

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM
4 AND HUNGARY SPRING ROADS, ON THURSDAY JANUARY 26, 2017 AT
5 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-
6 DISPATCH JANUARY 9, 2017 AND JANUARY 17, 2017.

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Members Present: Dennis J. Berman, Chairman
William M. Mackey, Jr., Vice Chairman
Gentry Bell
Helen E. Harris
James W. Reid

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

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12 Mr. Berman - Good morning. Welcome to the January 26, 2017
13 meeting of the Henrico County Board of Zoning Appeals. Please join us and
14 stand for the Pledge of Allegiance.

15
16 Thank you. Please be seated. I have a brief prepared statement I'd like to read
17 before we proceed.

18
19 Today we'd like to pay homage to an esteemed partner of the Board of Zoning
20 Appeals, Mr. David A. Kaechele. He passed away this Friday at the age of 85.
21 Mr. Kaechele proudly served Henrico County for 36 years as a Three Chopt
22 supervisor for the Board of Supervisors, only recently retiring in 2015. Out of
23 respect and recognition for Mr. Kaechele, the flags were ordered at half-staff in
24 front of the County offices.

25
26 Mr. Kaechele worked in a very quiet and personal way to affect a tremendous
27 amount of positive change for all of Henrico County. If you live in any of the large
28 local planned communities like Wyndham, Twin Hickory, Wellesley, West Broad
29 Village, or shop at Short Pump Town Center, or work at Innsbrook, or worked out
30 at Shady Grove Y, or flew out of Richmond International Airport, you probably
31 can thank Mr. Kaechele.

32
33 The elementary school just outside of Wyndham already bears his name. In
34 keeping with that, the Kaechele Elementary School fifth grade select chorus sang

35 a beautiful rendition of *Amazing Grace* in Mr. Kaechele's honor during his
36 inspirational funeral services this week.

37
38 On a personal note, Mr. Kaechele was one of my mentors. He was very much
39 responsible for me being on this Board and taught me so many other things, and
40 others, on how to live a life well lived through service to our community, through
41 spiritual awareness. Mr. Kaechele will deeply missed by all.

42
43 We wish his family close acquaintance, colleagues—many of whom are in this
44 room right now—our solemn thoughts and prayers to ease their loss. Thank you.

45
46 Mr. Secretary, will you please read our rules.

47
48 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
49 ladies and gentlemen, the rules for this meeting are as follows: Acting as
50 secretary, I'll announce each case. And as I'm speaking, the applicant is
51 welcome to come down toward the podium. We will then ask everyone who
52 intends to speak to that case to stand and be sworn in. And then a member of
53 the staff will give a brief report on the application. Then the applicant will present
54 their application. After the applicant has spoken, anybody else who wishes to
55 speak to that case will have the opportunity. And after everyone has had a
56 chance to speak, the applicant, and only the applicant, will have an opportunity
57 for rebuttal.

58
59 After the Board has heard all of the evidence on that case, they will close that
60 public hearing and proceed to the next public hearing. They will render all of their
61 decisions at the end of the meeting. So if you wish to hear their decision on a
62 specific case, you can either stay until the end of the meeting, or you can check
63 the Planning Department website—we usually get it updated within the hour of
64 the end of the meeting—or you can call the Planning Department this afternoon.

65
66 This meeting is being recorded, so we'll ask everyone who speaks to speak
67 directly into the microphone on the podium, state your name, and please spell
68 your last name so that we get it correctly in the record.

69
70 Mr. Blankinship - Mr. Chair, there is one request for deferral on this
71 morning's agenda. That is VAR2017-00003, Avery M. Lynn.

72
73 **VAR2017-00003** **AVERY M. LYNN** requests a variance from Section
74 24-95(b)(5) of the County Code to build a one-family dwelling at 6207 Monument
75 Avenue (WESTVIEW MANOR) (Parcel 768-738-0169) zoned One-Family
76 Residence District (R-3) (Brookland). The lot width requirement is not met. The
77 applicant proposes 60 feet lot width, where the Code requires 65 feet lot width.
78 The applicant requests a variance of 5 feet lot width.

80 Mr. Blankinship - Does anyone object to the deferral of case VAR2017-
81 00003, Avery M. Lynn. Mr. Chairman, hearing no objections, a motion would be
82 in order.

83
84 Mr. Berman - I move that VAR2017-00003, Avery M. Lynn, be
85 deferred for a period of one month. Do I hear a second?

86
87 Mr. Bell - I second it.

88
89 Mr. Berman - Any discussion? All in favor say aye. All opposed say
90 no. The ayes have it; the motion passes.

91
92 After an advertised public hearing and on a motion by Mr. Berman seconded by
93 Mr. Bell, the Board **deferred** application VAR2017-00003, Avery M. Lynn.

94
95
96 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
97 Negative: 0
98 Absent: 0

99
100
101 Mr. Berman - That will take us to our first request, Mr. Secretary.

102
103
104 **CUP2017-00001 COLLEGIATE SCHOOLS** requests a conditional use
105 permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary
106 office trailer at 251 N Mooreland Road (Parcels 747-735-6082, 748-736-1139
107 and 748-737-1411) zoned One-Family Residence District (R-2) (Tuckahoe).

108
109 Mr. Blankinship - Would everyone who intends to speak to this case
110 please stand and be sworn in. Do you swear the testimony you're about to give is
111 the truth, the whole truth, and nothing but the truth so help you God?

112
113 Male - I do.

114
115 Mr. Blankinship - Thank you. Mr. Madrigal, you can begin.

116
117 Mr. Madrigal - Thank you. Mr. Chair, Mr. Secretary, members of the
118 Board. Before you is a request to allow a temporary trailer at a private school.
119 Collegiate is a private K-12 school that was founded in 1915, and has been
120 operating at the Mooreland campus since 1960. It currently serves over 1,600
121 students with 196 faculty members on the 53-acre campus. There are 29
122 buildings that compose the campus, totaling over 370,000 square feet of floor
123 area, along with two athletic fields, and 535 parking spaces.

124

125 In order to accommodate the internal enrollment shifts between the lower,
126 middle, and upper school divisions, they are requesting to place a 960-square-
127 foot temporary trailer at the center of the campus next to their gymnasium
128 building. The school intends to reclaim hard-wired computer rooms and reuse
129 them for traditional curriculum during this period of increased demand. The
130 temporary trailer will be used as a wireless computer lab and as flexible teaching
131 space.

132

133 The property is zoned one-family residence district and is designated as semi-
134 public as per the Comprehensive Plan. Schools, colleges, and universities are all
135 principally permitted uses in the R-1 and R-2 districts and are consistent with the
136 Comprehensive Plan designation.

137

138 Since the establishment of the school at this location, they have requested on
139 several occasions the issuance of conditional use permits for the installation of
140 temporary trailers. These requests have typically been associated with
141 construction or remodeling projects that have temporarily displaced students or
142 staff. In this case, the request is associated with internal enrollment shifts
143 occurring between school divisions, placing increased demands on scheduling
144 and classroom space.

145

146 The proposed trailer will be located adjacent to the school gymnasium within a
147 landscaped area at the center of campus. This location has been previously used
148 for the same use and works well for the school. Since it is interior to the school,
149 there is no visual impact on the adjacent neighborhood and the school is always
150 careful to integrate the temporary structure by means of color, skirting, and
151 landscaping, so as not to detract from the campus atmosphere.

152

153 Approval of the applicant's request should not result in any detrimental impacts
154 on adjacent or nearby property. Also, specific conditions of approval have been
155 developed to help mitigate any potential impacts associated with the trailer.

156

157 In conclusion, the existing school is consistent with both the zoning and
158 Comprehensive Plan designations. The applicant's request is not uncommon,
159 especially during periods of construction, remodeling, or reorganization. No
160 detrimental impacts on the school campus or nearby property are anticipated
161 considering the proposed location for the trailer. And special conditions of
162 approval have been prepared to mitigate any significant impacts. Based on these
163 facts, staff recommends approval subject to conditions.

164

165 This concludes my presentation. I stand ready to answer any questions.

166

167 Mr. Berman - Thank you, Mr. Madrigal. Any questions from Board
168 or staff? I have one. The application is requesting through July 21st, 2020.
169 Condition 4 is stating August 1st, 2019. I believe there's a reason for that. Could
170 you please explain?

171
172 Mr. Madrigal - Right. As per code, for temporary uses, the code does
173 limit these types of uses up to two years max.
174
175 Mr. Berman - Thank you. Any further questions? Thank you, Mr.
176 Madrigal.
177
178 Mr. Madrigal - Thank you.
179
180 Mr. Berman - Can we now please hear from the applicant? Please
181 approach, speak into the microphone, state your name and spell, please for the
182 record.
183
184 Mr. Carson - Good morning. Scott Carson. C-a-r-s-o-n. I'm the
185 director of Facilities for Collegiate School. Any questions or did you want me to
186 make a statement?
187
188 Mr. Blankinship - Yes, if you'd just—
189
190 Mr. Carson - Sure. The 2020 on the application was a typo; our
191 apologies. We understand that it's a two-year approval, having done this before.
192
193 The trailer would come in very handy for us as we see some classroom shifts
194 necessary, particularly in our middle school. We are seeing some demographic
195 shifts. Population of the student body is shifting less in our lower school and a
196 little bit more in our middle school. It's really not changing the overall enrollment
197 at the school, it's just given the recession in 2008/2009, people were having
198 fewer children. So we're seeing a decrease in population in the lower school. And
199 our point of entry at the middle school is seeing a little bit more pressure. And
200 that's normal. That's not uncommon with other independent schools in Richmond
201 and nationwide.
202
203 So our intent here is to take an existing computer lab located in Flippen Hall,
204 which is just north of the trailer location, and utilize that for other classroom
205 activities—writing, math, whatever it is we need flexibility for—and move the
206 computer lab down into the trailer, and also use that as other flex classroom
207 space. Because we're Wi-Fi, we don't really need desktops. And undertake a
208 two-year period while the trailer's in place during which we'll study our
209 demographics, look at our master plan, and determine what our next steps are.
210 So this is just sort of a relief valve for the school.
211
212 Mr. Berman - Thank you, Mr. Carson. Does the Board have any
213 questions for the applicant?
214
215 Ms. Harris - I want to ask a question. Are there any temporary
216 trailers currently on your property now?

