

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 HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, JUNE 28, 2007, AT 9:00 A.M., NOTICE HAVING**
5 **BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JUNE 7, 2007 AND**
6 **JUNE 14, 2007.**

7
Members Present: Richard Kirkland CBZA, Acting Chairman
Helen E. Harris
R. A. Wright

Members Absent: James W. Nunnally, Chairman
Elizabeth G. Dwyer

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
Carla Brothers, Office Assistant IV

8
9
10 Mr. Kirkland - Good morning, ladies and gentlemen. We welcome
11 you to our June 28, 2007 meeting of the Board of Zoning Appeals of Henrico
12 County. Will you please stand and join us in the **Pledge of Allegiance to the**
13 **Flag of Our Country.**

14
15 Before we get started, I'd like to make an announcement. As you see, normally
16 our Board's made up of five members. We have one out for, I think, vacation,
17 and one on a medical issue. We only have three members here, so that each
18 case we hear, we all have to vote unanimously or you will be turned down. At
19 this time, I will give you an opportunity if you would like to defer until next month
20 when all five members are back so your chances will be a lot better. Any of the
21 applicants that wish to do that can come to the podium now and state that. If not,
22 we'll hear your case and you can take your chances.

23
24 Mr. Wright - Rick, why don't you give them a couple minutes to
25 think about it.

26
27 Mr. Blankinship - While they think that over, I can go through the—

28
29 Mr. Kirkland - Mr. Blankinship will read the rules while you're
30 thinking it over.

31
32 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
33 ladies and gentleman. The rules for this meeting are as follows. As Secretary, I
34 will announce each case and while I'm speaking, the applicant should come

81 Mr. Blankinship - Yes, please.
82
83 Mr. Kirkland - Can you just give us a brief synopsis, because we
84 heard it pretty extensively last month.
85
86 Mr. Smith - Okay. Mr. Castleberry owns a parcel on Charles City
87 Road that has no public street frontage and he's requesting a variance from the
88 ordinance for zero street frontage to build a single-family home on this parcel.
89
90 Mr. Kirkland - Has the question about Mr. Ukrop been resolved?
91
92 Mr. Smith: Yes it has.
93
94 Mr. Kirkland - Is that correct, Mr. Secretary?
95
96 Mr. Blankinship - Yes.
97
98 Mr. Kirkland - Okay. Any other questions by Board members?
99
100 Mr. Wright - Yes. Let's talk about your access a little bit so I can
101 get a good feel for this. We have a survey here. This is it, isn't it?
102
103 Mr. Smith - Yes.
104
105 Mr. Wright - It's on the screen. Is that, is that the way you will
106 access your property?
107
108 Mr. Smith - Yes. We are proposing to do a new right-of-way
109 easement through the parcel in the front to get to this parcel in the back. The
110 Ukrop's have requested that we vacate the existing 10-foot wide ingress/egress
111 easement over the existing driveway. We are amenable to that. We have no
112 opposition to that whatsoever. With a new driveway, we don't even need that old
113 access.
114
115 Ms. Harris - Would you point out Mr. Ukrop's property on this map,
116 please.
117
118 Mr. Smith - Mr. Ukrop's property is the one that is labeled,
119 "Redbird Farm, LLC." It's right here.
120
121 Ms. Harris - Okay.
122
123 Mr. Blankinship - So, they actually cross that property in order to get to
124 this one.
125

126 Mr. Wright - That would be to the east of your property, I take it,
127 based on this.
128
129 Mr. Smith - Yes. I don't know if yours kind of cuts off there.
130
131 Ms. Harris - Do we need that as a condition, the agreement with
132 Mr. Ukrop? You said that you needed to vacate how much of the right-of-way?
133
134 Mr. Smith - No. We would just vacate the existing ingress/egress
135 easement over Redbird Farm.
136
137 Mr. Wright - Tell us a little bit about what you plan to build on the
138 property.
139
140 Mr. Smith - I believe a two-story single-family residence. Do you
141 know the square footage, Mr. Castleberry?
142
143 Mr. Castleberry - We're looking at somewhere between 12 and 15.
144
145 Mr. Wright - Would you get up closer? I can't hear you.
146
147 Mr. Castleberry - Between 1,200 and 1,500 square feet.
148
149 Ms. Harris - Can you point out the—I'm sorry, had you finished
150 your question?
151
152 Mr. Wright - Yes.
153
154 Ms. Harris - Okay. Would you show us how you're going to access
155 this property? I see two proposed—
156
157 Mr. Smith - We would be accessing the property over this
158 proposed 50-foot right-of-way easement.
159
160 Mr. Wright - Look on the screen, Mrs. Harris.
161
162 Ms. Harris - Okay.
163
164 Mr. Smith - That easement would actually be used now to access
165 both of those parcels. The existing parcel, ID 845-695-2135. That's the parcel
166 that has access of that 10-foot ingress/egress easement. We would vacate that
167 and access both of these parcels from that 50-foot right-of-way easement.
168
169 Mr. Kirkland - Mr. Blankinship, do you have to put anything in the
170 record here to say the other access is being eliminated from the plot plan here.
171

172 Mr. Blankinship - If that would be important to your decision, then yes, I
173 think you should make it a condition.
174
175 Mr. Wright - Well, he stated that they've agreed to do it, so I don't
176 see why we couldn't put it in there.
177
178 Mr. Kirkland - Yeah, I think we should.
179
180 Ms. Harris - Had you discussed the feasibility of—since you
181 already have 50 feet—about changing this private road into a public road, make
182 an application to do that?
183
184 Mr. Smith - Not at this time, ma'am, no.
185
186 Ms. Harris - Okay. Do you have any idea of what is involved with
187 that process?
188
189 Mr. Smith - In order to do that, they would have to go through
190 Public Works.
191
192 Mr. Wright - I'm not so sure, Ms. Harris, whether they would permit
193 that short road to be a public road or not.
194
195 Ms. Harris - Yes.
196
197 Mr. Smith - The option for a much greater expense.
198
199 Ms. Harris - For a dead end, it is.
200
201 Mr. Smith - Under current standards, we'd have to make that a
202 24-foot wide edge of pavement with 4-foot shoulders. I mean, that would be very
203 cost prohibitive for two houses.
204
205 Mr. Kirkland - How wide is the graveled area now that's down there?
206
207 Mr. Smith - Well, the one they're using now is 10-feet wide.
208 We're building a driveway for two houses; probably we'd make it a minimum of
209 12 feet wide.
210
211 Mr. Kirkland - So, a fire truck could get down there with no problem.
212
213 Mr. Smith - Yes.
214
215 Mr. Kirkland - Okay, thank you. Any other questions? That
216 completes the case. Oh, excuse me, sir. Are you for or against?
217

