually meets setbacks and
96 can proceed with just a building permit. The proposed garage is not part of this request.
97 The proposed pool house, which is subject to this request, would be in the required 65-
98 foot side-yard setback off the side street. As a result they have applied for a conditional
99 use permit to construct the pool house 44 1/2-feet from the side street.

100
101 If you look here, this gives you a little idea looking from the front towards the back. Here
102 is the home here, the attached garage, and then behind it here would be the attached
103 garage.

104
105 In evaluating this request, the property is zoned R-0, One-Family Residence District, and
106 it's designated Suburban Residential One on the Land Use Map. A garage and detached
107 pool house is consistent with these designations.

108
109 I would note, however, if you look here for the pool house, it does show that there would
110 be a sitting area, cooking facilities, and full bath in the pool house. These facilities are
111 customary for a pool house. However, a future owner could convert this to an accessory
112 dwelling, which is not permitted. As a result, staff has simply proposed a condition saying
113 that there should be no overnight stays in the pool house.

114
115 As for substantial detrimental impact to nearby property, the reverse-corner lot standards
116 were designed to prevent structures from being in the front yard along a street or having
117 the front of the adjacent home look along into the back of an accessory structure.

118
119 There are two homes behind the property, one here and actually one up here. They're
120 set back at least 50 feet from the street right of way and, ideally, the improvements would
121 be also. In this case, however, the proposed garage is going to come closer to the street
122 than the proposed pool house. And, again, this is legal. It's not part of the conditional
123 use permit application here. And given the fact that it's substantially closer to the street
124 than the pool house would be, at this point it's, you know, kind of a moot issue to a degree.

125
126 In addition, this proposed garage in the rear yard would be 60 feet from the neighboring
127 home to the rear and if you look here as well, you can see even in the winter there there
128 are plenty of mature trees here and an evergreen hedge.

129
130 So, as a result, in the grand scheme of things, staff does not believe there would be a
131 substantial detrimental impact if this were approved.

132
133 In conclusion, the applicants plan on building this proposed garage here along with the
134 detached pool house in the rear yard. While the pool house is closer to the street than
135 permitted, it is further back than the garage would be, thus lessening its impact.
136 Combined with the distance to the adjacent property and the landscaping in the rear yard,

137 staff believes the impact would be minimum. As a result, we can recommend approval
138 of this request subject to the conditions in your staff report.

139

140 If you have any questions, I'll be happy to answer those.

141

142 Mr. Green - You said that You're going to restrict them from staying in the
143 pool house? Is that future or current?

144

145 Mr. Gidley - Once built, that would come into play. And that would, you
146 know, keep anyone from converting it in the future. Say a new owner comes in and wants
147 to put an Airbnb in there or just have people start staying there. It at least puts people on
148 record that you can't have a dwelling in an accessory structure.

149

150 Mr. Green - But what about the current?

151

152 Mr. Gidley - It applies to them as well.

153

154 Mr. Green - So they won't be able to stay in the pool house?

155

156 Mr. Gidley - Not stay overnight in the poolhouse.

157

158 Mr. Green - How do you really enforce that?

159

160 Mr. Gidley - It'd be basically the neighbors calling in and complaining.

161

162 Mr. Green - The other question I had. What's the square footage of the
163 house and what is the square footage of the addition in comparison to the square footage
164 of the other houses in that area?

165

166 Mr. Gidley - The applicant's house is just over 5,000 square feet of floor
167 area. The pool house is 20 feet by 36 feet, so that should be a little over --

168

169 Mr. Blankinship - 720.

170

171 Mr. Gidley - 720. And as far as the homes to the rear, I don't have that
172 information on me.

173

174 Mr. Blankinship - Go to the expanded aerial and you can at least get an idea.

175

176 Mr. Gidley - Yes.

177

178 Mr. Blankinship - No that's too far. I'll go to the aerial anyway.

179

180 Mr. Gidley - You can see the one to the rear here is pretty similar in size.
181 This one's a little smaller here.

182

183 Mr. Green - So they're going from about 5,000 square feet. He's going to
184 6,000 square feet when it's all said and done.
185
186 Mr. Gidley - Well there would be the garage, also, and then combined with
187 the pool house it'd probably be 6400, 6500, in there.
188
189 Mr. Green - And is that consistent with the neighborhood?
190
191 Mr. Gidley - With this neighborhood, if you look here, over here and also
192 up here, it is -- these tend to be one-acre lots. And, you know, very large nice homes.
193 So it's not out of character in this case. In my neighborhood it would be.
194
195 Mr. Green - Just curious. Mr. Blankinship said that's too small for his. He
196 would be inclined not to approve it, because he don't want cottages, he wants real houses.
197 Thank you.
198
199 Mr. Gidley - Yes, sir.
200
201 Mr. Green - Are there any questions from the Board of staff? From the
202 Board?
203
204 Mr. Johnson - Yes. I'm kind of curious about the attached garage. Is that
205 connected to the house? I mean --
206
207 Mr. Gidley - I see what you're saying. That's a good catch, Mr. Johnson.
208 The way the code reads, is if you have -- . The proposed garage would be connected to
209 the house. So, as a result, it has to meet the same setbacks that this home has to meet.
210 And I want to say that's 20 feet off that street side.
211
212 Mr. Blankinship - Because they're assumed by the blue dashed line there.
213
214 Mr. Gidley - Oh. Okay. Yes. 20 feet setback off of here.
215
216 Mr. Johnson - Oh. Okay.
217
218 Mr. Gidley - And so that meets setbacks and, as I said, they can go
219 forward with the building permit. Now when it comes to detached structures, and in this
220 case, it is technically detached. There would be -- let's see if I can get a good view of
221 this. You could see here there's going to be, like, an open breezeway here.
222
223 Mr. Johnson - Right.
224
225 Mr. Gidley - If it's 10 feet or more in width, it's considered connected to the
226 house. And with it being more than 50 feet off that rear line, technically they could make
227 the breezeway more than 10 feet in width and it would be connected, and they wouldn't

228 even be here today. But we've been told it is under 10 feet in width, and therefore it's
229 considered a detached accessory structure at that point.

230
231 Mr. Johnson - Do you have any --

232
233 Mr. Blankinship - If the pool house was attached, it would not meet the rear yard
234 setback for the dwelling. So it has to be detached.

235
236 Mr. Gidley - Oh. I guess from the home it was 60 feet, then.

237
238 Mr. Green - Do you have a picture of the new garage?

239
240 Mr. Gidley - The garage has not been built. Let's see here. This is the
241 garage here as proposed.

242
243 Mr. Johnson - Yes.

244
245 Mr. Green - So is it possible that we could put restrictions on them not to
246 do anything with the pool house? But what about at some point people can turn garages
247 into structures?

248
249 Mr. Gidley - And that would be allowed.

250
251 Mr. Green - So they can turn it into a B&B?

252
253 Mr. Gidley - With a conditional use permit.

254
255 Mr. Green - Okay.

256
257 Mr. Gidley - The reason the garages have that limitation, is two-fold. One,
258 it's not part of this request. Secondly, it is considered part of the residence, because it is
259 actually attached, as you can see here. And so just as you can convert, say, a living room
260 to a bedroom, you could convert the garage to a bedroom as well.

261
262 The problem with the pool house is it's a detached accessory structure and we don't allow
263 dwellings in a detached accessory structure.

264
265 Mr. Green - But looking at this, I'm trying to see where it's detached from
266 the front garage.

267
268 Mr. Gidley - Let's see here.