217
218 Mr. Carson - There are two. Those are construction related directly
219 with the McFall Hall cafeteria renovation project.
220
221 Ms. Harris - So then this would be the third.
222
223 Mr. Carson - This would be the third trailer on campus, but the only
224 one that's been requested by the school directly. The other two are leased by our
225 general contractor for the purposes specifically of the McFall Hall renovation.
226
227 Ms. Harris - All right. Do you know how long they will be there?
228
229 Mr. Carson - We're hoping to get our Certificate of Occupancy,
230 County willing, in early August of 2017. So those will be gone this summer.
231
232 Ms. Harris - The trailer that you are proposing, is this similar to the
233 ones you've used before?
234
235 Mr. Carson - Yes.
236
237 Ms. Harris - And they are disabled accessible.
238
239 Mr. Carson - Right. Our intent is to meet reasonable
240 accommodation standards of the ADA.
241
242 Ms. Harris - Okay. Thank you.
243
244 Mr. Berman - Anyone else? I must say that was the first time I had
245 the pleasure to visit your campus, and it was quite impressive.
246
247 Mr. Carson - Come on back. I'd be happy to have you.
248
249 Mr. Berman - Thank you, Mr. Carson. Is anybody here to speak in
250 support of this request? Is there anyone here to speak against the request?
251 Hearing none, we will make a motion after we're done with the other applications
252 today. Mr. Secretary, we can then move on.
253
254 **[After the conclusion of the public hearings, the Board discussed the case**
255 **and made its decision. This portion of the transcript is included here for**
256 **convenience of reference.]**
257
258 Mr. Berman - Do I hear a motion?
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260 Ms. Harris - I move that we approve the CUP regarding Collegiate
261 School. I see that this will not adversely affect the health, safety or welfare or the
262 community.

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Mr. Berman - Ms. Harris has put forth a motion of approval. Do I hear a second?

Mr. Reid - Second.

Mr. Berman - A second from Mr. Reid. Is there any discussion? No further discussion. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Reid, the Board **approved** application **CUP2017-00001, COLLEGIATE SCHOOLS's** request for a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary office trailer at 251 N Mooreland Road (Parcels 747-735-6082, 748-736-1139 and 748-737-1411) zoned One-Family Residence District (R-2) (Tuckahoe). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit applies only to the installation of a temporary trailer. All other applicable regulations of the County Code shall remain in force.
2. Only the improvements shown on the plot plan filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.
3. The applicant shall obtain all necessary building permits no later than July, 1, 2017. The temporary trailer shall comply with the Americans with Disability Act (ADA). The trailers shall not be occupied until a certificate of occupancy has been issued.
4. The temporary trailer shall be installed on or before August 1, 2017, and shall be removed on or before August 1, 2019, at which time this permit shall expire. This permit shall not be renewed.
5. The applicant shall install lattice skirting around the base of the trailer and plantings so that it blends into the campus setting, similar to the landscaping used to enhance permanent buildings.
6. Before beginning any clearing, grading, or other land disturbing activity, the applicant shall submit an environmental compliance plan to the Department of Public Works.

307 7. All landscaping shall be maintained in a healthy condition at all times. Dead
308 plant materials shall be removed within a reasonable time and replaced during
309 the normal planting season.

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312 Affirmative: Bell, Berman, Harris, Mackey, Reid 5

313 Negative: 0

314 Absent: 0

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

319

320 Mr. Blankinship - That is the only conditional use permit on this
321 morning's agenda. We now begin the variance portion of the agenda.

322

323

324 **VAR2017-00001** **HEROLD AND JOYCE TINNEL** request a variance
325 from Section 24-51 of the County Code to allow a tree service at 276 Hanover
326 Road (Parcel 829-722-3146) zoned Agricultural District (A-1) (Varina).

327

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

332

333 Several - I do.

334

335 Mr. Blankinship - Thank you. Mr. Gidley, you may begin.

336

337 Mr. Gidley - Thank you, Mr. Secretary. Good morning,
338 Mr. Chairman, members of the Board.

339

340 Our first variance request today is located at 276 Hanover Road, which is in the
341 eastern part of Henrico County. The property contains seven acres and is zoned
342 A-1 Agricultural District. The surrounding parcels, as you can see here, are also
343 zoned A-1 and used for kind of semi-rural purposes. The exception to that is to
344 the rear, which is zoned R-3. That's the Fair Oaks Terrace subdivision.

345

346 The Department of Community Revitalization received a complaint concerning
347 the use of the property as a commercial tree service. The Zoning Ordinance first
348 permits landscape contracting and tree service in the B-3 Business District,
349 Section 24-62.1(p) of the Zoning Ordinance. Since the property is zoned A-1, a
350 tree service is not a permitted use. Because of this, the Department of
351 Community Revitalization cited the applicant for using the property as a tree
352 service, which is not in conformance with the A-1 District's requirements. In
353 response, the applicant filed for a variance to allow a tree service to remain.

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Evaluation. As noted in the staff report, the Code of Virginia, Section 15.2-2201 defines a variance as, and I quote,

“A reasonable deviation from those provisions regulating the shape, size, or area of a lot of parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property and such need for a variance would not be shared generally by other properties and provided such variance is not contrary to the purpose of the ordinance.”

It further stats, and I quote: “It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.”

Section 15.2-2309 of State Code covering powers and duties of the boards of zoning appeals, specifically limits the powers of the board to those cases in which the “granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.”

Simply put, if a property owner wishes to use land for a purpose that is not allowed under the Zoning Ordinance, their option is to go the Board of Supervisors and apply to have the property rezoned. And it’s up to the Board of Supervisors to decide whether or not that property should be used for the purpose desired. The Board of Zoning Appeals does not have the power to allow a use that is not otherwise permitted by the Zoning Ordinance.

Upon receipt of the variance application, Mr. Blankinship did speak to two members of the Permit Center staff about the application. They both indicated to him that they had explained to the applicant or tried to explain to the applicant that a variance was not a remedy for the situation, but that they insisted on going ahead and filing the variance application anyway.

In addition, Mr. Blankinship sent an e-mail to the applicant explaining state law and how this was not a proper remedy and offering to refund their money if they withdrew the case prior to advertisement. No response was received to that e-mail. So the application went ahead and was advertised as requested initially when they submitted it.

In conclusion, because a tree service is not a permitted use in the B-3 District and the Code of Virginia does not allow variances to be used for the purpose of allowing uses not permitted under the Zoning Ordinance, staff recommends denial of this request.

399 This concludes my presentation, and I will be happy to answer any questions you
400 may have.

401
402 Mr. Berman - Thank you, Mr. Gidley. Board, do you have any
403 questions?

404
405 Ms. Harris - I do have one question. Mr. Gidley, do you know how
406 long this business has been operating, the tree service business?

407
408 Mr. Gidley - No ma'am, I don't.

409
410 Mr. Berman - We can ask the applicant when they approach. Any
411 other Board questions? Thank you, Mr. Gidley.

412
413 Mr. Gidley - Thank you, Mr. Chairman.

414
415 Mr. Berman - I'm sorry.

416
417 Mr. Bell - Mr. Gidley, one other thing. If I understand it, the
418 remedy for something like this would be for them to go ahead and go to the
419 Board of Supervisors for a request for a variance change.

420
421 Mr. Gidley - For a zoning change. Yes. So for instance, if you had
422 100 acres that was zoned A-1 and you wanted to put townhomes there, a
423 developer would not go to the Board of Zoning Appeals and say give me a
424 variance to allow townhomes to be put on this property. Instead, they go to the
425 Board of Supervisors and apply for a rezoning to a district that would permit the
426 use. And then it would be up to the Board of Supervisors whether or not to
427 rezone the property for that use.

428
429 Mr. Bell - Thank you.

430
431 Ms. Harris - Before we go any further, normally when we have a
432 variance case, we vote yay or nay. And since we have no legal authority to say
433 yay or nay in this particular case and we voted nay, are we legally following what
434 we've done in the past? I think we had a case before where we had no legal
435 authority. I don't think we took action on it at all, did we, Mr. Blankinship?

436
437 Mr. Blankinship - I can remember one case where it was either filed as
438 a use permit and should have been a variance or it was filed as a variance and
439 should have been a use permit. So no action was taken on that case until the
440 following month or two when they refiled on the appropriate form. My memory's a
441 little hazy on that.

442
443 Ms. Harris - But to your knowledge, we've never had a case where
444 we didn't have legal authority?

445
446 Mr. Blankinship - Well, we've had a lot of cases where there was no
447 legal authority to grant them back in the Cochran days, as I'm sure you
448 remember, the early Cochran days. We had a lot of applicants who filed cases
449 even through staff told them there's been this Supreme Court case, and the
450 Board no longer has the authority to consider this. They insisted on going ahead
451 because they had heard that these were approved in the past. And then we
452 started using that form that may remember. I don't think any other members of
453 the Board are familiar with it. But we actually had a form for a couple of years
454 where the applicant had to sign a statement saying the staff advised me of this
455 Virginia Supreme Court case, and I understand that this variance basically is not
456 going to get approved, because otherwise we had people standing at the podium
457 saying, "Well why didn't somebody tell me you had no authority to approve this,"
458 when we had told them repeatedly. It just became a very frustrating situation for
459 everyone.

460
461 This is the first time I can remember in my time here that we have had a
462 variance—one where someone requested a variance for a use that is not allowed
463 by the Zoning Ordinance.