218 Mr. Ukrop - Kind of both.
219
220 Mr. Kirkland - Come on up front. I'm sorry; I didn't see you. You're
221 so quiet in the back there.
222
223 Mr. Ukrop - Sorry. Good morning. My name is Jeff Ukrop. I'm
224 with the Redbird Farm, one of the adjacent property owners to the said property.
225 First of all, I'd like to apologize for last month. We obviously didn't have our
226 ducks in a row when we came to figure everything out. Over the last month,
227 we've had a chance to talk to Mr. Smith and Mr. Castleberry. We had a good
228 conversation. In principal, we don't object to him building a single-family dwelling
229 in this three-acre property. That's not an issue, assuming the proposed
230 easement through someone else's five-acre property is established. I don't see
231 anybody else in opposition, so I'm guessing that landowner is not really worried
232 about that. I'm guessing that will go through; maybe it won't. So, assuming that
233 50-foot right-of-way easement is established, we see that he has ingress and
234 egress to his property, and we're okay with that. He's trying to maximize the
235 value of his property. He's a homebuilder. He's doing what he does for a living.
236 We don't have a problem with that. If for some reason that 50-foot easement is
237 not established, that's where our opposition comes in, because we see no way—
238
239 Mr. Wright - Let me say this, Mr. Ukrop. If this is approved, there
240 will be a condition attached to it that that 50-foot easement is required for it to be
241 approved.
242
243 Mr. Ukrop - Perfect.
244
245 Mr. Wright - If somehow that falls through, the whole thing would
246 fail.
247
248 Mr. Ukrop - Excellent.
249
250 Mr. Wright - —we were going to put a condition on—if this is
251 approved; I don't know, we're going to vote later—that other easement, that other
252 little road will be closed.
253
254 Mr. Ukrop - Right.
255
256 Mr. Wright - Those two things, they are certain if this is approved.
257
258 Mr. Ukrop - Okay.
259
260 Mr. Wright - Just wanted to assure you of that.
261
262 Mr. Ukrop - Excellent. Again, I apologize for our incompetence
263 last month. I appreciate your time.

264
265 Mr. Kirkland - Thank you very much.
266
267 Mr. Ukrop - Thank you.
268
269 Mr. Kirkland - Mr. Smith, do you have any rebut? Okay. All right.
270 Now, that concludes the case. I'm sorry I missed you, Mr. Ukrop, in the back.
271

272 **DECISION**

273
274 Mr. Wright - I move we approve it on the grounds that there's no
275 beneficial use of this property if we didn't grant the variance.
276

277 Ms. Harris - Second the motion. Can we have discussion?
278

279 Mr. Kirkland - Yeah, you can discuss now.
280

281 Ms. Harris - Okay. These cases where we have zero feet public
282 street frontage are items that we are currently discussing with the Board of
283 Supervisors and have not been resolved. Unless these applicants want to wait, I
284 think we need to move ahead with what we feel is fair and the proper
285 interpretation of law. I have seconded the motion.
286

287 Mr. Kirkland - All right. Mr. Blankinship, we do need to include a
288 condition that they would remove the existing easement over the Redbird Farm,
289 Incorporated, and incorporate the new 50-foot easement.
290

291 Mr. Wright - That's already in it, I think.
292

293 Mr. Kirkland - If you would make sure that's in the record. I don't
294 know if we wrote that in there or not.
295

296 Mr. Blankinship - All right.
297

298 Mr. Kirkland - All right. All in favor say aye. All opposed say no. The
299 motion passes.
300

301 After an advertised public hearing and on a motion by Mr. Wright, seconded by
302 Ms. Harris, the Board **approved** application **A-015-07**, Richard Castleberry's
303 request for a variance from Section 24-9 to build a one-family dwelling at 5550
304 Charles City Road (Parcel 845-695-3957), zoned A-1, Agricultural District
305 (Varina). The Board granted the variance subject to the following conditions:
306

307 1. This variance applies only to the public street frontage requirement for one
308 dwelling only. All other applicable regulations of the County Code shall remain in
309 force.

356
357 Mr. Gunderson - Pardon?
358
359 Mr. Kirkland - State your name for the record, please.
360
361 Mr. Gunderson - Oh. Aubrey Gunderson.
362
363 Mr. Kirkland - What do you want us to do for you today?
364
365 Mr. Gunderson - We have a parcel of land that was purchased and the
366 plot was submitted to Engineering and Design, which is an outside firm. They
367 [unintelligible] points of the house and where everything was to go and it was
368 submitted to the County and approved and the house was built. On the final
369 inspection, it was turned down because they said we didn't have enough
370 setback. We were not aware of any minimum setback.
371
372 Mr. Kirkland - Do you have a set of plans that were approved by the
373 County with it stamped?
374
375 Mr. Gunderson - No sir.
376
377 Mr. Blankinship - They're in the file.
378
379 Mr. Kirkland - We do have a set, right?
380
381 Mr. Blankinship - Yes sir.
382
383 Mr. Kirkland - Any questions by Board members?
384
385 Ms. Harris - What is the address of this parcel?
386
387 Mr. Gunderson - I'm hard of hearing, ma'am.
388
389 Ms. Harris - What is the address of this parcel?
390
391 Mr. Gunderson - It is 200 North Confederate Avenue.
392
393 Ms. Harris - You have two buildings here, two structures here on
394 200?
395
396 Mr. Gunderson - Yes ma'am.
397
398 Ms. Harris - Doesn't that make for confusion with the mail?
399
400 Mr. Blankinship - I think we're going to renumber those.
401

402 Ms. Harris - Okay.
403
404 Mr. Blankinship - Up until about a year or so ago, there was one
405 dwelling on both lots and that was numbered 200. It was demolished. There has
406 have always been two lots, but the one dwelling was built on both of them. That
407 dwelling was demolished and two dwellings built in its place. So, they'll be 200
408 and 202. 202 is fine. 200 is the corner lot, and that's the one that has the
409 additional setback that was not taken into account.
410
411 Mr. Wright - There's no problem that this was approved in error by
412 the Planning Office.
413
414 Mr. Blankinship - That's correct.
415
416 Mr. O'Kelly - I would add, too, that the surveyor probably submitted
417 a plat that was in error.
418
419 Mr. Blankinship - It is ultimately the owner's responsibility, but the
420 County approved the permit.
421
422 Mr. Wright - And the house is on the lot.
423
424 Mr. Gunderson - Yes sir.
425
426 Mr. Wright - The only alternative would be to tear the house down,
427 right?
428
429 Mr. Blankinship - Can you show the photo, Paul? We'd have to take the
430 right seven feet of the house off to bring it into compliance.
431
432 Mr. Kirkland - Any other questions? Anyone else wish to speak on
433 this case? That concludes the case, sir. We'll come to a decision at the end of
434 the meeting.
435
436 **DECISION**
437
438 Mr. Wright - I move we approve it on the grounds an error was
439 made and the house is already constructed. I think it would be detrimental and
440 unreasonable, in view of the circumstances, to require the house to be removed.
441
442 Ms. Harris - I second the motion.
443
444 Mr. Kirkland - All in favor say aye. All opposed say no. The motion
445 passes.
446
447

448 After an advertised public hearing and on a motion by Mr. Wright, seconded by
449 Ms. Harris, the Board **approved** application **A-016-07**, Linda and Aubrey
450 Gunderson's request for a variance from Section 24-95(j) to allow a one-family
451 dwelling to remain at 200 N Confederate Avenue (Sandston) (Parcel 826-717-
452 5049 (part)), zoned R-3, One-family Residence District (Varina). The Board
453 granted the variance subject to the following conditions:
454