269
270 Mr. Blankinship - And another question is --

271
272 Mr. Johnson - Yes. That was my --

273

274 Mr. Green - There we go.

275

276 Mr. Blankinship - Well, you still don't see daylight through here, do you?

277

278 Mr. Green - No.

279

280 Mr. Gidley - Yes.

281

282 Mr. Blankinship - Oh, okay.

283

284 Mr. Gidley - You can see it open here and this narrow kind of breezeway
285 right here.

286

287 Mr. Johnson - Even though you have a ceiling or walkway with a cover over
288 it, then that's not considered attached?

289

290 Mr. Gidley - Again, it comes down to the width of the breezeway. If it's at
291 least 10 feet and made integral to the house, it's considered part of the house.

292

293 Mr. Johnson - Okay.

294

295 Mr. Gidley - In this case, they've told us because they wouldn't meet the
296 setback for the house, they've decided keep it under 10 feet, the breezeway, and that
297 means it's detached at that point.

298

299 Mr. Johnson - That's the way the rules read.

300

301 Mr. Gidley - That's a good observation there, sir. I just want --

302

303 Mr. Green - So we could approve this and a person -- and this -- these
304 folks can then go back and take that new garage and turn it into a living space for the pool
305 house?

306

307 Mr. Gidley - The new garage is considered a part of the home. Just as if
308 you did an addition onto the back of the home. And you're free to use it as you would any
309 permitted use for a dwelling. The pool house is considered detached, though, and so it's
310 treated, you know, like someone's shed or detached garage.

311

312 Mr. Green - Right.

313

314 Mr. Gidley - And you can't put an apartment in a detached garage.

315

316 Mr. Green - No I'm just worried about if someone can use the new garage,
317 since it's a new garage. When they construct it, they can construct it such that it's a
318 garage but still have the capabilities of turning into an apartment.

319

320 Mr. Gidley - Yes, sir. Under the code today they cannot have an
321 apartment there where, you know, they can't rent it out to a student when they have their
322 own dwelling in there separate from the house.

323
324 On the other hand, though, if they wanted to put two bedrooms and a bathroom in there
325 and, you know, have two teenagers, say, living there, you know, their two kids -- I don't
326 think they have teenagers, but you know what I'm saying. They could convert it into a
327 bedroom and a bathroom and have one of their kids live out there. Because it is
328 considered part of the house.

329
330 Mr. Green - Okay. So how do we know once we approve this that
331 someone intends to use it as a two-car garage then decide, oh, well, let's just make a
332 living space. They can do that.

333
334 Mr. Gidley - They could do that. And, again, the use permit is for the
335 detached structure -- the garage is allowed by right. They could say, I'm getting rid of the
336 pool house. And then come right on in and file a building permit for the de -- for the
337 attached garage.

338
339 Mr. Green - Okay. Are there any other questions from the Board? We will
340 now hear from the applicant. Is the applicant available?

341
342 Mr. Blankinship - Yes. The applicant is on Webex.

343
344 Ms. Deemer - The applicant is Mr. William Saunders, and he will now be
345 unmuted.

346
347 Mr. Saunders - Yes. This is Will Saunders. We appreciate you considering
348 our request. Be happy to field any questions you have.

349
350 Mr. Blankinship - Can you tell us a little bit about your plans, just to get it all on
351 the record?

352
353 Mr. Saunders - Yeah. Well, I think after the pandemic we want an outdoor
354 space where we can eat as a family and just enjoy our yard. And then, in terms of the
355 garage, just to let you know while we're doing that, our existing garage is configured such
356 that you cannot get two cars in it; you can only get one car in it. There's an AC and the
357 hot water heater and so on is where that car in the visual is, right where your cursor is,
358 so you actually cannot fit a car in that garage. So that's why we're doing the new garage.

359
360 For what it's worth we have no intent to have a, you know -- we're going to use it as a
361 garage and not going to be renting it to anybody in any way. Just for the record.

362
363 Mr. Blankinship - Concerning the pool house, are you comfortable with the
364 condition that says you can't have overnight stays there?

365

366 Mr. Saunders - Yes. When my wife banishes me from the bedroom, I guess
367 I'll still have to go onto my couch.
368
369 Mr. Green - We can make exceptions to that. That happens all the time
370 with us. Are there any questions of the applicant from the Board?
371
372 Mr. Reid - Mr. Saunders, are you in agreement with the terms and
373 conditions outlined in the staff report?
374
375 Mr. Saunders - Yes. Very much so.
376
377 Mr. Reid - Thank you.
378
379 Mr. Green - Mr. Blankinship, are there any other folks who wish to speak
380 in favor of this request?
381
382 Mr. Blankinship - I believe the contractor's also available if the Board members
383 have any questions. But no, sir, there's no one else other than that.
384
385 Mr. Green - Are there any individuals that wish to speak in opposition? Mr.
386 Blankinship.
387
388 Mr. Blankinship - Ms. Deemer, is there anyone on Webex in opposition?
389
390 Ms. Deemer - No, sir. We have no one in opposition.
391
392 Mr. Green - Okay. Public hearing is now closed, and a motion would be
393 in order. What is the pleasure of the Board?
394
395 Mr. Reid - I move that we approve the conditional use permit subject to
396 the conditions recommended by the staff. This property is unusual because it has streets
397 on three sides. The proposed building will provide screening for the pool itself. If we
398 deny this building, the pool will be visible from the street. As long as the applicant follows
399 the recommended conditions, I do not think the pool house will be detrimental to the
400 neighbors, so I think we should approve it.
401
402 Mr. Green - Do I hear a second.
403
404 Mr. Pollard - I second it.
405
406 Mr. Green - There was a motion by Mr. Reid to approve and it was
407 seconded by Mr. Pollard. Is there any discussion? Hearing no discussion, all in favor of
408 the motion say aye. All in favor of opposition say nay. The motion is approved.
409
410 On a motion by Mr. Reid, seconded by Mr. Pollard, the Board **approved** case **CUP2021-**
411 **00003 WILLIAM AND MIRANDA SAUNDER'S** request for a conditional use permit

412 pursuant to Section 24-95(i)(4) of the County Code to build an accessory structure in the
413 side yard at 9700 Cragmont Drive (CARTER OAKS) (Parcel 742-736-1649) zoned One-
414 Family Residence District (R-0) (Tuckahoe). The Board approved the request subject to
415 the following conditions:

416
417 1. This conditional use permit applies only to the accessory structure location
418 requirement. All other applicable regulations of the County Code remain in force.
419

420 2. Only the improvements shown on the "Saunders Residence, 9700 Cragmont Drive,
421 Richmond, Virginia, CUP Documents" by Menlo Architecture dated January 19, 2021,
422 may be constructed pursuant to this approval. Any additional improvements must comply
423 with the applicable regulations of the County Code. Any substantial changes or additions
424 to the design or location of the improvements will require a new conditional use permit.
425

426 3. The applicants must obtain a building permit for the detached building by February 27,
427 2023, or this conditional use permit will expire. After that date, if the building permit is
428 cancelled or revoked for failure to diligently pursue construction, this conditional use
429 permit will expire at that time.
430

431 4. The new construction must match the existing dwelling as nearly as practical in
432 materials and color.
433

434 5. Before beginning any clearing, grading, or other land disturbing activity, the applicants
435 must obtain approval of an environmental compliance plan from the Department of Public
436 Works.
437

438 6. Any exterior lighting must be shielded to direct light away from adjacent property and
439 streets.
440

441 7. The applicants must preserve the existing evergreen screen located along the rear
442 (northern) property line.
443

444 8. The building subject to this request must not be occupied overnight.
445
446

447 Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
448 Negative:		0
449 Absent:		0

450
451
452 Mr. Blankinship - All right. That's the only conditional use permit on this
453 morning's agenda. There are two variances this morning. Variance 2021, number 3,
454 Adam Balas.
455

456 **VAR2021-00003** **ADAM BALAS** requests a variance from Section 24-95(b)(5)
457 of the County Code to build a one-family dwelling at 411 Grayson Avenue

458 (CONFEDERATE HEIGHTS) (Parcel 793-740-0258) zoned One-Family Residence
459 District (R-3) (Fairfield). The lot width requirement is not met. The applicant proposes 54
460 feet lot width, where the Code requires 65 feet lot width. The applicant requests a variance
461 of 11 feet lot width.