464
465 Ms. Harris - Those Cochran-day cases, did we vote up and down?

466
467 Mr. Blankinship - Yes ma'am.

468
469 Ms. Harris - We did. Okay. That's what I wanted to know. Thank
470 you.

471
472 Mr. Berman - Thank you, Ms. Harris. Any further questions? Thank
473 you, Mr. Gidley.

474
475 Mr. Gidley - Thank you, Mr. Chair.

476
477 Mr. Berman - Can the applicant please approach? State your name
478 into the microphone and spell it for the record.

479
480 Mr. Stillwell - Good morning, ladies and gentleman. My name is
481 Harland Stillwell, Jr., S-t-i-l-l-w-e-l-l. I'm the representative for the Tinnels. Listed
482 on the application. And I'm a neighbor. I live across the street at 261 Hanover
483 Road. I'm fairly new to the County and was trying to help. The situation's been
484 going on for a decade. Decided to take a shot at it to see what I could do with the
485 limited knowledge that I've had in the five jurisdictions since I was born and
486 raised in the state of Virginia.

487
488 Twenty-three years in business is the answer to the question how long have they
489 been in business. Twenty years at this location. This is a Henrico Business
490 License. Every year has been filled out. This is a 2016 business license

491 application, approved by Henrico County for them to operate at 276 Hanover
492 Road, Sandston, Virginia. According to the business license.

493

494 I understand the zoning rules. Part of the reason it seemed to me that your hands
495 were tied is because you refer to this as an unlawful business. But it seems that
496 it's a contradiction to call it an unlawful business when you get a business license
497 for 23 years from the County which is calling it an unlawful business. I
498 understand the zoning issues. That aside, just going toward the terminology of
499 unlawful business in the packet that I received and the background information,
500 about five times or so it's referred to as an unlawful business. It's not allowed
501 zoning-wise; I understand that.

502

503 What the Tinnels are actually looking for—and they're a wonderful gold star
504 family. Been here for a long time. Joyce, the mother and wife has been here
505 most of her life in this area, Varina up to Sandston. They've been at this location
506 since 1997 operating this business. A tree service does not happen at home.
507 Obviously, it happens everywhere else but home, unless they're cutting their own
508 trees. Property does not come back unless it's being used for their own. They
509 have no heat source in their home except for a wood stove which they burn
510 wood. It's their prerogative. It's set up very nicely. It works very well. I'm sure
511 we'd all be jealous all winter long. That is their sole source of heat. Therefore,
512 they do bring wood back, chop it, and they do have to fall under the statutes
513 where they store their wood and woodchips and things. We understand that.
514 There might have been some problems in the past; I hope they've been rectified
515 to the satisfaction of the County.

516

517 What they're actually looking for in what I would refer to as a conditional zoning.
518 What we're looking for is a parking area to park their two vehicles. The same as if
519 I had a motor home, a diesel pusher 20,000-pound motor home parked in my
520 driveway, which is perfectly legal for me personally to have. Or my truck. I drive a
521 Dodge Dually with a diesel engine in it. It's 9,500 pounds, my personal truck. It
522 sits in my driveway, and I drive it up and down Hanover Road. They're looking to
523 park in an area on their seven-acre property, fenced in, with a barn where they
524 do maintenance and so on and so forth. It can get costly just to maintain the
525 vehicles as well, especially if you're inclined and able to do your own
526 maintenance to save money. Therefore, the 10,000-pound gross weight vehicles
527 would need to be on the property in order to work on them, if you follow me.

528

529 That's what they're really asking. Those vehicles, if they go out—I'd have to
530 guess—on an average four days a week, it would be amazing. Because
531 obviously you're not doing tree service work in the rain or the snow or sleet or
532 anything else that's going on. And we've had a lot of that. So if it's the road use,
533 which is the only other reason I could see for being against the zoning issue, the
534 "no trucks" clause on that road, there's a tractor-trailer park there right now on
535 that road. I went out twice yesterday and 10,000-pound-gross-vehicle trucks
536 were in my way. I'm catty-corner across the street from them at 261. Box truck,

537 tractor-trailer, because the ambulance and fire trucks that pull out right at their
538 house, right at my house onto Hanover Road.

539
540 Huge amount of industrial business. I would venture to say I could take pictures
541 and send them to the Board. Any day of the week in a one-hour time window
542 during business hours, I could send you pictures of no less than ten vehicles over
543 10,000 pounds. During business hours on business days. Not counting the fire
544 engine and the ambulance and anything that's normal delivery. Passing through
545 or deliveries. And deliveries are really not good enough. There's one set of
546 businesses at the end at Nine Mile Road and Hanover that's industrial. There's
547 no reason why so many trucks would be going up and down that road that is
548 listed "no trucks over 7,500 pounds." The signs went up recently saying that. But
549 there's nothing but 7,500-pound trucks, including my own, going up and down
550 Hanover Road. So if the roads are an issue to the zoning, they're using it the
551 least out of everyone, including probably myself. The three vehicles that they
552 have pertaining to three service.

553
554 But the tree service itself, albeit a home-based business, which I've done this in
555 King George County. And I ran one that had Class 3 flammables. But I was
556 mobile. We did paint work and body work at dealerships and for bus services for
557 the city and so on and so forth. However, it was listed, it was still a home-based
558 business. We don't do business at home, if you follow me.

559
560 So I don't know if you take these on a case-by-case, but know that albeit the
561 paperwork may get done for the tree service, and she may hold a cell phone at
562 this address, there is no tree service. There's no products. That's important.
563 There is no sale of any products. You won't see a sign that says "wood for sale"
564 or "wood chips for sale." You won't find a business going on which anyone up
565 here would stop and purchase something. I guess you could pass by and say,
566 "Hey, can you come see my tree and take it out?" But that's only if you caught a
567 truck. There's no signage, so there's nothing to indicate there's a tree service
568 being run there. This is just their home.

569
570 They've had many problems with vandalism of the trucks out and about from—
571 well, it could be from anyone. And that's their biggest concern is security. And I
572 was going to help them put up cameras in order to keep track of the vehicles and
573 make sure no one's putting sugar or sawdust into the gas tanks. But you can see
574 how this could be a really big hindrance.

575
576 This is how these folks make their living. I'd really appreciate anything that the
577 Board could do or any help. We'll go to Board of Zoning, if we have to, but it
578 doesn't really need to be a commercial property—or maybe it does—to be able to
579 park vehicles just like I park and a lot of people park, like I said, their own
580 personal stuff, on a specific patch of land on their seven acres, and then drive out
581 of there however many days a week. It's not seven days a week. It's at the

582 maximum five. But that's the biggest issue, other than if you have issues with
583 moving things to the side of the house, moving this here or there.

584
585 The biggest issue seemed to be the vehicles, over 10,000-pound commercial
586 vehicles, which I've seen in other counties. They're technically not allowed on A-
587 1, but there's a reason for that. And I'm sure the reason is a good reason. And
588 understand, our area right there on Hanover Road is not like all of Henrico
589 County. It's not like Short Pump. It's not even like Highland Springs next door.
590 We sit on the line. Sandston is 100-year marsh land, half of it. It's for a different
591 type of purpose.

592
593 But I really plead to you to consider their parking situation. As far as running the
594 business, Henrico's allowed them for 23 years to run a business based out of the
595 house, to receive phone calls, do the paperwork, and so on and so forth. What
596 we need and are concerned with is the parking of 10,000-pound commercial
597 vehicles on the property. Just like the tow truck guy who takes his rollback home
598 and parks it on the street, everybody sees it. I've seen it in the city; I've seen in
599 the County. It's not listed at that house, but nevertheless, until it needs
600 maintenance, the truck driver brings it home. Bus drivers used to do that. School
601 buses used to be sitting. My mother's in Prince William County, and the neighbor
602 across the street had a school bus in their driveway. Absolutely I'm sure that's
603 against zoning in Prince William County. But it's done. And it's for a reason.

604
605 And like I've said, whatever that reason is, if you could find it within the law and
606 within yourselves to find a way to help these folks out to keep conducting
607 business in a manner in which they're able—because having an offsite location,
608 for security reasons is just not viable. And financially it's strapping. This is a
609 father-and-son type business. There are no employees that come to this
610 residence to show up for work. That's another important thing that would label it
611 as a business.

612
613 Mr. Berman - Thank you, Mr. Stillwell. I'd like to see if the Board has
614 any questions for you.

615
616 Ms. Harris - I was waiting for someone else to ask. I have quite a
617 few questions. The visuals that we have, do you have a packet that was given to
618 you when you came in this morning? It shows the view of the logs and heavy-
619 duty trucks involved in business. Do you have this?

620
621 Mr. Stillwell - Would that be something like this with pictures on it?
622 Okay, I got this packet in the mail, yes.

623
624 Ms. Harris - There's one that shows the logs. Right there, thank
625 you. You're saying that these logs are located on what side of the house? Is this
626 the left side?