455 1. This variance applies only to the side yard setback requirement for the
456 dwelling on the property. All other applicable regulations of the County Code shall
457 remain in force.
458

459
460 Affirmative: Harris, Kirkland, Wright 3
461 Negative: 0
462 Absent: Dwyer, Nunnally 2
463

464
465 Mr. Kirkland - Next case, sir.
466

467 **A-017-07** **JOHN W. GIBBS, JR.** requests a variance from
468 Section 24-9 to build a one-family dwelling at 8582 Gibbs Lane (Parcel 818-681-
469 2912), zoned A-1, Agricultural District (Varina). The public street frontage
470 requirement is not met. The applicant has 0 feet public street frontage, where
471 the Code requires 50 feet public street frontage.
472

473 **A-018-07** **JOHN W. GIBBS, JR.** requests a variance from
474 Section 24-9 to build a one-family dwelling at 8584 Gibbs Lane (Parcel 818-681-
475 7630), zoned A-1, Agricultural District (Varina). The public street frontage
476 requirement is not met. The applicant has 0 feet public street frontage, where
477 the Code requires 50 feet public street frontage.
478

479 Mr. Kirkland - Anyone else here wish to speak on this case? If you
480 would, sir, raise your right hand.
481

482 Mr. Blankinship - Do you swear the testimony you're about to give is
483 the truth and nothing but the truth so help you God?
484

485 Mr. Barber - I do.
486

487 Mr. Kirkland - State your name for the record.
488

489 Mr. Barber - My name is Scott Barber. I'm representing the owner,
490 Mr. John Gibbs.
491

492 Mr. Kirkland - Spell your last name, sir.
493

494 Mr. Barber - B-A-R-B-E-R.
495
496 Mr. Kirkland - All right. Tell us what you want.
497
498 Mr. Barber - Generally, we agree with the recommendations made
499 by the Planning staff and the language included in their reports. We're basically
500 just requesting a variance for public road frontage in order to market two lots
501 available for single-family residential construction. As I said, we generally agree
502 with everything that's been included with the Planning staff report. That kind of
503 speaks for itself and kind of makes our case. Generally, I'd like to just say, to
504 reiterate or underscore that the parcels have existed for quite sometime, possibly
505 over a hundred years. It's not like we just created these. Furthermore, to use
506 Planning staff's language or the State's language, there really is no reasonable
507 or beneficial use for the parcels without the variance. With the hope that it is
508 granted, we've taken the necessary steps to ensure that if they are developed,
509 that they're done so responsibly by means of the road maintenance agreement
510 and some road upgrades that we've done. That's pretty much it.
511
512 Mr. Wright - You've read the conditions, I take it. Does this letter
513 have something to do with the conditions?
514
515 Mr. Barber - I'm sorry, I'm not sure—
516
517 Mr. Blankinship - That's a different case.
518
519 Mr. Wright - That's a different case. Oh, okay. You've read the
520 conditions proposed for both these cases?
521
522 Mr. Barber - I have.
523
524 Mr. Kirkland - You're in accord with those conditions.
525
526 Mr. Barber - Yes sir.
527
528 Ms. Harris - When you were talking about the upgrades, are you
529 talking about the way you have maintained the roads?
530
531 Mr. Barber - Yes ma'am.
532
533 Mr. Blankinship - Paul, would you show the condition of that road,
534 please?
535
536 Mr. Kirkland - Mr. Barber, how wide is that graveled area, roughly?
537
538 Mr. Barber - Between 12 and 14 feet. It's a variable width, but
539 throughout almost the entire length, it's 14 feet wide.

540
541 Mr. Kirkland - What's the length of the road?
542
543 Mr. Barber - That I'm not sure we have calculated. I'm trying to do
544 the math in my head. Just shy of a thousand feet.
545
546 Mr. Kirkland - A lot of maintenance.
547
548 Mr. Barber - We've installed such a good, strong base there, in
549 terms of gravel, that—And we've discussed this with the other homeowners, or
550 the participants in the road maintenance agreement. We all feel that it will be
551 relatively low in terms of cost. The quality of the road before we made these
552 upgrades was very poor. It took a toll on vehicles. It was kind of scary to drive
553 anything other than a four-wheel drive vehicle. Given the length and the width,
554 yes, I can understand the concern, but it's in much, much better shape now and it
555 will be much safer to drive on.
556
557 Mr. Kirkland - What size homes are you putting on the property?
558
559 Mr. Barber - We're actually not homebuilders, but given the
560 location, these lots will probably lend themselves to 1,800 feet plus, hopefully
561 two-story.
562
563 Mr. Kirkland - Okay.
564
565 Ms. Harris - Has this land ever been farmed?
566
567 Mr. Barber - Actually, Planning staff's research suggests no. We're
568 not aware of any farming history, but who can say 300- 400 years ago.
569
570 Ms. Harris - But it's been mined.
571
572 Mr. Barber - Actually, no, I don't think it has.
573
574 Mr. Blankinship - Property near this had been mined.
575
576 Ms. Harris - In the back.
577
578 Mr. Blankinship - Immediately to the south.
579
580 Mr. Barber - I don't know if you have any aerial photography at
581 your disposal, but you can kind of get an idea of where the mining used to be.
582
583 Mr. Blankinship - You can still see some of the reclamation there in the
584 lower right corner of that photo.
585

586 Ms. Harris - Yes.
587
588 Mr. Barber - You don't get a flavor for that at all when you're
589 actually out there on these parcels, it's so heavily wooded. The only way you
590 could really see that is from the interstate or from aerial photography.
591
592 Mr. Kirkland - Any other questions? Again, anyone wish to speak in
593 opposition to this case? If not—
594
595 Ms. Harris - How soon do you plan to improve this land?
596
597 Mr. Barber - We don't really have any plans to improve. Certainly,
598 the road upgrades improve the parcels, but in terms of clearing, I assume?
599
600 Ms. Harris - No, building.
601
602 Mr. Barber - Again, we're not homebuilders. We've talked to some
603 homebuilders who do work in this area. We haven't gotten anywhere near
604 discussing the sale of this because we didn't want to be too presumptuous about
605 the variance. But assuming it is granted, soon, very soon.
606
607 Ms. Harris - The reason I ask is because we have many cases
608 that come before us asking for variances from public road frontage and we're
609 working on that. We've called it to the Board of Supervisors' attention that this is
610 a recurring issue.
611
612 Mr. Barber - Yes ma'am.
613
614 Ms. Harris - Because it is recurring, we really have no jurisdiction.
615
616 Mr. Barber - We actually discussed that, but it was a very short
617 discussion in terms of the potential for upgrading it to a public road. Given the
618 location, the financial feasibility of doing so, and really the lots, the parcels the
619 road would serve—We concluded it wasn't reasonable. But I appreciate that
620 concern.
621
622 Mr. O'Kelly - Mr. Blankinship, is there any time limit on this
623 variance?
624
625 Mr. Blankinship - If it is approved and no action is taken for two years, it
626 will expire. You will have two years, or your buyer will have two years to get all of
627 the permits necessary for construction.
628
629 Mr. Barber - We would hope to have it done within a month or two.
630
631 Mr. Blankinship - Just wanted you to be aware of that.