462
463 Mr. Blankinship - Again there is nobody in the room. So Mr. Madrigal.

464
465 Mr. Madrigal - Thank you, Mr. Secretary. Good morning, gentlemen.

466
467 The Board - Good morning.

468
469 Mr. Madrigal - Mr. Chair, members of the Board, before you is a request to
470 build a one-family dwelling on a nonconforming residential lot. The subject property is
471 part of the Confederate Heights Subdivision established in 1916 and revised in 1940.

472
473 The property consists of an undeveloped 54-foot-wide lot purchased by the Fields family
474 in 1945. The property, including the two adjacent parcels to the east, addressed as 413
475 and 417 Grayson Avenue, were recently sold to the applicant in December by the Fields
476 family.

477
478 The lot is zoned R-3 and is part of a pre-'60 development. For lots of record prior to 1960
479 the R-3 District requires a minimum lot area of 8,000 square feet and a minimum lot width
480 of 65 feet for a dwelling served by county water and sewer.

481
482 Although the property meets the required lot area, because the lot is only 54 feet wide, it
483 is 11 feet short of the minimum lot-width requirement.

484
485 The applicant is requesting a variance to construct a two-story 1,600-square-foot home
486 on the property. With respect to the threshold question, the subdivision predates the
487 zoning ordinance. When the lot was originally platted in 1916, it was only 35 feet wide.
488 The 1940 re-subdivision resulted in the widening of the lot to 54 feet. This modification
489 occurred prior to the establishment of the 65-foot lot-width requirement.

490
491 The subject lot was purchased by the Fields family in November 1945, four years after
492 the purchase and development of their adjacent home at 413 Grayson Ave. They have
493 owned this subject lot for 75 years.

494
495 Because the lot was created prior to the effective date of the zoning ordinance, the family
496 had a reasonable expectation to develop it. The applicant purchased the property with
497 the understanding that a variance would be required, but also had a reasonable
498 expectation that it could be developed due to its history. Absent of variance the lot will
499 not have any reasonable beneficial use, which would result in an unreasonable restriction.

500
501 Relative to the five subtests, the applicant has positively satisfied all five requirements as
502 outlined in the staff report.

504 Focusing on item number two, detrimental impact, the applicant has -- I'm sorry. Although
505 the neighborhood is predominantly composed of properties ranging from 70 to 100 feet
506 wide, there are examples of homes built on single 54-foot-wide lots within the subdivision.
507 The adjacent home to the east owned by the applicant was originally constructed in 1941
508 on a single 54-foot-wide lot.

509
510 A second example on the same block as the subject property is 4501 Delmont Street at
511 the northeast corner of Delmont and Grayson Avenue. And that's right here on the
512 screen.

513
514 Because of these examples, staff does not anticipate a substantial detrimental impact to
515 adjacent or nearby property. The proposed home will be consistent with the existing size
516 of homes and development pattern on this block and within the neighborhood.

517
518 With respect to curing the lot-width issue, the applicant is not able to provide additional
519 land to the subject lot from his adjacent property as the existing home has a
520 nonconforming side setback of approximately 1 to 3 feet. There is not spare land to give
521 to the subject lot.

522
523 The applicant says he attempted to acquire additional land from the adjacent property to
524 the west, but that property owner has not shown any interest in selling a portion of their
525 property. As a result, the applicant has requested a variance to develop the property as
526 it stands.

527
528 In conclusion, the subdivision was originally recorded in 1916 prior to the adoption of the
529 Zoning Ordinance and re-subdivided in 1940, prior to the adoption of the current lot-width
530 requirement.

531
532 Although it does not meet the 65-foot lot-width requirement, there are similar 54-foot-wide
533 lots in the neighborhood. Based on the lot's history, the applicant has a reasonable
534 expectation to build on the parcel. The proposed use is consistent with both the comp
535 plan and the zoning designations of the property. Absent a variance the lot would be left
536 with no reasonable beneficial use which would constitute an unreasonable restriction on
537 the property.

538
539 Based on the facts of the case, staff recommends approval subject to conditions. Staff
540 has received only one phone call from the adjacent neighbor to the west, who is opposed
541 to this request. That essentially concludes my presentation and I'll be happy to answer
542 any questions.

543
544 Mr. Green - Thank you. Are there any questions from the Board of staff?
545 No? We'll now hear from the applicant.

546
547 Mr. Blankinship - All right, Mr. Chair, we have the representative in the room
548 and also the applicant on Webex. So are you going to go first, sir? All right. Tell us your
549 name, please.

550
551 Mr. Pou - Good morning, Mr. Chair, members of the Board. My name
552 is Enoch Pou. Last name is spelled P-o-u.

553
554 Mr. Johnson - Could you be a little bit louder? I can't hear.

555
556 Mr. Blankinship - It was the mic. Go ahead.

557
558 Mr. Pou - Yes. I only want to share that we agree with staff's
559 recommendation, and we agree with the conditions of approval. We only ask one point
560 of clarity, and that is with item number four, which states the front steps and all four sides
561 of the foundation must be constructed of brick.

562
563 Typically, excuse me, with modern construction the foundation is block with a brick
564 veneer.

565
566 Mr. Blankinship - Yes. That is what that means. Brick veneer.

567
568 Mr. Pou - Okay. Just wanted to be clear on that. What we're doing.

569
570 Mr. Blankinship - Yeah. Mr. Madrigal asked me earlier if that needed to be
571 corrected. We can certainly add the word veneer to the condition.

572
573
574
575 Mr. Pou - Thank you. As the gentleman stated, we believe we have
576 presented a project that is consistent with the size and scale of the community. The
577 house to the west at 405 Grayson is approximately 1,690 square feet. And the property
578 at 413 Grayson is 1,743 square feet. If you have any questions with regard to our
579 application, I'd be more than happy to answer them.

580
581 Mr. Johnson - I have no questions.

582
583 Mr. Green - No other questions for the applicant? Does anyone wish to
584 speak in support of this request? Does anyone wish to speak in opposition to this
585 request?

586
587 Mr. Blankinship - We do have one speaker on Webex.

588
589 Mr. Green - Okay. Will that person identify themselves so we can hear
590 them?

591
592 Ms. Deemer - Mr. Chairman, we have a Carl Adkins. He is now unmuted.

593
594 Mr. Green - Okay. Mr. Adkins.