627

628 Mr. Stillwell - As you're facing the house, this would be the left side,
629 yes.
630
631 Ms. Harris - So these are the logs that the family uses to heat their
632 home?
633
634 Mr. Stillwell - Depending at the time this picture was taken, it's
635 highly likely that judging by the size of these trees and this trunk that this was
636 Mrs. Tinnel fussing at Mr. Tinnel about getting that tree down that he took half a
637 year to get down. It's in way too large of pieces. You can see there are a few
638 trees missing there on their own yard. You can see the holes. It does not look like
639 this currently. So it's highly likely that could be their own tree, judging by the size
640 of those tree trunks. Those are pieces in excess of 15 feet long.
641
642 Ms. Harris - So these logs are not used in the business?
643
644 Mr. Stillwell - I can't say for sure. But judging by these, I would say
645 now. You don't dump off the wood. If he was to keep the wood, the wood would
646 go around back. He'll have to chop it up for his own uses, like I said for the wood
647 stove in the wintertime. I discussed how the wood and the wood chips need to be
648 on the side/back of the property and not in view out front. Although it's a large
649 venture to say 800 feet of road frontage. Roughly 800 feet of road frontage on
650 the property.
651
652 Ms. Harris - Thank you. Mr. Stilwell, I have another question. Do
653 you have an address on that business permit? Is there an address there?
654
655 Mr. Stillwell - Yes ma'am.
656
657 Ms. Harris - What address is there?
658
659 Mr. Stillwell - 276—for the Tinnels or for the Mountain Tree
660 Service?
661
662 Ms. Harris - The business permit that you have.
663
664 Mr. Stillwell - 276 Hanover Road, Sandston, Virginia, 23—
665
666 Ms. Harris - So is that telling us that the business is actually there.
667
668 Mr. Stillwell - Correct. The business is based out of there for the
669 last 20 years this has been filed. For 23 years, they've had a business license.
670 But at this property, 20 years.
671
672 Ms. Harris - Okay. I think those are all my questions for now.
673

674 Mr. Stillwell - This is the 2016 license.
675
676 Mr. Berman - Thank you, Ms. Harris. Could you please, Mr. Stillwell,
677 allow us to take a look at that business license?
678
679 Mr. Stillwell - Absolutely.
680
681 Mr. Berman - Does the Board have any other questions? Mr.
682 Gidley, did you have a comment?
683
684 Mr. Gidley - For the record, you can get a business license for a
685 home office where you do your accounting, pay your bills, pay your taxes and so
686 forth. Typically, they'll make it clear you can't have equipment there that's not
687 permitted in an agricultural or residential district, such as the trucks that the
688 gentleman's talking about here. So it's not uncommon to have a home office
689 whether you're an attorney or a landscape contractor. But you can't have the
690 equipment there, and that's what they were cited for.
691
692 Mr. Berman - That's why I asked to see it. Thank you, Mr. Gidley.
693
694 Mr. Gidley - There's another form.
695
696 Mr. Blankinship - Yes. That information doesn't show up on this page.
697 There's a separate supplemental questionnaire that lists those restrictions.
698
699 Mr. Reid - May I ask a question while it's fresh? I heard a
700 reference to the landscape company. Did you say that a landscaping company is
701 legal or is not legal? It is also not legal? Okay.
702
703 Mr. Gidley - Yes sir, that's correct. It's not legal.
704
705 Mr. Reid - Thank you. Sorry, I missed that first part.
706
707 Mr. Berman - I do have a question. There is a propane tank
708 adjoined to the home on the site. Is that non-functioning?
709
710 Mr. Stillwell - I'm unaware.
711
712 Mr. Berman - It's oil? And it is not able to be used? I know you're off
713 microphone right now. I'm addressing Mr. Stillwell.
714
715 Mr. Stillwell - I'm not aware of the propane tank or the uses of it.
716
717 Male - [Off microphone.] It's an oil tank.
718
719 Mr. Stillwell - It's an oil tank.

720
721 Mr. Berman - So it's an oil tank.
722
723 Mr. Stillwell - Yes, it's from previously. I as well had oil heat in there
724 and removed it. The tank's still there.
725
726 Mr. Berman - So there is not an oil furnace available for heat?
727
728 Mr. Stillwell - No. Is that correct? I've been inside and it's just a
729 wood stove. I myself had oil heat, but I put in a heat pump system. I need to get
730 that tank out of there.
731
732 Mr. Berman - This may require the applicant to speak to this. It is
733 quite a long list of people that are in support of this application and have nothing
734 but glowing remarks for the applicant and all he does. And I'm aware of the
735 service to this country that his family has provided. However, there are
736 complaints. And I don't know if you can speak to maybe the background of these
737 complaints. Like why is there 50 plus for and a couple against? Is there
738 something in particular that is rubbing folks the wrong way?
739
740 Mr. Stillwell - Competition.
741
742 Mr. Berman - Competition?
743
744 Mr. Stillwell - One word.
745
746 Mr. Berman - Oh. Somebody else wants to run a home business
747 and they're feeling that there's an unfair advantage if somebody is running one.
748
749 Male - [Off microphone.] Next door.
750
751 Mr. Stillwell - Next door. Not the homeowner, that I know of. An
752 associate of the homeowner. Yes. It didn't come to a head, per se, until
753 competition had been next door.
754
755 Mr. Berman - Okay.
756
757 Mr. Mackey - Yes, Mr. Chairman. I had a question about the
758 business license, Mr. Stillwell. Did the applicant get granted a new business
759 license for 2017? This one expired in 2016.
760
761 Mr. Stillwell - Yes. It just has not arrived yet.
762
763 Mr. Mackey - Okay.
764
765 Mr. Stillwell - I asked Joyce about it yesterday.

766
767 Mr. Mackey - I had one other question. I understand it sounds like
768 one of the major problems in the parking of vehicles. The applicant does realize
769 that's the major violation of the zoning.
770
771 Mr. Stillwell - Yes sir. That's what we're trying to address, and that's
772 why I was trying to address it and just bypass a lot of the—not frivolous stuff, but
773 the stuff that we could fix like moving wood. We can fix that pretty handily. But
774 the biggest issue is the commercial vehicle parking on an A-1 lot. You can't do
775 this in all of Henrico. I thought about precedence this morning, you know, with
776 you folks. But you can't take a 7,800-square-foot lot and compare it to this lot. So
777 there has to be something in order for precedence not to go so that everyone
778 that's running a tree service on every little postage-stamp lot in Highland Springs
779 or where have you, Short Pump or Varina. Acreage does matter. The lot size, the
780 location. It's an industrial area where a lot of commercial vehicles are constantly
781 going up and down that should be taken into account.
782
783 Mr. Mackey - I understand. I don't want to change the issue, and I
784 don't want to come off as seeming like we're not compassionate about their
785 problem. But they did explain to them that this Board really has no jurisdiction in
786 changing the zoning, and that's the main violation is it's being used as a business
787 in an area that's not zoned for that. This Board has no authority to change that.
788
789 Mr. Stillwell - Used as a business. By that you mean by parking the
790 commercial vehicles there.
791
792 Mr. Mackey - Yes.
793
794 Mr. Stillwell - As opposed to paperwork and telephone, using it as a
795 business.
796
797 Mr. Mackey - Right. As I read it, parking the vehicles and any other
798 equipment they may use to do any tree work.
799
800 Mr. Stillwell - Okay. Is that because it's listed as an unlawful
801 business that you can't do a conditional zoning? It says that that's the reason.
802
803 Mr. Blankinship - This Board cannot effect a change in the zoning.
804
805 Mr. Stillwell - That's what I mean.
806
807 Mr. Blankinship - That would be up to the Board of Supervisors.
808
809 Mr. Stillwell - All right. It says "which changes could be
810 accomplished by rezoning or a conditional zoning." That would be done by the
811 zoning board.

812
813 Mr. Blankinship - The Board of Supervisors.
814
815 Mr. Stillwell - That's not this board? For instance, a variance
816 through you folks is what?
817
818 Mr. Blankinship - If a lot is too small to build a house on, for example, a
819 lot that was created in the 1940s, the case that was deferred this morning.
820
821 Mr. Stillwell - All right. But this case basically is a zoning case.
822
823 Mr. Blankinship - It's outside of a variance. It's outside the legal
824 definition of a variance and therefore outside the powers of the Board to grant a
825 variance.
826
827 Mr. Stillwell - I was just hoping rather than a broad change to
828 commercial, B-1 and B-2 commercial, what have you, that there was a way to be
829 able to park in a designated area of 300 by 300. But it would be conditional. Like
830 I said, I thought about precedence. He can rezone the whole property as
831 commercial, and it might happen.
832
833 Mr. Blankinship - Those are all complicated issues that require a lot of
834 discussion, but they don't come before this body.
835
836 Mr. Stillwell - They do not.
837
838 Mr. Berman - So two things could happen. If we did rule on this, our
839 motion could be vacated by the Circuit Court because we did not have the
840 authority. And I can't speak for the Board of Supervisors, but they may consider it
841 spot rezoning, which is another thing that doesn't have a precedent. So I know
842 we've gone into a lot of detail here. I believe, Mr. Mackey, you have a question
843 for Mr. Gidley?
844
845 Mr. Mackey - Just a quick question for clarification, Mr. Gidley.
846 Several times I noticed that the business was, like Mr. Stillwell said, called
847 unlawful. I'm pretty sure the only reason you were calling it unlawful was because
848 it was in violation of the zoning, that they're unlawfully running a business.
849
850 Mr. Gidley - I refer to it as unlawful because the underlying zoning
851 is A-1, and the use is first permitted in the B-3 District. Again, they can have a
852 home office where they do paperwork and get a license for that. But they have to
853 keep their equipment elsewhere.
854
855 Mr. Mackey - Okay. Thank you, Mr. Gidley.
856
857 Mr. Berman - Any further questions from the Board for Mr. Stillwell?