632
633 Mr. Barber - Thank you.
634
635 Mr. Kirkland - Any other comments by Board members? By staff?
636 That concludes the case. Thank you sir.
637
638 Mr. Barber - Both cases?
639
640 Mr. Blankinship - Yes.
641
642 Mr. Kirkland - Yes sir.
643
644 Mr. Barber - Thank you.
645
646 Mr. Kirkland - Although we heard these two cases together, we'll
647 take them one at a time. A-017-07.
648

649 DECISION

650
651 Mr. Wright - I move we approve it on the grounds that there is no
652 beneficial use of the property other than granting the variance for this particular
653 use.
654

655 Ms. Harris - I second the motion. I know that we do have
656 sentiments on the Board that we should not approve cases such as this, but I do
657 feel that we must be fair-minded. If a developer were to purchase these parcels,
658 they could very easily access a public road, but we should not discriminate
659 against individual landowners. I do second the motion.
660

661 Mr. Kirkland - All in favor say aye. All opposed say no. The motion
662 passes.
663

664 After an advertised public hearing and on a motion by Mr. Wright, seconded by
665 Ms. Harris, the Board **approved** application, **A-017-07**, John W. Gibbs, Jr.'s
666 request for a variance from Section 24-9 to build a one-family dwelling at 8582
667 Gibbs Lane (Parcel 818-681-2912), zoned A-1, Agricultural District (Varina). The
668 Board granted the variance subject to the following conditions:
669

670 1. This variance applies only to the public street frontage requirement for one
671 dwelling only. All other applicable regulations of the County Code shall remain in
672 force.
673

674 2. Approval of this request does not imply that a building permit will be issued.
675 Building permit approval is contingent on Health Department requirements,
676 including, but not limited to, soil evaluation for a septic drainfield and reserve
677 area, and approval of a well location.

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

4. The applicant shall present proof with the building permit application that a legal access to the property has been obtained.

5. The owners of the property, and their heirs or assigns, shall accept responsibility for maintaining access to the property until such a time as the access is improved to County standards and accepted into the County road system for maintenance

Affirmative:	Harris, Kirkland, Wright	3
Negative:		0
Absent:	Dwyer, Nunnally	2

Mr. Kirkland - Next case, companion case A-018-07.

DECISION

Mr. Wright - I move we approve it on the same grounds that there's no beneficial use of the property other than granting the variance.

Ms. Harris - Second the motion for the same reason that I expressed before.

Mr. Kirkland - All in favor say aye. All opposed say no. The motion passes.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Ms. Harris, the Board **approved** application **A-018-07**, John W. Gibb, Jr.'s request for a variance from Section 24-9 to build a one-family dwelling at 8584 Gibbs Lane (Parcel 818-681-7630), zoned A-1, Agricultural District (Varina). The Board granted the variance subject to the following conditions:

1. This variance applies only to the public street frontage requirement for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements,

723 including, but not limited to, soil evaluation for a septic drainfield and reserve
724 area, and approval of a well location.

725

726 3. At the time of building permit application, the applicant shall submit the
727 necessary information to the Department of Public Works to ensure compliance
728 with the requirements of the Chesapeake Bay Preservation Act and the code
729 requirements for water quality standards.

730

731 4. The applicant shall present proof with the building permit application that a
732 legal access to the property has been obtained.

733

734 5. The owners of the property, and their heirs or assigns, shall accept
735 responsibility for maintaining access to the property until such a time as the
736 access is improved to County standards and accepted into the County road
737 system for maintenance.

738

739

740 Affirmative: Harris, Kirkland, Wright 3

741 Negative: 0

742 Absent: Dwyer, Nunnally 2

743

744

745 Mr. Kirkland - Next one, sir.

746

747 **A-019-07 G. WAYNE AND KAREN C. MATTHEWS** request a
748 variance from Section 24-9 to build a one-family dwelling at 11409 Old
749 Washington Highway (Parcel 772-774-3512 (part)), zoned A-1, Agricultural
750 District (Brookland). The public street frontage requirement is not met. The
751 applicant proposes 0 feet public street frontage, where the Code requires 50 feet
752 public street frontage.

753

754 **A-020-07 G. WAYNE AND KAREN C. MATTHEWS** request a
755 variance from Section 24-9 to build a one-family dwelling at 11415 Old
756 Washington Highway (Parcel 772-774-3512 (part)), zoned A-1, Agricultural
757 District (Brookland). The public street frontage requirement is not met. The
758 applicant proposes 0 feet public street frontage, where the Code requires 50 feet
759 public street frontage.

760

761 Mr. Kirkland - Anyone else wish to speak in opposition to this case?

762

763 [Off mike] - In opposition, no.

764

765 Mr. Kirkland - Speak at all.

766

767 [Off mike] - Yes.

768

769 Mr. Kirkland - I'm sorry. Would you raise your right hand and be
770 sworn in?
771
772 Mr. Blankinship - Do you swear the testimony you're about to give is
773 the truth and nothing but the truth so help you God?
774
775 Mr. Kirkland - Would you state your name for the record, sir.
776
777 Mr. Matthews - Wayne Matthews.
778
779 Ms. Matthews - Karen Matthews.
780
781 Mr. Kirkland - Before we start, we have a letter here we received
782 from someone. I'd like you to see a copy of it. Okay. What do you want us to do
783 for you today?
784
785 Mr. Matthews - We'd like to have a variance.
786
787 Mr. Blankinship - Could you get a little closer to the microphone?
788
789 Mr. Matthews - I'm sorry. We'd like to have a variance approved
790 today for a family subdivision. I'd like to grant an acre for my daughter and an
791 acre for my son behind us. We started this process back in 2000, 2002, excuse
792 me, with looking at and talking to the County about the possibilities and so on
793 and so forth. We looked at the property behind us to purchase, and that's through
794 a flood zone, which would be quite extensive and expensive to take on a project
795 like that. So, our proposal is to take and come off of our property, come down our
796 drive, and come down the side of the property line to put the two homes in. This,
797 of course, is for our family. I don't have any desire to sell the three pieces. This
798 would be just for us.
799
800 Ms. Harris - The land that's here now, how is it being used? Has it
801 been farmed at all?
802
803 Mr. Matthews - Ma'am, the land was being farmed prior to my
804 purchasing the property. We built on, if you will, the front two acres. I have a
805 small garden, but not as far as a full-fledged agricultural farm. No ma'am.
806
807 Mr. Wright - So, the property that you own, what is it, the 4.406
808 acres, has not been farmed?
809
810 Mr. Matthews - No sir. Not since I have owned it.
811
812 Mr. Blankinship - Which has been 20 years?
813
814 Mr. Matthews - Approximately 20 years, yes sir.