595

596 Mr. Adkins - Yes. I'm the next-door neighbor at 405 and I've been here in
597 this residence for 40 years with no home there except for the houses already on the
598 estate. And the idea of putting the house there is just, you know, it's just squeezing in
599 this very small area there. It just doesn't make sense. You know. The applicant doesn't
600 live here and is new in the community. And, as you can see, he can put a house there
601 next to the house that he already has. It just doesn't look to suit the community. It's just
602 not right. You know. He's here for profit.
603

604 Ms. Adkins - He's trying to build three houses on the lots where two houses
605 supposed are to go. And, secondly, he didn't ask us did we want to connect our land.
606

607 Mr. Green - Didn't ask you, excuse me, what?
608

609 Ms. Adkins - He didn't ask us if we wanted to sell him any land. And on top
610 of that it's not -- we're at 405, 407, and 409 and we've had with all this land ever since
611 back in the '70s and paid taxes on it faithfully. And, you know, -- and Ms. Fields -- so
612 close to -- that's why we didn't put anything there and she didn't put anything there.
613

614 Mr. Blankinship - Ma'am would you mind stating your name for the record?
615

616 Ms. Adkins - Jane Adkins.
617

618 Mr. Blankinship - Thank you.
619

620 Ms. Adkins - You're welcome.
621

622 Mr. Green - Is that it?
623

624 Ms. Adkins - That all you got to say there?
625

626 Mr. Adkins - It doesn't suit me just to drop a house there and, you know,
627 it's just too close to my property. At the end the house is going to be at the end of that
628 property, as you can see. I have grandkids. And they play basketball right there at the
629 end of our property. If those kids had to chase the ball or go get a basketball, they got to
630 go all the way over to his property to get it. You understand?
631

632 My wife suggested a fence there, but why would I have to go through the expense of
633 putting the six-foot fence there to enjoy my property.
634

635 Mr. Johnson - Yes, sir. The property you have, is that two lots there?
636

637 Mr. Adkins - Yes, sir.
638

639 Mr. Johnson - That was the same regulation that we had back in 1960?
640

541 Mr. Madrigal - This is the gentleman's property right here, Mr. Johnson. So
642 it's this property here and this one.
643
644 Mr. Johnson - Right.
645
646 Mr. Madrigal - And here's a picture, or photograph, of the property.
647
648 Mr. Johnson - Oh. Okay.
649
650 Mr. Madrigal - So that's his house, garage, and then this is the basketball
651 court that he's referring to.
652
653 Mr. Johnson - Okay. Yes. Because I went out there and looked at that
654 property as well that whole block.
655
656 Mr. Adkins - You're saying what?
657
658 Mr. Johnson - Just to see how it's laid out. And the lot sizes was basically
659 the same. The ones -- for years. So there was only changes in -- what, in 1945 or
660 something? But, anyway, I just wanted to get a view of how the property was laid out and
661 how -- and how the neighborhood looked. Okay.
662
663 Mr. Adkins - How about taking a picture of the house that you're talking
664 about that -- in the spot that it's going to be built. You haven't shown that. You've shown
665 my property, but how about next door? Like now --
666
667 Mr. Johnson - No.
668
669 Mr. Adkins - See the distance?
670
671 Mr. Green - From the aerial view.
672
673 Mr. Adkins - Do you think the house would be right there, and on the left
674 you can see the house that's already there in existence. Now for the neighborhood, does
675 that corner look good? Or any of the neighborhood? That's going to look like somebody
676 just dropped a house there and put it close to the one that's already existing there. It
677 looks jumbled up.
678
679 Mr. Pollard - So, Mr. Adkins, for the -- for the property owner, what would
680 you suggest they do with that lot?
681
682 Mr. Adkins - That lot, unless I wanted to change mine, just leave it as it is.
683
684 Ms. Adkins - That's what we've been --
685

686 Mr. Adkins - I bought this house and I bought that property 40 years ago.
687 And now I got to deal with a change. Do you understand my position?

688
689 Mr. Pollard - Yes, sir.

690
691 Mr. Green - Yes. But do you understand that people have a right to buy
692 property and do various things with it and just because you purchased a property 40 years
693 ago -- because, I mean, if you wanted to maintain a consistency of what you had, why, I
694 guess, why wouldn't you have bought that property adjoining it?

695
696 Ms. Adkins - Because that belonged to Ms. Fields when we bought our
697 house. Ms. Field had that little portion. So that's why we bought the other portion on this
698 side of there, so we both would have the comfort of having more space.

699
700 And, secondly, I asked him, would you do the same thing up the West End of your
701 neighborhood? And, of course, the answer is no. But then why was he doing it in our
702 neighborhood? Because, what, we are black? Or it's because he can do anything in our
703 neighborhood that you can't do up in the Far West End? I don't think that's necessarily
704 fair to the taxpayers.

705
706 Mr. Green - Well, first and foremost, we as a Board of Zoning Appeals, we
707 are very consistent and fair across the board. So just because someone lives in one
708 particular area does not mean that we're going to treat that area any different. You have
709 representatives --

710
711 Ms. Adkins - I did --

712
713 Mr. Green - Excuse me. You have representatives on this Board that are
714 from each one of the magisterial districts.

715
716 Ms. Adkins - Now I did --

717
718 Mr. Green - And it's their responsibility to advise us on what they see in
719 their districts. We have always applied a fair standard across the board, and we will
720 continue to apply that fair standard as we continue to do our work.

721
722 Ms. Adkins - But that --

723
724 Mr. Green - Excuse me. We have a very competent staff that is very
725 thorough in what they do, and very objective in how they do their work. And I, personally,
726 can say I have full confidence in what they do. And as someone who lives in the West
727 End, you know, I would certainly not say that because I live in the West End and Mr.
728 Johnson lives in the East End that I would be supportive of anything that was unfair or
729 unjust. And what we typically do --

730
731 Ms. Adkins - I think --

732
733 Mr. Green - What we typically do, just so you understand, we typically
734 defer to the judgement of the person who is in that magisterial district to guide us.
735 Because since they live in that area, they have a better understanding. So I just wanted
736 to be clear. Henrico County Board of Zoning Appeals is very fair, objective, and there is
737 no bias or inconsistencies or rules apply separately for one part of the county versus the
738 other.

739
740 Ms. Adkins - Okay.

741
742 Mr. Green - We're appointed by the circuit court judges and we try to do
743 the best possible job we can do. And I'm proud of myself and my colleagues in the nature
744 of their work.

745
746 Ms. Adkins - Okay. Now I did not say to you all -- I've been in the county
747 since I was five years old and if I thought we had a problem with that I wouldn't have been
748 in the county.

749
750 I did not say you -- I just said -- I asked him the question because I just want to know. I
751 didn't say anything about the people that work for Henrico County, because I work for
752 Henrico County also. So please don't try to say that I'm trying to say that the Board is --
753 I didn't say they're biased. I did not say that. Okay?

754
755 I just was just saying with the conversation I had with him. I did not mention the Board,
756 and I would not do that at all. Okay? I would not. So please -- but you know as well as
757 I do that I didn't say that. Because that's not true.

758
759 Mr. Green- Hello?

760
761 Mr. Adkins - Yes.

762
763 Mr. Green - Yes.

764
765 Mr. Adkins - Yeah she wasn't talking about the --

766
767 Ms. Adkins - The Board. I wasn't talking about the Board.

768
769 Mr. Adkins - -- the Board and she wasn't talking about your men that --

770
771 Ms. Adkins - Do the zoning.

772
773 Mr. Adkins - You know, the planners or whatever. She wasn't talking about
774 that. She was talking about the man who's buying the property. The man who's buying
775 the property, building another house on that same property, making a profit deep in my
776 community. You understand?