858
859 Ms. Harris - Mr. Chairman, I need to ask Mr. Stillwell. What is your
860 relationship to the owners of the property?
861
862 Mr. Stillwell - I'm just a neighbor. I live at 261 Hanover Road.
863
864 Ms. Harris - Okay. I was just driving through visiting some people
865 on the other side, just cutting through on Hanover Road. And I saw this business
866 in the middle of a residential section before I saw the blue sign that says this
867 case is coming up before us. So I think that it's fair that you do take your
868 concerns to another board, because we do have to interpret this in terms of what
869 is actually legally authentic for this board. To me, it was a business in the middle
870 of a residential section. That's what I saw, a business next door almost to a
871 residential lot. I saw the logs; I saw the trucks. And so that was just my
872 conclusion before I even knew that this case was going to come before the
873 Board. And in Henrico, we have to be vigilant about situations like this, and
874 usually neighbors do complain.
875
876 Mr. Stillwell - Absolutely. Eight homes on both sides of the roads,
877 I'm going to say, coming down toward them, not counting the turn-off streets.
878 There's just not a lot of building going on. It was like an afterthought, like
879 Hanover Road was a main thoroughfare at one point, and now it's just non-
880 existent because of Airport Road.
881
882 Mr. Berman - Thank you, Mr. Stillwell. Ms. Harris, did you have any
883 further questions?
884
885 Ms. Harris - No. Thank you so much. Thank you.
886
887 Mr. Stillwell - Thank you.
888
889 Mr. Berman - Anybody else?
890
891 Mr. Mackey - No sir.
892
893 Mr. Berman - Thank you, Mr. Stillwell. I'd like to see if anybody else
894 would like to speak in the affirmative to this application.
895
896 Mr. Tinnel - Mr. Chairman. I'm Herold Tinnel. I live at 276 Hanover
897 Road. And my last name is Tinnel—T-i-n-n-e-l. You all have allowed a business
898 license for 20 years and now it's an issue. So I'm in for the statements you all
899 have that I'm in violation.
900
901 My son went to Iraq and he died. Did two tours in Iraq. There was no condition on
902 his life when he bled for this country. Because people complained. People on
903 national TV complaining because someone's taking action to make this country

904 better. Are you all taking those complaints into what they're doing? It's everything
905 to do. You all said you want to make the country better. It's a small business
906 against you all's paycheck.

907

908 It's my son, our sons. I have another one here with me today, that if called upon
909 will have to go and serve this country. I don't get entitlements and a monthly
910 check in the mail and my pants hanging down. I tell my men to pull up their pants
911 and walk like men and work like men and not to be thieving and stealing. That's
912 what I'm teaching my kids, the values of what this country was founded on and
913 the Constitution. And you all are telling me you all can't take action. That was not
914 the case when my son volunteered in 9/11, right after the towers fell. It was told,
915 I'm going to go serve.

916

917 The United State Marine Corps. They have rules and regulations too. When he
918 fought and he took a bullet for this country, there was no conditions. It was all or
919 nothing. And what do we have to show for what we got? Being raked over the
920 coals by Henrico County and other people because they want to complain about
921 a company running a business. I've got people next door throwing stuff on my
922 property, illegal, yet when I try to call the County police, I'm the problem.

923

924 I've sweated; I've bled for this company. And the goals of this Board are to have
925 more businesses to come into Henrico County because it makes it better for
926 Henrico County. But yet, I'm going to get penalized because I'm working out of
927 my own home. Where's the value in the service my son did for this country? It
928 says freedom. There were no conditions on his life. But yet you all can't take the
929 time and understand just because I want to park a truck on my parking lot on my
930 property—that's licensed and insured by the State of Virginia. I pay taxes for this
931 license. I pay insurance. I pay business insurance.

932

933 And because of the actions that the County took, I had to put in for a petition,
934 right at Christmastime, my kids was lucky to get one present for Christmas under
935 the tree. How can this council sit up here and pass judgment and not take my
936 side in this situation where I'm trying to do right and provide for my family—I don't
937 have subsidized housing and entitlements. I don't have that. I wasn't taught that.
938 My father served in Germany. He was in the tank division and served this
939 country. Is this what this country's about, destroying someone who is trying to
940 make a living for his family? And there's five of us. I got two girls.

941

942 If this doesn't mean anything, then we'll need to shut the whole thing down and
943 go to Africa.

944

945 Mr. Berman - I'm going to stop you there, sir. The decorum of this
946 proceeding is not appreciative of comments like that. So I'm going to say, as I
947 said earlier, and as I've spoken to you in the past, it is honorable what you do
948 from a work ethic. It is honorable what your son has sacrificed, the ultimate
949 sacrifice. There are people sitting on this Board right now who have served as

950 well. That is not in question right now. What is in question is the Code of Virginia.
951 Justice is blind. We are making an even playing field for the County.

952
953 While I appreciate this and I'm sensitive to it, as compassionate as everybody is
954 on this Board, we are governed by the Code of Virginia. It has nothing to do with
955 service to the country. And as Mr. Mackey pointed out, this comes down to
956 zoning. And we advised you all. We tried to save you \$300. Earlier on, we
957 advised you to seek a rezoning possibility with the Board of Supervisors. The
958 staff is ready, willing, and able to assist you in any way they can. But this comes
959 down to the truck on the property.

960
961 And like I said, I appreciate your impassioned plea, but we want to make sure
962 you understand that we are not ignoring it. We're not ignoring the petitions. We
963 are governed by the same rules as everybody else in this County, 300,000
964 people, to have an even playing field.

965
966 Mr. Tinnel - I apologize, but I don't see it.

967
968 Mr. Berman - I'm sorry you don't see it. We work very hard to do it,
969 and we spend a lot of time. And we did not ignore your case. We put a lot of time
970 into it; so did staff. And I'm sorry you don't see it that way. But again, we are still
971 ready, willing, and able to assist you in any way to move it forward so that you
972 can get the resolution that you want.

973
974 Mr. Tinnel - Yes sir.

975
976 Mr. Berman - With that, I want to ask if any of the Board or staff has
977 any further questions for the applicant. Thank you.

978
979 Mr. Tinnel - Thank you.

980
981 Mr. Berman - Is there anybody else today who wishes to speak for
982 the applicant? Yes, please approach. State your name and spell it for the record,
983 please.

984
985 Ms. Foster - My name is Mary Foster. F-o-s-t-e-r. I'm originally
986 from Maine. I lived there 30 years. I've come down to Virginia, and I've lived here
987 15 years. I live on Hanover Road right down the street from this gentleman.

988
989 His yard has never bothered me. It has never bothered a lot of people on the
990 road. His business is not run from that property. He has never had anybody stop
991 there to pick up any wood. He has never dumped wood. He has dumped chips
992 on his yard, but he has taken them up and won't be dumping chips again.

993
994 Now I've seen problems like this before in Maine. Basically, for as long as this
995 gentleman has had his business, the way they've resolved it is they've

996 grandfathered the gentleman. For as long as he's had his business, they've
997 grandfathered him until the house is sold. And then they don't let the new owners
998 continue that type of business there.
999

1000 But I can understand your dilemma also, being the fact that it is zoned
1001 agricultural. Couldn't it be that the gentleman plant a couple trees a year and
1002 have it be a tree farm? Could it be that he has one vehicle with a commercial tag
1003 on it? Could it be that it is parked behind the fence? He hasn't done this so far
1004 because every time he puts a vehicle behind the fence, he has no lighting there,
1005 and it's been vandalized. His commercial vehicles, when they're not put out front
1006 where the lighting is, he has had vandalism on his vehicles.
1007

1008 But I can help him. I can put lighting up for him so that he can park his
1009 commercial vehicle out of sight. Couldn't some type of compromise help
1010 everybody so that this man that's been in business—and this is his only
1011 business, the only thing he knows at this age in life—can continue his business?
1012 Couldn't something be done like this where it meets everything? Couldn't a
1013 compromise be made somewhere for the rest of his life?
1014

1015 Mr. Berman - Thank you for your thoughts, Ms. Foster. Does
1016 anybody have any questions for Ms. Foster?
1017

1018 Ms. Harris - Ms. Foster has a question for us, could anything be
1019 done. I think the Board of Supervisors will listen to your plea and that of
1020 Mr. Tinnel too. But with the ordinance being as it is, we're trying to follow the
1021 dictates of the ordinance.
1022

1023 Ms. Foster - Okay.
1024

1025 Mr. Berman - Does anybody know if this is governed by a
1026 homeowners' association?
1027

1028 Ms. Foster - No, it's not. There's no association on that road.
1029

1030 Mr. Berman - Okay. They also have a very vocal dog that I think
1031 could be a deterrent if the truck was—
1032

1033 Ms. Foster - Who has a vocal dog?
1034

1035 Mr. Berman - I guess it was the applicant's dog.
1036

1037 Ms. Foster - No. We drove up the other night in the dark. There's
1038 no dog that barks there.
1039

1040 Mr. Berman - No, I'm saying it could be a deterrent. I don't know
1041 whose dog it was, but I know that I wasn't getting anywhere near that fence.

1042
1043 Ms. Foster - Really? No, we walked right up to the door. There
1044 was no dog barking. No, no. They need lighting.
1045
1046 Mr. Berman - Okay.
1047
1048 Ms. Foster - And I'm going to help them.
1049
1050 Mr. Berman - Do we know that if the trucks were parked and stored
1051 behind the fence out of sight—
1052
1053 Ms. Foster - No, they've been parked out front, truthfully.
1054
1055 Mr. Berman - I'm asking staff; I'm sorry.
1056
1057 Ms. Foster - I'm sorry.
1058
1059 Mr. Berman - If that would remedy the situation.
1060
1061 Mr. Blankinship - No. If they're commercial vehicles over 10,000
1062 pounds, they can't be on the property.
1063
1064 Mr. Berman - On premise. It doesn't matter if they're out of sight.
1065
1066 Ms. Foster - Why is that? Some people bring their commercial
1067 vehicles home.
1068
1069 Mr. Blankinship - That matter was debated at great length before the
1070 Board of Supervisors just a few years ago because we actually raised the limit
1071 from 5,000 to 10,000 just a few years ago. That's another example of the kind of
1072 thing the Board of Supervisors considers when they write the code.
1073
1074 Ms. Foster - So it can't be over 10,000. So we don't know this
1075 vehicle, what its weight is.
1076
1077 Mr. Blankinship - But those questions are not in the purview of this
1078 Board. That's my point.
1079
1080 Ms. Foster - So if the vehicle's under 10,000, even if it has a
1081 commercial plate on it, it still can be parked.
1082
1083 Mr. Blankinship - Well it's treated differently.
1084
1085 Ms. Foster - But it can be parked if it's under 10,000.
1086

1087 Mr. Blankinship - There are other regulations. It may be or it may not,
1088 depending on other factors. But those are not the issues that come before this
1089 Board.