815
816 Mr. Kirkland - Would there be any reasonable expectation that you
817 could farm it?
818
819 Mr. Matthews - I don't think so, sir.
820
821 Mr. Wright - Your house is on the first front portion of the acreage.
822
823 Mr. Matthews - Yes sir, that's correct.
824
825 Mr. Wright - What are the sizes of these two lots? Do we have it
826 on this plat?
827
828 Mr. Matthews - An acre on each one of them.
829
830 Mr. Wright - There will be an acre?
831
832 Mr. Matthews - Yes sir.
833
834 Mr. Wright - Okay.
835
836 Mr. Blankinship - You may have noticed in the staff report that there will
837 be a need to redesign those lots somewhat. The requirement is that they be one
838 acre outside of the floodplain. At least the rear lot is going to have some
839 floodplain on it.
840
841 Mr. Matthews - We are in complete agreement with that.
842
843 Mr. Blankinship - There will have to be some adjustments to what is in
844 front of you.
845
846 Mr. Kirkland - On the second lot, you can get an acre out of the
847 floodplain.
848
849 Mr. Matthews - Yes sir. The second lot is not affected at all.
850
851 Mr. Kirkland - I meant the second new lot.
852
853 Mr. Matthews - Oh, I'm sorry.
854
855 Mr. Kirkland - So, the second new lot?
856
857 Mr. Matthews - Yes sir.
858
859 Mr. Kirkland - You own all the way to the—How far back does your
860 property really go? Is that the dead end of it?

861
862 Mr. Matthews - The little corner, the very point is the end of my
863 property line, sir.
864
865 Mr. Kirkland - Okay.
866
867 Mr. Blankinship - Go to the aerial, please? Can you zoom it out?
868
869 Mr. Kirkland - I was wondering what the other lot line was. What is
870 that little strip of land, Mr. Blankinship, between those two lots going back to that
871 last lot?
872
873 Mr. Wright - Where?
874
875 Mr. Kirkland - It looks like a little narrow maybe 50-foot strip going
876 back, coming off of Greenwood Road.
877
878 Mr. Matthews - I believe, sir, that is the property that Mr. Trexler
879 owns.
880
881 Mr. Blankinship - That's correct.
882
883 Mr. Kirkland - What does that say, 60? Is that a house on that
884 property?
885
886 Mr. Matthews - No, it's all wooded. It's all floodplain back through
887 there.
888
889 Mr. Kirkland - Okay.
890
891 Mr. Matthews - In fact, the very tip of my property is what is actually in
892 the floodplain. Everything else is excluded from that.
893
894 Mr. Kirkland - Okay.
895
896 Ms. Harris - Are you familiar with John and Donna Oliver? Where
897 is their property?
898
899 Mr. Matthews - Their property is right next to ours to the—if you're
900 looking at this way, the lower property.
901
902 Mr. Blankinship - The south of you?
903
904 Mr. Matthews - Yes.
905
906 Ms. Harris - Where is the kennel that the letter references?

907
908 Mr. Matthews - Who is operating the hand? Come down, if you will.
909 Yeah, about right there.
910
911 Mr. Blankinship - If you zoom a bit there, Paul, you'll bet able to see it.
912
913 Mr. Wright - How long have they been there?
914
915 Mr. Matthews - Actually, I helped him a couple of years ago. His
916 kennel license expired and I got it approved. He is in a hunt club. We've not had
917 any problems with the kennel. I explained to him that I explained to the kids that
918 when the houses were built, what they get is what they get. The dogs are there
919 and we don't have any intentions on requesting that the variance or the kennel
920 license be removed.
921
922 Ms. Harris - The access to these two new lots that you propose
923 will be close to the kennel or will it be on the other side of your property?
924
925 Mr. Matthews - It will be on the other side, ma'am. The asphalt drive
926 that you see—yes ma'am—we'll take and come straight on back to the other two
927 pieces of property.
928
929 Ms. Harris - How do you address his concern that this will create a
930 noise problem or be annoying for the neighbors if they have additional residents
931 of additional houses in this area?
932
933 Mr. Matthews - I'm sorry, ma'am?
934
935 Ms. Harris - How do you address his concerns? He's concerned
936 that you will have problems with the dogs or neighbors complaining about more
937 noises from the dogs.
938
939 Mr. Matthews - Well, two things will probably occur. In the future, I
940 think my kids will probably put a fence up. We grew up there and the Oliver's
941 have grown up there, too. We don't have a problem with the dogs now and the
942 children understand that the dogs are there. If they build on the property, that
943 they get part of the dogs. Not trying to give you a blatant answer, but they are
944 aware that the dogs are there and have no reason after they build to try to start
945 complaining that the dogs are barking.
946
947 Ms. Harris - What kind of dogs are they?
948
949 Mr. Matthews - They're hunting dogs. Beagles, mostly.
950
951 Mr. Kirkland - Have you read all the conditions?
952

953 Mr. Matthews - Yes sir.
954
955 Mr. Kirkland - Do you have any problem with any of them?
956
957 Mr. Matthews - No sir, we do not.
958
959 Mr. Kirkland - Any other questions from Board members? All right,
960 sir. I think someone else wanted to speak.
961
962 Mr. Hickman - Good morning. My name is Michael Hickman. I own
963 the property north of the Matthews and I just want to state that I'm in favor of this
964 proposal.
965
966 Mr. Kirkland - What is your address, sir?
967
968 Mr. Hickman - 11455 Old Washington Highway.
969
970 Mr. Kirkland - Thank you.
971
972 Mr. Blankinship - Thank you for coming down, sir.
973
974 Mr. Kirkland - Anyone else wish to speak? Good enough. That
975 concludes the case. Thank you ma'am. Thank you sir. Again, two companions.
976 We'll hear them one at a time. A-019-07.
977
978 **DECISION**
979
980 Mr. Wright - I move we approve A-019-07 on the same grounds
981 that there's no beneficial use of the property shown; therefore, the property could
982 not have any beneficial use without granting the variance.
983
984 Mr. Kirkland - I'll second the motion. Any discussion?
985
986 Ms. Harris - Did you want to state the reason?
987
988 Mr. Kirkland - He did.
989
990 Mr. Wright - I did.
991
992 Mr. Kirkland - I was the second, he was first.
993
994 Ms. Harris - So you didn't have to give the reason.
995
996 Mr. Kirkland - Not for the second, no.
997
998 Ms. Harris - Okay.

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Mr. Kirkland - Any discussion?

Ms. Harris - No.

Mr. Kirkland - All in favor say aye. All opposed say no. The motion passes.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **approved** application **A-019-07**, G. Wayne and Karen C. Matthews' request for a variance from Section 24-9 to build a one-family dwelling at 11409 Old Washington Highway (Parcel 772-774-3512 (part)), zoned A-1, Agricultural District (Brookland). The Board granted the variance subject to the following conditions:

1. This variance applies only to the public street frontage requirement for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
3. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.
4. The applicant shall present proof with the building permit application that a legal access to the property has been obtained.
5. The owners of the property, and their heirs or assigns, shall accept responsibility for maintaining access to the property until such a time as the access is improved to County standards and accepted into the County road system for maintenance.
6. At the time of building permit application the owner shall demonstrate that the two parcels created by this division have been conveyed to members of the immediate family, and the subdivision ordinance has not been circumvented. Ownership of the parcel shall remain in the immediate family for a minimum of five years.
7. The proposed lot shall contain at least one acre of area, exclusive of the floodplain.