777

778 Mr. Blankinship - Yes, sir. I think you've been quite clear.
779
780 Mr. Adkins - He's only there for profit. He comes in my community, buys
781 the old houses, fixes them up, and resells them for profit. I don't mind that. Like that. I
782 like men that come here and fix them up. You know. Nobody wants all the houses empty
783 and dilapidated next to their property.
784
785 But I do not want to see that he comes here, and he puts another house there that doesn't
786 belong. And it makes the neighborhood look like, well, okay, we got an empty space
787 here, we'll just drop a house in there no matter what it looks like and no matter how much
788 space we have. You understand my position?
789
790 Mr. Blankinship - Yes, sir. You've been quite clear. Thank you.
791
792 Mr. Adkins - Yeah.
793
794 Mr. Green - My question for staff.
795
796 Mr. Blankinship - Yes, sir.
797
798 Mr. Green - Can the applicant legally put a house there?
799
800 Mr. Blankinship - A variance is required. The lot doesn't meet the minimum lot
801 width.
802
803 Mr. Madrigal - But it is an independent lot. It's always been an independent
804 lot. When the Fields family bought this property, they bought this single lot and had a
805 house built on it in '41. Then they subsequently bought this lot in '45. And then later in
806 the year I believe they bought this lot. So these two additional lots were bought by the
807 Fields family independently of this house.
808
809 And now the new purchaser is requesting to develop this lot that has always been an
810 independent lot. So, absent of variance, this lot would not have a beneficial use.
811
812 Mr. Green - Okay.
813
814 Mr. Johnson - One question about the little tool house or something on the
815 lot. Do you have any plans for that?
816
817 Mr. Pou - Are the neighbors on Webex finished with their commentary
818 and --
819
820 Mr. Johnson - Yes.
821
822 Mr. Pou - I can speak?
823

824 Ms. Adkins - We're still here.
825
826 Mr. Pou - We do have plans to develop the lot at 417 Grayson Avenue.
827 The one on the corner. It is approximately 110 feet wide.
828
829 Mr. Blankinship - And you're building only one house on the 110-foot lot?
830
831 Mr. Pou - That is correct.
832
833 Mr. Johnson - Okay.
834
835 Mr. Green - Any other questions from Board Members?
836
837 Mr. Pollard - If I may, Mr. Chairman.
838
839 Mr. Green - Public hearing is now closed and a motion would be in order.
840 What is the pleasure of the Board?
841
842 Mr. Pollard - I live in the Fairfield District and I viewed the property. And
843 the previous owners had the right to sell and the current owners had the right to purchase
844 it. And I'm very sensitive to the Adkins and their concerns, especially if it's been a certain
845 way for so long. Given that there is no objection from the neighboring house and that the
846 Adkins house is not immediately next door, that's the court there, I move that we approve
847 the variance subject to the conditions recommended by the staff.
848
849 This subject subdivision was first recorded in 1916, over 100 years ago. When the Fields
850 family bought this lot in 1945 it was a buildable lot. The hardship in this case was created
851 before the current zoning ordinance was adopted. And the other legal tests are met as
852 stated in the staff report. A new home would add to the value of the property, so I think
853 we should approve the variance.
854
855 Mr. Green - Is there a second?
856
857 Mr. Johnson - I second it.
858
859 Mr. Green - The motion to approve was made by Mr. Pollard and it was
860 seconded by Mr. Johnson. All in favor of the motion say aye. All opposed say nay. The
861 motion passes.
862
863 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **approved** case
864 **VAR2021-00003 ADAM BALAS'** request for a variance from Section 24-95(b)(5) of the
865 County Code to build a one-family dwelling at 411 Grayson Avenue (CONFEDERATE
866 HEIGHTS) (Parcel 793-740-0258) zoned One-Family Residence District (R-3) (Fairfield).
867 The Board approved the request subject to the following conditions:
868

- 869 1. This variance applies only to the lot width requirement for one dwelling only. All other
 870 applicable regulations of the County Code remain in force.
 871
- 872 2. Only the improvements shown on the plot plan and building design filed with the
 873 application may be constructed pursuant to this approval. Any additional improvements
 874 must comply with the applicable regulations of the County Code. Any substantial changes
 875 or additions to the design or location of the improvements will require a new variance.
 876
- 877 3. The side yard setback on the east side (adjacent to 413 Grayson Avenue) must be 16
 878 feet.
 879
- 880 4. The front steps and all four sides of the foundation must be constructed with brick
 881 veneer.
 882
- 883 5. The applicant must obtain a building permit for the proposed dwelling by February 27,
 884 2023, or this variance will expire. After that date, if the building permit is cancelled or
 885 revoked due to failure to diligently pursue construction, this variance will expire at that
 886 time.
 887
- 888 6. Before beginning any clearing, grading, or land disturbing activity, the applicant must
 889 obtain approval of an environmental compliance plan from the Department of Public
 890 Works.
 891
- 892 7. Any dwelling on the property must be served by public water and sewer.
 893

894

895 Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
896 Negative:		0
897 Absent:		0

898

899

900 Mr. Blankinship - All right, Mr. Chair, the last case for this morning is variance
 901 2021, number 4, Kent Savedge.
 902

903 **VAR2021-00004** **KENT SAVEDGE** requests a variance from Section 24-94 of
 904 the County Code to build a one-family dwelling at 907 Ridge Top Road (WESTHAMPTON
 905 HILLS) (Parcel 762-739-2915) zoned One-Family Residence District (R-3) (Tuckahoe).
 906 The front yard setback is not met. The applicant proposes 35 feet front yard setback,
 907 where the Code requires 40 feet front yard setback. The applicant requests a variance of
 908 5 feet front yard setback.
 909

910 Mr. Blankinship - I believe Mr. Savedge is in the building. Yes. Here he is. He'll
 911 be joining us. Yes. Come right in.
 912

913 Mr. Savedge, you'll be the first one to be sworn in. Would you raise your right hand,
914 please? Do you swear the testimony you're about to give is the truth, the whole truth, and
915 nothing but the truth, so help you God? Thank you.

916
917 I should have sworn in Mr. Pou and I neglected to. All right, you can have a seat. Mr.
918 Gidley, if you'll give your presentation.

919
920 Mr. Gidley - Thank you, Mr. Secretary. The subject property is located in
921 the Westhampton Hills Subdivision, which is just southwest of the intersection of
922 Patterson and Three Chopt. This subdivision was recorded in 1954 and the homes on
923 the block were built between 1954 and 1958. Because this is a subdivision that was
924 recorded prior to 1960, it is subject to the exception standards, and this includes a 35-
925 foot front-yard setback.

926
927 What you're looking at here, 907 and 905 Ridge Top at one point was known as 907
928 Ridge Top Road and it had a home on a combination of three lots, or parts of lots. This
929 resulted in a rather large property compared to those around it. That home, however,
930 was recently demolished and the underlying land was reconfigured into two building lots.

931
932 Each of these two building lots met the required lot-area and lot-width requirements.
933 Down here at 905 Ridge Top a building permit was recently issued for the home right
934 there.

935
936 And if you look here you can see where this one home originally stood, and now you have
937 one building lot over here that has had a building permit issued, and then the subject
938 property right here.

939
940 The property subject to this request, as I said, is 907 Ridge Top. Unlike all the other lots
941 on the block, it does not contain one of the original platted lots in this subdivision. It
942 contains parts of two lots. So when it was consolidated it became subject to the current
943 standards of the R-3 District. And this includes a 40-foot front-yard setback.

944
945 If you look at the plot plan, the street is upfront here and this is the rear. As you note
946 here, there's a sewer easement that goes down the kind of the front center of the property
947 and that does significantly constrain the buildable area of the property. While a home
948 could be built on it, you know, nonetheless it is a significant constraint. In addition to this,
949 as I said, the property now has a 40-foot front-yard setback versus the 35-foot that are on
950 all the other properties.