1090
1091 Ms. Foster - I understand. Okay. Okay.

1092
1093 Mr. Blankinship - There are a lot of questions about—there have been
1094 previous complaints on the property. Some of them went to court; some of them
1095 were resolved without going to court. Nobody is saying there are no solutions to
1096 this problem. What we're saying is a variance is not a solution to this problem.
1097 This Board does not have the authority.

1098
1099 Ms. Foster - I'm asking for like the grandfathering to be—to think
1100 about it.

1101
1102 Mr. Blankinship - That is not a subject for this morning's meeting. This
1103 Board has five items on the agenda this morning that they need to work through.
1104 And they do not have the authority—

1105
1106 Ms. Foster - Well who would give him guidance as to what to do?

1107
1108 Mr. Blankinship - The staff from the Department of Community
1109 Revitalization that have been pursuing this with him, I'm sure will continue to be
1110 in touch with him.

1111
1112 Ms. Foster - Okay. Okay.

1113
1114 Mr. Berman - Thank you, Ms. Foster.

1115
1116 Ms. Foster - Thank you.

1117
1118 Mr. Berman - Is there anybody else who wishes to speak? This is
1119 for the applicant. Please approach. Please wait until you get to the microphone.
1120 This is being recorded. Thank you, sir. And tell us your name and spell it, please.

1121
1122 Mr. Foster - Good morning, ladies and gentleman. My name is
1123 Austin Foster, Sr. F-o-s-t-e-r. I live down the street from Mr. Herald Tinnel at 159
1124 Hanover Road. That's a very busy road, school buses, tractor-trailers and all that.

1125
1126 I've known Mr. Herold over 20 years. I just came back to Richmond in 1969. I've
1127 been out there in Henrico over 30-some years. He'll do anything for you, anything
1128 for the neighbors. That is his livelihood. And he brings the wood home, and he
1129 cuts it up and uses it. There might be an excess amount there. I had a little
1130 probably about six months ago, and I asked him for a favor. He brought me a
1131 whole bunch of chips and mulch so I could fill in some holes. I have a two-acre
1132 plot right down the street from. Tractor-trailers and all kinds of stuff park up on

1133 that little road. Hanover Road is just a double lane. No passing from Nine Mile
1134 Road all the way back to 295. There's no passing. And it's tight. And the people
1135 have to walk on the edge of the road at night. You can hardly see the people.
1136 The road really needs more work done to it.

1137

1138 He'll do anything for you. He'll take his shirt off and give it to you. He's a
1139 wonderful guy. I wish we had more neighbors like that. I thank you.

1140

1141 Mr. Berman - Thank you, Mr. Foster.

1142

1143 Mr. Foster - You're welcome.

1144

1145 Mr. Berman - Anybody else wishing to speak in the affirmative? At
1146 this time, I'll ask if anybody is present to speak against the applicant. Hearing
1147 none, we will move on to our next applicant, Mr. Secretary.

1148

1149 **[After the conclusion of the public hearings, the Board discussed the case**
1150 **and made its decision. This portion of the transcript is included here for**
1151 **convenience of reference.]**

1152

1153 Mr. Berman - Do I hear a motion?

1154

1155 Mr. Mackey - Yes, Mr. Chairman. I make a motion that we accept
1156 the staff's recommendation and deny the variance for VAR2017-00001. The
1157 reason for me making this motion is the residence is not zoned to store the tree
1158 service commercial truck or equipment there. And I'd also like to cite Virginia
1159 State Code Section 15.2-2309 that does not give this Board the power to make
1160 any changes to any ordinances of zoning.

1161

1162 Mr. Berman - Mr. Mackey has proposed denial of the applicant. Do I
1163 hear a second?

1164

1165 Ms. Harris - Second the motion. And I do need to make a
1166 statement. Whereas I think we are sympathetic or empathetic to the situation
1167 here with the business having been in operation for quite a few years, but we do
1168 have limitations as to what our legal authority is. And I do hope that they will go
1169 forth to the Board of Supervisors to get them the relief that they need.

1170

1171 Mr. Berman - Thank you, Ms. Harris. Is there any further
1172 discussion? Hearing no discussion, all in favor of the denial say aye. All opposed
1173 say no. None opposed. The motion carries to deny.

1174

1175 After an advertised public hearing and on a motion by Mr. Mackey seconded by
1176 Ms. Harris, the Board **denied** application **VAR2017-00001, HEROLD AND**
1177 **JOYCE TINNEL's** request for a variance from Section 24-51 of the County Code

1178 to allow a tree service at 276 Hanover Road (Parcel 829-722-3146) zoned
1179 Agricultural District (A-1) (Varina).

1180

1181

1182 Affirmative: Bell, Berman, Harris, Mackey, Reid 5

1183 Negative: 0

1184 Absent: 0

1185

1186

1187 **[At this point, the transcript continues with the public hearing on the next**
1188 **case.]**

1189

1190

1191 **VAR2017-00002** **GRENOBLE LLC** requests a variance from Section
1192 24-94 of the County Code to build an office building and parking lot at 2507
1193 Grenoble Road (COMMERCE ACRES) (Parcel 765-747-3588) zoned Light
1194 Industrial District (M-1) (Tuckahoe). The front yard setback is not met. The
1195 applicant proposes 20 feet front yard setback, where the Code requires 25 feet
1196 front yard setback. The applicant requests a variance of 5 feet front yard setback.

1197

1198 Mr. Blankinship - Would everyone who intends to speak to this case
1199 please stand and be sworn in. Do you swear the testimony you're about to give is
1200 the truth, the whole truth, and nothing but the truth so help you God? Thank you.
1201 Mr. Gidley, you can begin.

1202

1203 Mr. Gidley - Thank you, Mr. Secretary. Mr. Chairman, members of
1204 the Board. The subject property is located at 2507 Grenoble Road, which is
1205 between West Broad Street and Interstate 64, just west of Glenside Drive, as you
1206 can see here.

1207

1208 There are a total of seven lots from here down to here that front on this section of
1209 Grenoble Road. Six of the seven are built out, the exception being the subject
1210 property in yellow here, which is currently vacant. The first building constructed
1211 on this side of street was built in 1957 at 2515 Grenoble Road. At the time, the
1212 property was zoned B-4 Business District, and the required setback was 50 feet
1213 from the center line of the street. And basically with a 60-foot right-of-way, that
1214 translated into a 20-foot front yard setback. And that's where the building was
1215 constructed. In 1960, the block was rezoned to M-1 Light Industrial District. The
1216 M-1 District required a 25-foot front setback, both in 1960 and today.

1217

1218 Since 1965, additional buildings have been constructed on this side of the street.
1219 Although a 25-foot front yard setback is required in the M-1 District, all five of
1220 these buildings were allowed to be constructed with a 20-foot front yard setback.
1221 This was permitted under a previous section of the Zoning Ordinance, which
1222 allowed buildings constructed on a partially built-up block to be constructed at the
1223 same front yard setback as any previously constructed buildings on their side.

1224

1225 Because the initial building constructed in 1957 had a 20-foot front yard setback,
1226 basically, each subsequent building was able to be constructed with that same
1227 20-foot front yard setback. This section of code, however, was removed from the
1228 Zoning Ordinance in 1982 that allowed them to be built at 20 feet. As a result, the
1229 last lot that remains to be built on, the subject property, it has to comply with the
1230 25-foot front yard setback, as reflected by the M-1 zoning.

1231

1232 As you can see here, the applicant wants to construct an office warehouse
1233 building on the property. In order to better accommodate access for delivery
1234 vehicles to the back of the warehouse. To provide that additional room, they
1235 would also like to construct the building with a 20-foot front yard setback rather
1236 than the required 25 feet. As a result, they have applied for a five-foot front yard
1237 setback variance.

1238

1239 In reviewing the tests for a variance, does the Zoning Ordinance unreasonably
1240 restrict utilization of the property or would a hardship due a physical condition of
1241 the property be alleviated? With regard to this latter test, there is no physical
1242 condition of the property that would prevent a reasonable use of the property. In
1243 addition, a smaller office warehouse could be constructed within the required
1244 setbacks. So one could certainly argue a 25-foot setback is not unreasonable.

1245

1246 At the same time, as staff has noted before, variances ideally should be used to
1247 ensure equity with similarly situated properties as opposed to granting a special
1248 privilege. And this is indeed an unusual case since all six buildings fronting on
1249 this side of Grenoble Road were allowed to be built with a 20-foot front yard
1250 setback. Rather than seeking a special privilege, the applicant is only asking to
1251 be permitted to have the same front yard setback as all the other buildings on
1252 this side of the street.

1253

1254 Given the unusual circumstances of this block's development, to require a
1255 greater setback for just this one last parcel would arguably constitute an
1256 unreasonable restriction.

1257

1258 The five subtests. The first one concerns whether the property was acquired in
1259 good faith, any hardship not created by the applicant. The applicant purchased
1260 the property in December 2016 and did so in good faith. The applicant is
1261 proposing a larger building than they necessarily have to, so they would be
1262 responsible for any hardship claimed. However, at the same time, they can go
1263 under the unreasonable restriction provision of state code. And that's where I
1264 think they have a valid point with regard to this variance.

1265

1266 Would the granting of the variance cause a substantial detrimental impact to
1267 adjacent nearby property? In this case, it will not. All the other buildings on this
1268 side of the street are set back at 20 feet. Given that, I didn't see how it would be
1269 detrimental. If anything, good planning encourages a uniform setback for

1270 buildings along the front of the street there, and the variance would accomplish
1271 that.