1045
 1046 Affirmative: Harris, Kirkland, Wright 3
 1047 Negative: 0
 1048 Absent: Dwyer, Nunnally 2
 1049

1050
 1051 Mr. Kirkland - A-020-07.
 1052

1053 **DECISION**
 1054

1055 Mr. Wright - I move we approve it on the same grounds that there
 1056 would be no beneficial use of the property or reasonable beneficial use of the
 1057 property. Therefore, it could not be used without the variance.
 1058

1059 Ms. Harris - Second.
 1060

1061 Mr. Kirkland - All in favor say aye. All opposed say no. The motion
 1062 passes.
 1063

1064 After an advertised public hearing and on a motion by Mr. Wright, seconded by
 1065 Ms. Harris, the Board **approved** application **A-020-07**, G. Wayne and Karen C.
 1066 Matthews' request for a variance from Section 24-9 to build a one-family dwelling
 1067 at 11415 Old Washington Highway (Parcel 772-774-3512 (part)), zoned A-1,
 1068 Agricultural District (Brookland). The Board granted the variance subject to the
 1069 following conditions:
 1070

1071 1. This variance applies only to the public street frontage requirement for one
 1072 dwelling only. All other applicable regulations of the County Code shall remain in
 1073 force.
 1074

1075 2. Approval of this request does not imply that a building permit will be issued.
 1076 Building permit approval is contingent on Health Department requirements,
 1077 including, but not limited to, soil evaluation for a septic drainfield and reserve
 1078 area, and approval of a well location.
 1079

1080 3. At the time of building permit application, the applicant shall submit the
 1081 necessary information to the Department of Public Works to ensure compliance
 1082 with the requirements of the Chesapeake Bay Preservation Act and the code
 1083 requirements for water quality standards.
 1084

1085 4. The applicant shall present proof with the building permit application that a
 1086 legal access to the property has been obtained.
 1087

1088 5. The owners of the property, and their heirs or assigns, shall accept
 1089 responsibility for maintaining access to the property until such a time as the

1090 access is improved to County standards and accepted into the County road
1091 system for maintenance.

1092
1093 6. At the time of building permit application the owner shall demonstrate that the
1094 two parcels created by this division have been conveyed to members of the
1095 immediate family, and the subdivision ordinance has not been circumvented.
1096 Ownership of the parcel shall remain in the immediate family for a minimum of
1097 five years.

1098
1099 7. The proposed lot shall contain at least one acre of area, exclusive of the
1100 floodplain.

1101
1102
1103 Affirmative: Harris, Kirkland, Wright 3
1104 Negative: 0
1105 Absent: Dwyer, Nunnally 2

1106
1107

1108 Mr. Kirkland - Next case.

1109

1110 **A-021-07 EMERALD LAND DEVELOPMENT** requests a
1111 variance from Section 24-30.1 to build a one-family dwelling at 334 Grayson
1112 Street (Providence Park Annex) (Parcel 792-737-9129), zoned R-5, General
1113 Residence District (Fairfield). The lot width requirement, minimum side yard
1114 setback, rear yard setback, total lot area requirement, and total side yard setback
1115 are not met. The applicant had 3,444 square feet total lot area and 35 feet lot
1116 width, and proposes 15 feet front yard setback, 5 feet minimum side yard
1117 setback, 10 feet total side yard setback and 26 feet rear yard setback; where the
1118 Code requires 7,500 square feet total lot area, 60 feet lot width, 35 feet front yard
1119 setback, 8 feet minimum side yard setback, 20 feet total side yard setback and
1120 35 feet rear yard setback. The applicant requests a variance of 4,056 square feet
1121 total lot area, 25 feet lot width, 20 feet front yard setback, 3 feet minimum side
1122 yard setback, 10 feet total side yard setback, and 9 feet rear yard setback.

1123

1124 Mr. Kirkland - If you would, sir, come to the front.

1125

1126 Mr. Blankinship - Mr. Chairman, I'll draw to your attention the other
1127 exhibit that was left on the table.

1128

1129 Mr. Kirkland - Anyone else wish to speak on this case? If you
1130 would, sir, raise your right hand and be sworn in.

1131

1132 Mr. Blankinship - Do you swear the testimony you are about to give is
1133 the truth and nothing but the truth so help you God?

1134

1135 Mr. Baker - I do.

1136
1137 Mr. Blankinship - Thank you.
1138
1139 Mr. Kirkland - State your name for the record, please.
1140
1141 Mr. Baker - My name is Mark Baker.
1142
1143 Mr. Kirkland - What do you propose?
1144
1145 Mr. Baker - It's a bundle of variances, really, that would permit the
1146 construction of a one-family, or single-family dwelling on the lot. A little
1147 background. It's an infill lot in an existing subdivision, which is Providence Park.
1148 The subdivision was platted in 1916, so it's a legal lot of record. The lot is
1149 consistent in size with others in the subdivision. No zoning ordinance was in
1150 place at the time of the platting, so at that time, there were no feature
1151 requirements such as lot area, lot width, and setbacks to contend with. The
1152 applicant, Emerald Development, who I'm representing, is proposing to construct
1153 a single-family dwelling on the vacant lot. We've had an opportunity to review
1154 staff's comments and the write-up and the suggested conditions. I think we're all
1155 pretty much on the same page. In our evaluation of the project, we looked at the
1156 threshold question and we felt that was pretty clear, straightforward. It's a vacant
1157 lot. It was platted for single-family use. The adjacent properties are developed,
1158 so that precludes consolidation of the lot into either of the adjacent parcels to try
1159 to create a larger lot, which is oftentimes common when you have these smaller
1160 lots that are being developed. The variance is really needed allowing the
1161 beneficial use. So, in our opinion, we hope that got us over the hurdle of the lot
1162 area and the lot width. We also looked at the three tests and I think we concur
1163 with staff on those. With regards to there being an extraordinary situation or
1164 condition, there is exceptional narrowness based on the lot size. There is
1165 exceptional shallowness. I think it's not unusual to see the smaller lots in the
1166 subdivision, but it is unusual that you would have a situation where the smaller
1167 lots were developed. You have the adjacent lots both developed and here we
1168 have, really, a missing tooth.
1169
1170 The rhythm of the neighborhood is 35-foot-wide lots that are developed as they
1171 were originally platted. For some reason, this one was not developed. Again, we
1172 think that lends for the front yard and the side yard, the rear yard variances. In
1173 laying out the site, we tried to stay consistent with the other dwellings in the
1174 neighborhood in terms of front yard and side yard setback. From the street,
1175 based on the building that we're proposing, it has similar massing, it keeps that
1176 same rhythm, the similar design. It has a front porch.
1177
1178 I'll jump to the third test, which is that it's not generally recurring. Staff states this
1179 is a scenario that is somewhat unique. You have small urban lots that were
1180 actually developed as contemplated by the subdivision, which are 35-foot-wide
1181 lots. This is just a unique vacant infill opportunity.

1182

1183 Finally, coming back to the second test, which is the detriment to the adjacent
1184 property and concerns over the character of the district. Staff felt that we were
1185 being consistent in design with the neighborhood. It is a small bungalow with a
1186 full-width porch, and we're keeping the same massing and scale as the other
1187 dwellings in the vicinity. So, it would keep that same feel as viewed from the
1188 right-of-way. With regards to detriment to the adjacent property, this is the only
1189 place where staff really recognized some issues and we've agreed to the
1190 concern on the side yard. There was concern about construction of the home
1191 and the drip line of trees along the north side of the adjacent property, or the
1192 south side of this particular property. We've agree to a bond that would replace
1193 those trees if they were to die within three years of the issuance of the Certificate
1194 of Occupancy.