951
952 If you look here you can see the homes are pretty much lined up across the board at 35
953 feet approximately there. Because of this, the applicant today is requesting a variance
954 that would allow him to have a 35-foot front-yard setback just like all the other homes on
955 the block.

956
957 And here's a picture of the proposed home, front elevation here, property does slope as
958 you go to the back, so there would be a kind of a basement-like level here.

959
960 In evaluating this request, when it comes to the principal test for the variance, the physical
961 condition of the property specifically the depth between the street and the sewer-line was
962 determined in 1954 when the subdivision was platted. And the front-yard setback at the
963 time was 35 feet.

964
965 Imposing a 40-foot front-yard setback today could be viewed as a hardship since none of
966 the other homes on the block have to meet it. This includes the adjacent lot at 905 where
967 the building permit was just issued. They are subject to the standard 35-foot front-yard
968 setback because they contained an original lot of record prior to 1960. So this is really
969 the only home that would have to meet that 40-foot front-yard setback.

970
971 As far as the five subtests, as noted in your staff report, staff believes those are met.

972
973 I'd just focus briefly on number two, substantial detrimental impact. The homes along
974 both side of Ridge Top are lined up at the 35-foot front-yard setback. In this case the
975 applicant is requesting what variances ideally are for. Namely he wants equity in how his
976 lot is treated versus all the other homes on the block, rather than seeking a special
977 privilege that his neighbors don't have. So in this case, not only is staff unaware of any
978 detrimental impact from this request, it would actually reduce any impact by bringing the
979 proposed home in line with the same front-yard setback as all the other homes on the
980 block.

981
982 So, in conclusion, the subject property is in a pre-1960 subdivision. However, because it
983 does not contain an original lot of record, the newly consolidated lot is subject to the 40-
984 foot front-yard setback versus 35 feet for all the other homes.

985
986 This combined with the sewer easement running down the middle of the lot is a physical
987 condition of the lot at the time of the effective date of the new setback. Staff has noted
988 that at least all five subtests are met. As a result, we recommend approval of this request
989 subject to the conditions in your staff report.

990
991 This concludes my presentation. If you have any questions, I'll do my best to answer
992 them. Thanks.

993
994 Mr. Green - Thank you. Are there any questions from the Board of staff?
995 Mr. Blankinship, you can call the witness.

996
997 Mr. Blankinship - We have the applicant here in the room.

998
999 Mr. Savedge - Yes. I'd just like to add that -- so there's two lots now. One
1000 has a building permit. The other one does not, as it's subject to the 40-foot variance --
1001 or, excuse me, the 40-foot setback.

1002

1003 When my partner and I were purchasing these lots, the instruction to the architect was,
1004 we want these houses to be complementary of each other and yet we also want to make
1005 sure that they don't overwhelm the neighborhood. And I think that's been achieved.
1006

1007 These are not McMansion-type houses. As you can see from the front, it looks more like
1008 a cave. Yes, it's large in the back, but it's a wooded lot in the back and nobody's going to
1009 see that.
1010

1011 So I feel that the 5-foot variance that we're requesting is not going to have any adverse
1012 impact on the neighborhood. Do you have any questions for me?
1013

1014 Mr. Green - Are there any questions of the applicant from the members of
1015 the Board?
1016

1017 Mr. Johnson - Just an observation on the house. Is that crossing the
1018 property line?
1019

1020 Mr. Blankinship - What you see on this screen now, Mr. Johnson, is the house
1021 that was there previously. That house has been demolished.
1022

1023 Mr. Johnson - Okay.
1024

1025 Mr. Blankinship - So they're building one just to the north of where that house
1026 is. And a different builder is building a house to the south of where that one's located.
1027

1028 Mr. Johnson - That answered my question.
1029

1030 Mr. Green - Are there any other questions from the Board? Mr.
1031 Blankinship, are there any individuals wishing to speak in support of this request?
1032

1033 Mr. Blankinship - Yes, sir. We have one on Webex and one in the room. Mr.
1034 Savage, I'm afraid we're only supposed to have 10 in the room, so if you wouldn't mind
1035 stepping back into the lobby, we will let Frances White come in and speak. I believe she
1036 identified herself as speaking in favor of the case, but she also wants to request some
1037 additional conditions. Good morning, Ms. White.
1038

1039 Ms. White - Good morning.
1040

1041 Mr. Blankinship - Would you raise your right hand, please? Do you swear the
1042 testimony you're about to give is the truth, the whole truth, and nothing but the truth, so
1043 help you God?
1044

1045 Ms. White - Yes. I do.
1046

1047 Mr. Blankinship - Thank you. And state your name.
1048

1049 Ms. White - Francis K. H. White.
1050
1051 Mr. Blankinship - Thanks.
1052
1053 Mr. Green - You may begin, Ms. White. Are you here to speak in support
1054 of this case?
1055
1056 Ms. White - Can you hear me?
1057
1058 Mr. Blankinship - Yes, ma'am.
1059
1060 Ms. White - Okay. Thank you. Like it was just said, I am in favor of the
1061 variance, because I think that will help keep the new buildings in line with the others and
1062 look better on that side of the street. Okay. So that will maintain the houses looking
1063 more, a little more, in keeping with what the existing houses are.
1064
1065 I would like to acknowledge and thank several people from the Henrico County that have
1066 helped me understand the legalities and zoning and permits, that sort of thing.
1067 Specifically Blake Baber, Erin Bess, Phil Bariteau and Ben Blankinship. They've been
1068 very helpful, and I do appreciate them clarifying county policies, et cetera, for me.
1069
1070 What I'm saying I have said to Ben Blankinship, the one whom I had an email for. So this
1071 is written, and it can be forwarded to each of the Board members if they would like to
1072 actually read it. I'm going to read it from my phone.
1073
1074 I live next door to the property that the variance is requested for. I'm at 911 Ridge Top
1075 Road. I've been there since 2002. And my concerns are for additional provisions that
1076 could be added to this property. And, if possible, to the one next door to it. I know right
1077 now we're considering the variance for the one immediately next to me, but I just want to
1078 put this in writing.
1079
1080 My concerns are really two. One, is the effect of the new construction on the light in my
1081 yard specifically, and also for the environment around us. And my request is that any
1082 exterior lighting on the adjacent houses -- and I'm going to say houses. I know that the
1083 one immediately next to me is the one that's under consideration. But I know that you all
1084 are over all of the county.
1085
1086 And so I ask that any exterior lighting on these adjacent houses be directed solely
1087 downward and for the cone of light that is created by this light coming down be exclusive
1088 to and only affect the area within the yard of the associated house. I specifically do not
1089 want lighting that's directed at my house that I can't avoid. And I would like to ask that
1090 there not be any upward lighting at the front or in any side of these houses, because that
1091 has a negative effect on the environment. And that's first.
1092
1093 The second is that these new houses are intentionally taller than the previously existing
1094 house on the property, and it does affect the sunlight and the sky view from my yard. And

1095 I would ask that any trees or plants that are added to the property be limited to the height
1096 of the roof line of the house so that it doesn't shade more. This would apply to any trees
1097 or plants that are added from the rear limit of the back side of the sewer line, the sewer
1098 easement line that -- toward the creek side, and the front of the house in the street.
1099