1272
1273 I would note the surrounding buildings are predominately of brick construction,
1274 and I'll show you some here. This is across the road. This is the building on the
1275 south side, and then to the north. Although a plot plan was submitted, no
1276 elevations of a proposed building were submitted. So to ensure consistency in
1277 the area, staff would recommend the front of the building, at least, be constructed
1278 of brick to match what's out there already.

1279
1280 Subtest number three, the condition of the property's not so general or
1281 reoccurring so an ordinance amendment could be adopted. Again, this is an
1282 unusual situation where all these buildings were legally built at 20 feet, and yet
1283 the last undeveloped lot would have to meet a more stringent front yard setback.
1284 So this is a good case for the BZA where you're just dealing with one property
1285 rather than a whole huge area of properties that could be addressed through an
1286 ordinance amendment.

1287
1288 Fourth, the granting of the variance does not result in a use that is not otherwise
1289 permitted on such property or a change in the zoning classification of the
1290 property. The proposed office warehouse building is a permitted use in the M-1
1291 District, and it's very common in this area to have one. So in this case, this would
1292 not be an illegal use variance.

1293
1294 And finally, a special exception or modification is not an option in this case.

1295
1296 To conclude, because the applicant could develop the property and comply with
1297 the current 25-foot front yard setback, the Board would certainly be within its
1298 authority to deny the variance. At the same time, with six of the seven parcels on
1299 this side of the street having a 20-foot front yard setback, requiring the only
1300 undeveloped parcel to have a greater setback is arguably an unreasonable
1301 restriction on the property. In addition, good planning principles would encourage
1302 a consistent front yard setback on this block. For these reasons, staff is
1303 recommending approval of this request subject to the conditions found in your
1304 staff report.

1305
1306 That concludes my presentation. I will be happy to entertain any questions you
1307 may have.

1308
1309 Mr. Berman - Thank you, Mr. Bidley. Board, do you have any
1310 questions for Mr. Bidley? Thank you, Mr. Bidley.

1311
1312 Mr. Bidley - Thank you, Mr. Chair.

1313
1314 Mr. Berman - Now I'll ask the applicant to please approach. Speak
1315 into the microphone and spell your name for the record, please.

1316
1317 Mr. Sisson - Good morning. My name is Andy Sisson. S-i-s-s-o-n.
1318 I'm with HG Design Studio representing the owner.

1319
1320 We have actually designed this at a 25-foot setback and can make it work at a
1321 25-foot setback. The five feet does make a difference with turning maneuvers in
1322 the back just in terms of a wider range of vehicles being able to access those
1323 doors. Most of the loading and unloading at this facility would actually be done
1324 inside of the building. So it's not even a matter of just being able to get to the
1325 door; it's being able to get lined up and get inside.

1326
1327 Perhaps more importantly in looking at this, the extra five feet does give us quite
1328 a bit of flexibility in terms of potential change in uses down the road in that it
1329 would actually give us enough room to have a drive aisle and parking up against
1330 the building if with a future use it required more parking, but only one of the
1331 doors—the flexibility would be there to rework the outside. Obviously, once the
1332 building's in place, the ability to shift around, you're really limited at that point. So
1333 to be able to address that before construction starts would be our preference.

1334
1335 And I should mention this. With regard to the elevations on this, the proposed
1336 elevation for this on the front and wrapping around the sides to the depth of the
1337 front office would be brick with a darker brick banding worked into it. The back of
1338 the building is split face CMU construction.

1339
1340 Mr. Berman - Thank you, Mr. Sisson. Any questions from the
1341 Board?

1342
1343 Ms. Harris - Mr. Sisson, did you say the side of the building would
1344 be brick also?

1345
1346 Mr. Sisson - It turns and goes back to the depth of the front office
1347 in brick, and then it shifts to a split face CMU down the rest of the back. I can't
1348 remember the exact depth of it that's in brick. Certainly the piece, if you were just
1349 driving down the street, given the separation from the building next door, you
1350 might pick up a little bit of where it transitions, but primarily your view of the
1351 building would be brick.

1352
1353 Ms. Harris - I was wondering about parking. I did drive through,
1354 and it seems sort of narrow compared to the other lots. I was wondering what
1355 you're going to do about parking.

1356
1357 Mr. Sisson - The drive aisle comes down along the side of the
1358 building. Parking spaces are all up against the back of the lot in the back.

1359
1360 Ms. Harris - Do you actually have a blueprint of the building with
1361 you?

1362
1363 Mr. Sisson - We haven't gone that far on the building. There's a
1364 schematic of how it would come together. But until we figured out where things
1365 were going to fit on the site, we didn't want the architects to get too far ahead of
1366 themselves.
1367
1368 Ms. Harris - Are you going to remove those trees? I notice it's a
1369 heavily wooded lot.
1370
1371 Mr. Sisson - In order to develop it, the lot will be cleared pretty
1372 much completely in order to get that in. Now we do have landscape strips. And
1373 this has been adjusted since this drawing was done. We've gotten a waiver from
1374 Public Works to narrow down the drive aisle coming down next to the building to
1375 allow for a landscape strip to run the full length of the property.
1376
1377 Ms. Harris - Okay, thank you.
1378
1379 Mr. Berman - Anybody else? Thank you, Mr. Sisson.
1380
1381 Mr. Sisson - Thank you. Is there anybody else who wishes to
1382 speak for the applicant? Is there anybody who wishes to speak against the
1383 applicant? Hearing none, Mr. Secretary, let's move on to the next application.
1384
1385 **[After the conclusion of the public hearings, the Board discussed the case**
1386 **and made its decision. This portion of the transcript is included here for**
1387 **convenience of reference.]**
1388
1389 Mr. Berman - Do I hear a motion?
1390
1391 Mr. Bell - I move that we accept it because I feel that it will have
1392 no detrimental impact on the community's safety, welfare, and also will improve
1393 the area based on the movement of the business.
1394
1395 Mr. Berman - Thank you, Mr. Bell. He has made a motion to accept.
1396 Do I hear a second?
1397
1398 Ms. Harris - Second the motion. Again, I wanted to state why I'm
1399 seconding the motion. I think to do otherwise would unreasonably restrict the use
1400 of their property. And also to promote consistency or conformity to the other sites
1401 on that street. And they have agreed to the brick facade and all the other
1402 conditions.
1403
1404 Mr. Berman - Thank you, Ms. Harris. With that second, is there any
1405 discussion? Hearing none, all in favor say aye. All opposed say no. None
1406 opposed. The ayes have it; the motion passes.
1407

1408 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1409 Ms. Harris, the Board **approved** application **VAR2017-00002, GRENOBLE**
1410 **LLC's** request for a variance from Section 24-94 of the County Code to build an
1411 office building and parking lot at 2507 Grenoble Rd (COMMERCE ACRES)
1412 (Parcel 765-747-3588) zoned Light Industrial District (M-1). The Board approved
1413 the variance subject to the following conditions:

1414
1415 1. This variance applies only to the front yard setback requirement for the
1416 proposed building. All other applicable regulations of the County Code shall
1417 remain in force.

1418
1419 2. Only the improvements shown on the site plan (Sheet Z-3) filed with the
1420 application may be constructed pursuant to this approval. Any additional
1421 improvements shall comply with the applicable regulations of the County Code.
1422 Any substantial changes or additions to the design or location of the
1423 improvements will require a new variance.

1424
1425 3. The front of the proposed building facing Grenoble Road shall be constructed
1426 with a brick façade.

1427
1428 4. Prior to the beginning of any construction, the applicant shall apply for and
1429 receive approval of a plan of development.

1430
1431
1432 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1433 Negative: 0
1434 Absent: 0

1435
1436
1437 **[At this point, the transcript continues with the public hearing on the next**
1438 **case.]**

1439
1440 Mr. Blankinship - VAR2017-0003, Avery M. Lynn, has been deferred. If
1441 anybody came in late and didn't get that, I apologize. I don't think there's
1442 anybody here. Now we'll go to VAR2017-00004, Christopher Wagner.

1443
1444
1445 **VAR2017-00004 CHRISTOPHER WAGNER** requests a variance from
1446 Section 24-94 of the County Code to build an addition at 1604 Denham Road
1447 (PINEDALE FARMS) (Parcel 751-747-2496) zoned One-Family Residence
1448 District (R-2A) (Tuckahoe). The rear yard setback is not met. The applicant
1449 proposes 35 feet rear yard setback, where the Code requires 45 feet rear yard
1450 setback. The applicant requests a variance of 10 feet rear yard setback.

1451

1452 Mr. Blankinship - Would everyone who intends to speak to this case
1453 please stand and be sworn in. Do you swear the testimony you're about to give is
1454 the truth, the whole truth, and nothing but the truth so help you God?
1455

1456 Mr. Madrigal - Thank you, Mr. Chair, members of the Board. Before
1457 you is a variance request to reduce the rear yard setback for an attached shed.
1458 The subject property is a corner lot located in the Pinedale Farms subdivision,
1459 established in 1968. The lot is approximately 19,400 square feet in area and is
1460 improved with a two-story, 2,940-square-foot residence with open parking
1461 constructed in 1969. Additionally, the home has an attached deck, two attached
1462 sheds, and a detached shed. Although the house is oriented towards Denham
1463 Road, the lot technically fronts on Denham Court, and here's a view of the front
1464 of the lot.
1465

1466 When originally built, the home was 2,460 square feet in floor area. In 1973, a
1467 variance was granted for a reduced rear yard setback in order to allow a 480-
1468 square-foot addition onto the dwelling. And here you can see the addition that
1469 was done.
1470

1471 Prior to the purchase of the property by the applicant in 1996, the previous owner
1472 added an 80-square-foot shed off the rear of the home and following the rear
1473 plane of the house. Here you can see the shed addition. And here's the rear
1474 yard.
1475

1476 While in the process of refinancing the property, it was discovered that this rear
1477 shed was built without the benefit of a building permit. The applicant
1478 subsequently filed for a building permit to remedy the situation, and was informed
1479 that a variance would be needed since the attached shed did not meet the
1480 required rear yard setback. The shed is 35 feet distant from the rear yard instead
1481 of 45 feet, as required in an R-2A District. And here is a view of the rear yard so
1482 you can see the distance between the rear property line and the rear plane of the
1483 house.
1484

1485 With respect to the threshold question, in recognition of the unique shape and
1486 orientation of the home, the Board approved a variance request in 1973, which
1487 reduced the rear yard setback for a substantial addition. This unique situation is
1488 still a present factor that creates a hardship for the applicant.
1489

1490 Relative to the five subtests required for the granting of the variance, they are as
1491 follows. Test one, the applicant appears to have purchased the property in good
1492 faith and is not responsible for the current situation.
1493

1494 Test number two, the shed has been in place since 1994 and has not had a
1495 detrimental impact on adjacent or nearby property.
1496

1497 Test number three, the circumstances that have led to the applicant's request are
1498 unique to the property and are not of a general or recurring nature.