1195

1196 The other concern that was brought up was with the rear yard setback. Twenty-
1197 six feet is being proposed rather than 35, which is what is required. The majority
1198 of the homes in the area do meet the 35-foot setback. But, again, these are
1199 homes that were built a hundred years ago, or nearly that. For instance, on
1200 either side of this property, you have homes that are less than 800 square feet in
1201 size.

1202

1203 We tried to keep it consistent in terms of the massing. Again, I talked about the
1204 rhythm and the size of the house as viewed from the right-of-way, and the front
1205 porch. We're also in keeping with the idea of keeping the character of the
1206 neighborhood. We're utilizing shotgun design, single-story. In today's market, I
1207 would suggest that you need a larger house than 800 square feet. We are going
1208 with a 1,200-square-foot, just over model. Based on that design, which is
1209 designed to be consistent with the character of the neighborhood, it pushed the
1210 massing of the building to the rear and, unfortunately, we have nine feet less of
1211 rear yard than what's required. At 1,200 square feet, we really feel like that's a
1212 minimum when constructing a home in the market, and we feel that the market
1213 would support it. I think it gives the County at least some assurances in terms of
1214 minimum quality in terms of size.

1215

1216 I guess in summary, we agree to staff's suggested conditions. We do have one
1217 modification, and I believe I heard Mr. Blankinship reference an additional piece
1218 of paper that may have been left at your seat or handed to you. It's a list of
1219 conditions that we would hope to see. When we submitted those elevations, of
1220 course, they were for reference. We want you to understand that is what we
1221 intend to build. We were hoping for a little bit of flexibility. We have written this
1222 memorandum in response to that condition. The condition would suggest that
1223 staff is suggesting that we would do substantially the same dwelling as depicted
1224 on those plans. We're fine with that, as long as we can have these conditions in
1225 place. Just to run through them. Fiberglass shingles or 20-year asphalt
1226 shingles; hardiplank or vinyl. Our plans depict hardiplank. Iron, fiberglass, vinyl,
1227 or PVC on the railing. Porch roof. There are some decorative details that are

1228 really not in character; they are too triangular. Gables in that front porch that
1229 aren't in character with the bungalows that are existing in that neighborhood and
1230 we would hope to have the flexibility to not do those. You have a condition on
1231 the foundation crawl space with block or brick. Porch columns, fiberglass, vinyl,
1232 PVC, or wood. Porch flooring, fiberglass or wood. Interior flooring, carpet,
1233 ceramic tile, or vinyl. And then with regards to—That elevation shows a side
1234 porch, which would not work with the setback we're proposing and we would
1235 suggest that we would move that to the rear of the house to keep a second
1236 entrance.

1237

1238 Mr. Wright - Mr. Blankinship, do you have any problem with the
1239 change in condition two?

1240

1241 Mr. Blankinship - No sir. I don't think there's a problem with it. When
1242 we discussed it by phone, I made it clear to him that he needed to discuss it with
1243 the Board. It needed to be in the record. We could modify that condition to say
1244 the materials as modified in the letter of June—

1245

1246 Mr. Wright - I don't have a problem with materials. I'm concerned
1247 that right now we're jammed up on the sides and the rear. I would not want
1248 another inch of deviation in the width, the front setback or the rear setback. Not
1249 an inch.

1250

1251 Mr. Baker - We are fine with the footprint that's proposed.

1252

1253 Mr. Wright - You're saying here, "Any substantial—" What's a
1254 "substantial" change in width?

1255

1256 Mr. Baker - Obviously, from the variance standpoint, I don't think
1257 that's what we meant. We understood the variance. When you get your
1258 variance, if you're getting a five-foot setback, we understand that's going to be
1259 your zoning requirement from a setback standpoint, and you would have to meet
1260 that. That's what we're looking to get. I think the "substantial" compliance was
1261 with regards to the design of the house and the items that are listed. If you see
1262 the items that are listed, that was the concern.

1263

1264 Mr. Wright - I don't know.

1265

1266 Ms. Harris - Mr. Baker, does Emerald Land Development own this
1267 property?

1268

1269 Mr. Baker - They are a contract purchaser.

1270

1271 Ms. Harris - Okay. The other lots, small vacant lots in that area,
1272 do they own those, too?

1273

1274 Mr. Baker - They do not.
1275
1276 Ms. Harris - They do not? Okay. You are aware that you are in
1277 non-compliance on every score.
1278
1279 Mr. Kirkland - He didn't miss a one.
1280
1281 Mr. Blankinship - Except floor area.
1282
1283 Ms. Harris - Okay.
1284
1285 Mr. Kirkland - The other lots that are adjacent to this and in the area
1286 show houses on them. Do they have about the same side yard distance as this
1287 one would with these variances?
1288
1289 Mr. Baker - We had our surveyor when they laid out that plat.
1290 The idea was to stay as consistent as possible, so that's the 15-foot front yard
1291 and idea of the 5-foot side yard. I don't know that if you look at those houses,
1292 that each one is going to have only a 5-foot side yard, but it's not uncommon to
1293 see 5 feet or less on the side yards in that neighborhood.
1294
1295 Mr. Wright - So, it's your statement that others are basically similar
1296 to this?
1297
1298 Mr. Baker - Yes.
1299
1300 Mr. Kirkland - Mr. Blankinship, on 340 and 344, they seem to be
1301 very close, too, don't they?
1302
1303 Mr. Blankinship - Yes sir, they do.
1304
1305 Mr. Kirkland - And 342 seems to be in the same type [unintelligible].
1306
1307 Mr. Blankinship - The lot directly west of this, behind this, the 44
1308 Loudoun Street?
1309
1310 Mr. Kirkland - Yes.
1311
1312 Mr. Blankinship - That house was built I want to say in 1990. All the
1313 rest of the lots in here were built before the war.
1314
1315 Mr. Kirkland - What's the minimum size permitted in this zoning
1316 district, Mr. Blankinship?
1317
1318 Mr. Kirkland - It said in the report. I thought I remembered. Is it
1319 1,000 square feet?