1100 Behind the sewer line is mostly wooded, and that really is not a problem. It's the same
1101 behind my house.
1102

1103 I would ask that they plant any trees that are added at least eight feet from my fenced
1104 property line so that any trees that are added don't disrupt the fence.
1105

1106 And I would like the provisions about the lighting, I would appreciate having apply not to
1107 just this property at this time owned by this person, but to any subsequent sale or transfer
1108 of the property. Especially the lighting. Because it does have an environmental affect.
1109 The trees the same way. I would really appreciate having that limit on the height of the
1110 trees added.
1111

1112 And, thirdly, I would like to mention that because we all back up to a creek, if possible, I
1113 would like to avoid any broad distribution of pesticides or herbicides. Because eventually
1114 that is going to go to the creek and affect everyone in the neighborhood.
1115

1116 So I appreciate your considering my request and I believe that they're reasonable. My
1117 goal is to be a good citizen, considerate of my neighbors, a good neighbor, and in
1118 compliance with county regulations. Thank you very much.
1119

1120 Mr. Green - Excuse me. My concern is once someone plants a tree and
1121 a tree grows, what you're saying is that if it -- who's going to go out there and measure it
1122 to make sure -- I have Leyland Cypresses. Leyland Cypresses grow. Someone could try
1123 to put a, you know, a restriction on my trees only being a certain height. Who's going to
1124 go out there and measure them? And so what you're saying is that if the tree grows five
1125 feet above where you want it, they got to cut the top of the tree off?
1126

1127 Ms. White - I think the better way would be to choose trees that have a
1128 lower understory. Like, for example, a dogwood and some maples, for example, don't
1129 grow but so tall. If that would be a better way to say it. To choose trees that don't grow
1130 as tall as oaks and long tall pines.
1131

1132 Mr. Green - And, with all due respect, do you feel that that should be left
1133 to individuals who want to put trees and shrubbery in there? Should a neighbor or anyone
1134 dictate to an individual what they should and should not be able to put in?
1135

1136 And in reference to the whole pesticide piece, how is that -- you're making the assumption
1137 that this particular applicant might do pesticides. What guarantee that you have that
1138 others in your neighborhood aren't fully utilizing pesticides?
1139

1140 Ms. White - Others do use pesticides, but it does affect the environment,
1141 the insect population, the pollinators. There are good reasons not to broadcast that kind
1142 of thing. And so I know that this -- it's like a beginning to take into account the effect on
1143 the environment for not just this generation, but the people that's continued to live in a
1144 community in the future.

1145
1146 So at least I'd like to put that out as a thought for the Board. Because these things will
1147 affect the county for a long time, and we need to be conscious of them.

1148
1149 Mr. Green - Thank you. Any other questions from the Board for the
1150 applicant?

1151
1152 Mr. Pollard I just had a comment.

1153
1154 Mr. Green - Yes.

1155
1156 Mr. Pollard - Ma'am. I just think --

1157
1158 Mr. Green - Go ahead.

1159
1160 Mr. Pollard - I had a quick comment. Ma'am. I think a lot of those things
1161 are something you probably could talk to the applicant about directly as their neighbor
1162 and just make your concerns known. And then they can make their mind up themselves.
1163 They might accommodate you in -- the best that they can.

1164
1165 Ms. White - I'm sorry, I couldn't understand the last.

1166
1167 Mr. Pollard - They might accommodate you as much as they can. Just
1168 knowing how you feel about certain things could influence the decisions they make.

1169
1170 Mr. Johnson - I agree.

1171
1172 Ms. White - Thank you. Yeah. It's the lighting especially. If that could be
1173 kept with the property so that lighting doesn't get directed toward my house. Or directed
1174 onto and upward. One example is it affects bird migration.

1175
1176 Mr. Green - Excuse me. Could someone explain to me what she means?
1177 She talking about the lighting that --

1178
1179 Mr. Blankinship - We do have a standard condition, Mr. Green, you know, that
1180 just states that any exterior lighting will be shielded so that the light is projected down and
1181 remains on the property, doesn't cause glare on the adjoining property. We don't normally
1182 attach that in a case like this --

1183
1184 Mr. Green - Right.

1185

1186 Mr. Blankinship - -- because it's not directly related to the five feet of setback.
1187 But we certainly could attach that if it's the Board's desire to do so.
1188
1189 Mr. Gidley - And the other items need to be related to the variance
1190 requested and so the Board just can't attach any condition on anything out there such as
1191 height of trees and use of pesticide and all that.
1192
1193 Mr. Green - Right. Can the applicant hear us in the foyer?
1194
1195 Mr. Blankinship - Yes, I believe he can. But he does also have a minute to
1196 rebut, so you can speak to him again before the end of the hearing.
1197
1198 Mr. Green - So can we call the applicant back to see --
1199
1200 Mr. Blankinship - Yes.
1201
1202 Ms. White - I'll have to --
1203
1204 Mr. Blankinship - Do you want to do that now, or do you want to go on to the
1205 next speaker? We do have at least one more who wants to speak.
1206
1207 Mr. Green - Oh. In favor.
1208
1209 Mr. Blankinship - I believe it's in favor. Yes.
1210
1211 Mr. Green - Thank you.
1212
1213 Mr. Johnson - Just one more question.
1214
1215 Mr. Blankinship - Oh. I'm sorry.
1216
1217 Mr. Johnson - You was talking about the trees in -- for the neighbors. In your
1218 yard you were saying that you'd purchased have you done anything about those trees in
1219 the back of yours?
1220
1221 Ms. White - No. I haven't. I've left the existing trees. And there was
1222 several trees and much shrubbery that I lost because I didn't realize it at the time. But
1223 when these -- the sewer -- not the sewer line, the water line under the street was replaced
1224 several years ago, or gas line, I apologize.
1225
1226 The gas line leaked. The new gas line that was added leaked and the leak underground
1227 killed or caused to die several of the large trees in my yard. There's only one large
1228 remaining oak in my yard. And I don't intend to add anything tall. I would just like to grow
1229 things in my backyard, and it would just be a bit more shade.
1230

1231 And so I understand this is my one chance to say something to the county and that we
1232 continue to support -- consider the environment in our decisions. And I realize that your
1233 variance issue today is the variance in the setback. And I am in support of this variance.
1234 I think that's very reasonable.

1235
1236 Mr. Johnson - Thank you.

1237
1238 Mr. Green - Okay. We will address your concerns with the applicant.

1239
1240 Mr. Johnson - Right.

1241
1242 Mr. Green - Well, first quickly, have you spoken to the applicant about your
1243 concerns?

1244
1245 Ms. White - No. I haven't. I work fulltime.

1246
1247 Mr. Green - Okay. Well we will address those issues. Thank you. Thank
1248 you.

1249
1250 Ms. White - Thank you very much.

1251
1252 Mr. Green - Mr. Blankinship, is there someone else?

1253
1254 Mr. Blankinship - Yes. We have one speaker on Webex in support of the
1255 application.

1256
1257 Ms. Deemer - Mr. Chairman, we have Eric Walker, who is now unmuted.

1258
1259 Mr. Green - Mr. Walker, you can begin.

1260
1261 Mr. Walker - Good morning, Board. My name is Eric Walker. My last name
1262 is spelled W-a-l-k-e-r. I am for the application for 907 Ridge Top for a variance. I am a
1263 builder/partner for 905 Ridge Top. And, again, not to be redundant, but the variance
1264 would allow, basically, the house to be built consistent with not only what I'm doing at 905,
1265 but consistent with the neighborhood.

1266
1267 Mr. Green - To address the concerns I'm sure you heard of the last person
1268 who was in support but had questions, what are your position? What's your position?