1499
1500 Test number four, granting the applicant's request will not result in a use
1501 variance.

1502
1503 And test number five, a special exception or modification is not an available
1504 remedy based on the circumstances of this case.

1505
1506 In conclusion, the property is consistent with both the zoning and the
1507 Comprehensive Plan designations. The applicant acquired the property in good
1508 faith and did not create the current situation. The home's orientation creates a
1509 unique situation which was the basis for granting the initial variance and which is
1510 still a present factor today. Although the shed was added without the benefit of a
1511 building permit, it follows the established setback allowed by a variance and does
1512 not create a substantial detrimental impact to surrounding properties or the
1513 neighborhood. Based on these facts, staff recommends approval subject to
1514 conditions.

1515
1516 This concludes my presentation. I'll be happy to answer any questions.

1517
1518 Mr. Berman - Thank you, Mr. Madrigal. Board, any questions?
1519 Thank you, sir.

1520
1521 Mr. Madrigal - Thank you.

1522
1523 Mr. Berman - Would the applicant please approach? Speak into the
1524 microphone and state your name and spell it for the record, please.

1525
1526 Mr. Wagner - Hello, I'm Christopher Wagner. W-a-g-n-e-r. I'm the
1527 owner of the property. I purchased the house in 1996. I've refinanced twice since
1528 then, and only in a current refinance was it identified by an appraiser that the
1529 shed had been previously added to the house by the previous owners apparently
1530 without a permit. And so I just wanted to approach the County and ask for a
1531 variance for this to make it legal. I'm hoping that this will be granted.

1532
1533 When I purchased the property, the previous owners did make a declaration, no
1534 additions, structural modifications, or other alterations or repairs were made
1535 without required permits or not in compliance with the building codes. So to the
1536 best of my knowledge, I had no awareness this was a problem. I was surprised to
1537 find out this is considered the back of my property. That was news to me, and I
1538 have learned a lot about zoning since then.

1539
1540 I very much appreciate the professionalism of the staff and your diligence in
1541 considering all of these cases today. I'm open for any questions. I have
1542 discussed this with my neighbors. No one has objected to this. I didn't get things

1543 in writing from them. A few offered to come here today, but I didn't want people to
1544 take time off from work, and the others are disabled, and I didn't want them to
1545 have to go through arranging transportation.

1546
1547 Mr. Berman - Thank you, Mr. Wagner. Does the Board have any
1548 questions for the applicant?

1549
1550 Ms. Harris - Yes. Mr. Wagner, so you don't intend to build
1551 anything in addition. You just want to—

1552
1553 Mr. Wagner - Yes. I'm not going to add anything new to this
1554 property.

1555
1556 Ms. Harris - Okay.

1557
1558 Mr. Wagner - I just want to get it right with the law.

1559
1560 Ms. Harris - Yes, thank you.

1561
1562 Mr. Mackey - Mr. Wagner, I think they said you already have
1563 applied for the building permit for the shed?

1564
1565 Mr. Wagner - Yes. We went through that, and we went through
1566 establishing that it met building codes for the time it was built. And I believe it's
1567 compliant even with building codes today. And it wasn't until we got to the later
1568 step of checking the zoning that we determined the variance problem or the
1569 encroachment problem.

1570
1571 Mr. Mackey - Thank you.

1572
1573 Mr. Berman - Any further questions? Thank you, Mr. Wagner.

1574
1575 Mr. Wagner - Thank you very much.

1576
1577 Mr. Berman - Is there anybody else who wishes to speak for the
1578 benefit of the applicant? Is there anybody who wishes to speak against the
1579 application? Hearing none, this concludes the applicants. We need to move now
1580 into motions.

1581
1582 **[After the conclusion of the public hearings, the Board discussed the case**
1583 **and made its decision. This portion of the transcript is included here for**
1584 **convenience of reference.]**

1585
1586 Mr. Berman - Do I hear a motion?

1587

1588 Mr. Bell - I so move that we accept this variance because it is
1589 not detrimental to the neighborhood, the establishment of the addition has been
1590 on the house a while, and therefore I suggest that we go ahead and approve this
1591 variance.

1592

1593 Mr. Berman - Thank you, Mr. Bell, who has made a motion for
1594 approval. Do I hear a second?

1595

1596 Ms. Harris - I second the motion. I feel just as Mr. Bell has
1597 expressed. The building has already existed for a while. These homeowners are
1598 just trying to make it legal, and I applaud them for their action.

1599

1600 Mr. Berman - Thank you, Ms. Harris. She has made a motion to
1601 second. Any further discussion? No further discussion. All in favor say aye. All
1602 opposed say no. None opposed. The ayes have it; the motion passes.

1603

1604 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1605 Ms. Harris, the Board **approved** application **VAR2017-00004, CHRISTOPHER**
1606 **WAGNER's** request for a variance from Section 24-94 of the County Code to
1607 build an addition at 1604 Denham Road (PINEDALE FARMS) (Parcel 751-747-
1608 2496) zoned One-Family Residence District (R-2A) (Tuckahoe). The Board
1609 approved the variance subject to the following conditions:

1610

1611 1. This variance applies only to an attached shed with a 35-foot rear yard
1612 setback. All other applicable regulations of the County Code shall remain in
1613 force.

1614

1615 2. Only the improvements shown on the plot plan filed with the application may
1616 be constructed pursuant to this approval. Any additional improvements shall
1617 comply with the applicable regulations of the County Code. Any substantial
1618 changes or additions to the design or location of the improvements will require a
1619 new variance.

1620

1621

1622 Affirmative: Bell, Berman, Harris, Mackey, Reid 5

1623 Negative: 0

1624 Absent: 0

1625

1626

1627 Mr. Berman - Mr. Secretary, do we have any other business on the
1628 agenda?

1629

1630 Mr. Blankinship - Nothing but the minutes.

1631

1632 Mr. Berman - Okay, do I hear a motion for the minutes? Well
1633 actually first, are there any corrections to the minutes?

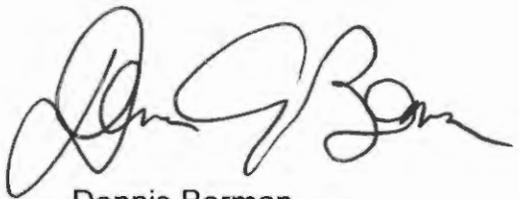
1634
1635 Mr. Reid - Mr. Berman, I noticed on the top line here, members
1636 present, they have you listed as vice chairman rather than chairman.
1637
1638 Mr. Berman - I got demoted.
1639
1640 Mr. Blankinship - At the beginning of the meeting, you were the vice
1641 Chairman.
1642
1643 Mr. Berman - Was I?
1644
1645 Mr. Blankinship - Wasn't that meeting at which you were elected
1646 chairman?
1647
1648 Mr. Berman - That was the month before that, wasn't it?
1649
1650 Mr. Blankinship - Oh, okay. Well, we need to get that corrected.
1651
1652 Mr. Berman - All right, thank you, Mr. Reid. That is page 1, line 8.
1653 Strike the word *vice* from my title.
1654
1655 Mr. Blankinship - In that case, we need to list the vice chair as well.
1656
1657 Mr. Berman - And add to Mr. Mackey, vice chairman. Thank you,
1658 Mr. Reid. Moving on to page 5, line 188, please change the word mike (m-i-k-e)
1659 to m-i-c. It's an abbreviation for *microphone*.
1660
1661 Mr. Blankinship - What was the line number again?
1662
1663 Mr. Berman - Line #188, page 5. And similarly on page 12, like 503.
1664 Change "mike" to "mic." And again on page 21, line 936. Any further corrections
1665 to the minutes? Hearing none, let's hear a motion on the minutes.
1666
1667 Mr. Mackey - I move that we accept the minutes with the added
1668 corrections.
1669
1670 Mr. Berman - Mr. Mackey has made a motion to accept. Is there a
1671 second?
1672
1673 Mr. Reid - Second.
1674
1675 Mr. Berman - Any further discussion? All in favor say aye. All
1676 opposed say no. None opposed. The ayes have it; the motion passes.
1677

1678 On a motion by Mr. Mackey, seconded by Mr. Reid, the Board **approved as**
1679 **corrected** the **Minutes of the December 15, 2016**, Henrico County Board of
1680 Zoning Appeals meeting.

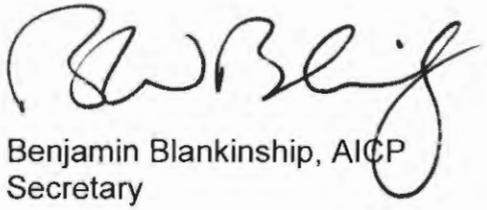
1681
1682
1683 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1684 Negative: 0
1685 Absent: 0
1686

1687
1688 Mr. Berman - If there is no further business, thank you everybody.
1689 Have a great rest of your day. We are adjourned.

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Dennis Berman
Chairman



Benjamin Blankinship, AICP
Secretary