1269
1270 Mr. Walker - In terms of lighting, down lighting is something that's
1271 customary in terms of floodlights. They're generally aimed towards the ground. So I
1272 wouldn't have any opposition to that. But I can't speak for the gentleman -- the applicant.

1273
1274 Mr. Green - Yeah. But we're talking -- you say you're going to be
1275 developing the 905 property. Correct?

1276

1277 Mr. Walker - Correct.
1278
1279 Mr. Green - What about her issues with trees? We're just trying to make
1280 sure she feels comfortable going forward. What do you think?
1281
1282 Mr. Walker - I don't know that I quite understood her comments on the
1283 trees. I did understand and I've heard her position on the lighting.
1284
1285 Mr. Green - Yeah. She wants the trees to be a certain height and not to
1286 exceed a certain height level.
1287
1288 Mr. Walker - Okay.
1289
1290 Mr. Blankinship - Trees that would not grow taller than the roof of the house.
1291
1292 Mr. Walker - Well, and I appreciate that. I don't -- I don't propose to add
1293 any new trees to what's already there. So that's not an issue for me.
1294
1295 Mr. Green - Thank you. We just want to make sure she's -- feels
1296 comfortable.
1297
1298 Mr. Walker -- Absolutely.
1299
1300 Mr. Green - And we appreciate your comments.
1301
1302 Mr. Blankinship - Thank you.
1303
1304 Mr. Green - Mr. Blankinship, is there anyone to speak in opposition?
1305
1306 Mr. Blankinship - I do not believe so. There is still one person on Webex who
1307 has not identified himself so that person may just be observing. Is that correct, Ms.
1308 Deemer?
1309
1310 Ms. Deemer - That is correct.
1311
1312 Mr. Blankinship - Okay. So that would be it, Mr. Chair.
1313
1314 Mr. Green - Okay. We will ask the applicant to come back in. Were you
1315 able to hear the concerns of the young lady that --
1316
1317 Mr. Savedge - I was. And, as a matter of fact, we've spoken in the lobby and
1318 I told her I'd be glad to oblige her request to the best of my ability.
1319
1320 Mr. Green - Thank you.
1321

1322 Mr. Savedge - Also, I would like to add, and Eric if you're there please correct
1323 me if I'm wrong, but we probably, in the demo process, we probably removed 10 to 15,
1324 20- to 30-foot pine trees on lot 905. So, if anything, we've improved her request of, you
1325 know, tall trees. I mean, there might be some that are added back. I don't think they're
1326 going to be taller than the house. But whatever it ends up being it's going to be better
1327 than what it was.
1328
1329 Mr. Green - But if we add something back and it grows taller than the
1330 house, it just grows taller than a house. I mean, you're not going to necessarily say you're
1331 going to come in and cut it back, are you?
1332
1333 Mr. Savedge - No.
1334
1335 Mr. Green - Good.
1336
1337 Mr. Blankinship - Or you could sell the house to a buyer. Five or 10 years from
1338 now they could sell the house to another buyer and the decision that you just informally
1339 agreed to would not necessarily be binding on that future buyer.
1340
1341 Mr. Savedge - Right. Correct.
1342
1343 Mr. Blankinship - But if there's a condition on the lighting, that lighting has to be
1344 shielded and directed downward, that would be binding on that future buyer as well.
1345
1346 Mr. Green - Right. And what is your position on the lighting?
1347
1348 Mr. Savedge - I have no problems with that.
1349
1350 Mr. Green - Okay. Do we need to add that?
1351
1352 Mr. Blankinship - Yes, sir. That would be an additional condition. And if you
1353 just want to, in the motion say, to add the standard condition, we do have standard
1354 language for that.
1355
1356 Mr. Green - Okay. Do you have any other comments, sir?
1357
1358 Mr. Blankinship - There were also two email messages that were provided to
1359 you this morning.
1360
1361 Mr. Green - Right. We've got them. Does anyone else on the Board have
1362 any questions of the applicant? Public hearing is now closed and a motion is in order.
1363 What is the pleasure of the Board?
1364
1365 Mr. Reid - I move that we approve the variance subject to the conditions
1366 recommended by the staff. This is a unique situation where all the other houses on the

1367 east side of Ridge Top Road were built in a 35-foot setback. Building the house at today's
1368 40-foot setback would disrupt that pattern.

1369
1370 There is a sewer line behind the house so that moving the house back five feet would
1371 mean building a smaller house or building a two-story house. It would be better to build
1372 a new house with the same setback as the rest of the neighborhood and to build a house
1373 that is consistent with the old houses in the neighborhood. So I think we should approve
1374 the variance.

1375
1376 Mr. Green - Is there a second?

1377
1378 Mr. Pollard - I second it.

1379
1380 Mr. Green - The motion to approve was made by Mr. Reid and it was
1381 seconded by Mr. Pollard. Is there any discussion among the Board?

1382
1383 Mr. Johnson - Yes. Could we add the lighting that he'd mentioned earlier?
1384 Mr. Blankinship.

1385
1386 Mr. Blankinship - Mr. Reid, was it your intention to include the standard lighting
1387 proffer?

1388
1389 Mr. Reid - Yes.

1390
1391 Mr. Blankinship - I'm sorry. I said proffer. I should say condition. And, Mr.
1392 Pollard, that's agreeable to you?

1393
1394 Mr. Reid - Do you agree with adding that condition?

1395
1396 Mr. Pollard - Yes.

1397
1398 Mr. Johnson - Okay.

1399
1400 Mr. Green - Okay. Thank you. All in favor of the motion say aye. All
1401 opposed say nay. Motion passes. Thank you.

1402
1403 On motion by Mr. Reid, seconded by Mr. Pollard, the Board **approved** case **VAR2021-**
1404 **00004 KENT SAVEDGE's** request for a variance from Section 24-94 of the County Code
1405 to build a one-family dwelling at 907 Ridge Top Road (WESTHAMPTON HILLS) (Parcel
1406 762-739-2915) zoned One-Family Residence District (R-3) (Tuckahoe). The front yard
1407 setback is not met. The Board approved the request subject to the following conditions:

1408
1409 1. This variance applies only to the front yard setback for one dwelling only. All other
1410 applicable regulations of the County Code remain in force.

1459 Mr. Green - Mr. Johnson moved to approve the minutes. Is there a
1460 second? Mr. Bell, yes. The motion was made and approved. The motion was made and
1461 seconded to approve the minutes. All in favor say aye. All opposed say nay.
1462

1463 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved the minutes** of
1464 the January 28, 2021 meeting.
1465

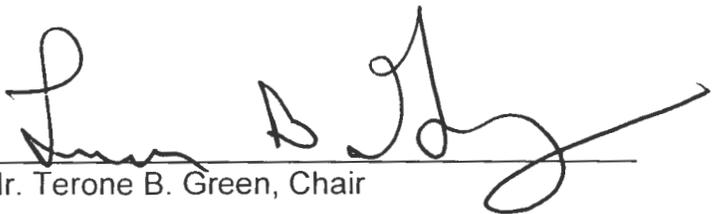
1466
1467 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
1468 **Negative:** 0
1469 **Absent:** 0

1470
1471
1472 Mr. Green - That concludes our meeting. Correct, Mr. Blankinship?

1473
1474 Mr. Blankinship - Yes, sir. Thank you very much.

1475
1476 Mr. Green - Thank you.
1477

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1491



Mr. Terone B. Green, Chair



Mr. Benjamin W. Blankinship, Secretary