1320
1321 Mr. Blankinship - It's R-5 zoning, so it's very small. I'm sorry; let me
1322 look it up.
1323
1324 Mr. Wright - I'm just curious. This is 1,200 square feet, I believe
1325 you stated.
1326
1327 Mr. Baker - Yes sir.
1328
1329 Mr. Blankinship - It's a lot smaller than that. It's probably about 800.
1330 Mr. Gidley is looking it up.
1331
1332 Mr. Kirkland - How much are you going to market this home for?
1333
1334 Mr. Baker - It's in the 150 range. That might be a push to get to
1335 there, but that's where we're headed.
1336
1337 Mr. Kirkland - And the drive would be in the front of the house off
1338 the road? You park in front of the home?
1339
1340 Mr. Baker - Yes.
1341
1342 Mr. Kirkland - No driving up, trying to skip through the side there at
1343 all.
1344
1345 Mr. Blankinship - On a bicycle, maybe.
1346
1347 Mr. Kirkland - Just want to make sure.
1348
1349 Mr. Wright - Mr. Blankinship, we could build a house on this that
1350 would not require variances, couldn't we?
1351
1352 Mr. Blankinship - I don't think you could build a house that complied
1353 with all of the requirements including the minimum lot area, even as small as it is.
1354 When you take out 7 feet on each side and 35 feet front and rear, there is just not
1355 much left there. I think I made a sketch and put it in the file.
1356
1357 Mr. Wright - It wouldn't be enough to turn around in, would it?
1358
1359 Mr. Blankinship - Yeah, right. It certainly wouldn't be [unintelligible].
1360
1361 Mr. Kirkland - A large tool shed.
1362
1363 Mr. Gidley - The minimum size in the R-5 is 950 square feet.
1364

1365 Mr. Kirkland - Mr. Wright, he said that the minimum size for an R-5
1366 is 950 square feet. I wanted to get that on the tape. Mr. Blankinship, did any of
1367 the neighbors have anything to say about this? Did you all get any calls or
1368 anything? I don't see anything in the reports here.
1369
1370 Mr. Blankinship - We have not heard back. Of course, we send the
1371 notices to the owners of the property and I suspect that some of the neighbors
1372 there are tenants or renters.
1373
1374 Mr. Kirkland - Okay.
1375
1376 Mr. Blankinship - So, they may not have received notice. We haven't
1377 heard from any of the owners.
1378
1379 Mr. Kirkland - This will be a house for sale, correct?
1380
1381 Mr. Baker - Yes sir.
1382
1383 Mr. Kirkland - He's looking for his sketch.
1384
1385 Mr. Blankinship - Yeah. I don't see it. I remember drawing it out, but I
1386 must not have filed it.
1387
1388 Mr. Kirkland - Are there any other questions for the applicant by
1389 staff or Board members? Anyone else wish to speak on this case? Thank you,
1390 sir, that concludes the case.
1391
1392 Mr. Blankinship - The buildable area of the lot would measure about 21
1393 by 40 with no variances. So, you'd have to build a story and half just to get the
1394 950 square feet in there at that size.
1395
1396 Mr. Wright - Are there other two-story houses in this area?
1397
1398 Mr. Blankinship - No sir, not that I'm aware of.
1399
1400 Mr. Wright - They're all single-story?
1401
1402 Mr. Blankinship - I believe so. I couldn't swear to that.
1403
1404 Ms. Harris - Mr. Baker, had you considered building a two-story
1405 house?
1406
1407 Mr. Kirkland - You want him back down? I'll start again.
1408
1409 Ms. Harris - Since we have that new information.
1410

1411 Mr. Kirkland - If you would, sir, come back and we'll open the case
1412 backup. If you would answer Ms. Harris' question.

1413
1414 Mr. Baker - We actually did not look at a two-story because of the
1415 fact that we were concerned. In reading those tests, I think we were concerned
1416 about keeping consistent in character, which was more of a bungalow feel, one-
1417 story. What we looked for in the plans was how can we get something that's
1418 going to be consistent in terms of setbacks and is going to have the same feel.
1419 It's going to have a full-width front porch and would have the same massing and
1420 character as viewed from the street, from the right-of-way.

1421
1422 Ms. Harris - Thank you.

1423
1424 Mr. Kirkland - Is that it?

1425
1426 Ms. Harris - Yes.

1427
1428 Mr. Kirkland - That's good. Thank you, sir. That concludes the
1429 case.

1430
1431 **DECISION**

1432
1433 Ms. Harris - I move that we deny this request for a variance. It's
1434 non-compliant on every score. The setback would be for 15 feet [unintelligible]
1435 certainly be a great distance from the other houses in the neighborhood. I'm not
1436 sure what we can do with this site, whether it's going to be an unbuildable site or
1437 not. I just feel that the exception dealing with the shallowness of the lot would be
1438 the reason for this denial.

1439
1440 Mr. Kirkland - Can I have a second to the motion?

1441
1442 Mr. Wright - Second.

1443
1444 Mr. Kirkland - All in favor say aye. All opposed say no. The motion
1445 passes.

1446
1447 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1448 Mr. Wright, the Board **denied** application **A-021-07**, Emerald Land
1449 Development's request for a variance from Section 24-30.1 to build a one-family
1450 dwelling at 334 Grayson Street (Providence Park Annex) (Parcel 792-737-9129),
1451 zoned R-5, General Residence District (Fairfield).

1452
1453
1454 Affirmative: Harris, Kirkland, Wright 3
1455 Negative: 0
1456 Absent: Dwyer, Nunnally 2

1457
1458 Mr. Gidley - Who was the second on that?
1459
1460 Mr. Kirkland - Mr. Wright seconded it. All right, approval of the May
1461 24, 2007 minutes.
1462
1463 Ms. Harris - I have no corrections. They were very well done.
1464
1465 Mr. Kirkland - Mr. Wright, do you have any?
1466
1467 Mr. Wright - No, I don't. Of course, I disqualified myself on the last
1468 case, so I don't know about the minutes for that. I move we approve it.
1469
1470 Ms. Harris - Second the motion.
1471
1472 On a motion by
1473
1474 Mr. Kirkland - All those in favor of approving the minutes of the May
1475 24th meeting say aye. Those opposed say no. The ayes have it, the motion
1476 passes. Any other business to come before the Board?
1477
1478 On a motion by Mr. Wright and seconded by Ms. Harris, the Board **approved** the
1479 minutes of the **May 24, 2007** Henrico County Board of Zoning Appeals meeting.
1480
1481
1482 Affirmative: Harris, Kirkland, Wright 3
1483 Negative 0
1484 Absent: Dwyer, Nunnally 2
1485
1486
1487 Ms. Harris - I would like to congratulate Mr. Wright on the letter
1488 that was sent to the Henrico County Board of Supervisors' Chairperson regarding
1489 the lots that we're currently dealing with. I call it landlocked lots, but I'm sure
1490 there's another name. He did get our input through e-mail and we're in business.
1491 I don't know where we stand now as to decisions, but we certainly need to move.
1492
1493 Mr. Blankinship - Staff has had one meeting already to discuss how
1494 we're going to go about responding. The Board of Supervisors has directed staff,
1495 I should have said first.
1496
1497 Mr. Wright - We received a copy of that letter. I see there is some
1498 action being taken.
1499
1500 Mr. Blankinship - Over the summer, of course, there are senior staff
1501 taking vacations at different times, so it probably won't be on a very fast track.
1502

1503 Mr. Wright - One thing I would state, Ms. Harris. I keep reviewing
1504 the Cherrystone case and I think that Cherrystone decision is much more narrow
1505 than we've been considering it.
1506
1507 Ms. Harris - Okay.
1508
1509 Mr. Wright - The Bay Act, which imposed those restrictions at the
1510 date of the act. I think it's a little different when you have these areas. I think
1511 there are other things we should consider, whether it would affect future
1512 development and all those things, and whether there's a beneficial use of the
1513 property. I don't think that date is that crucial for us, the way I interpret the
1514 Cherrystone case.
1515
1516 Mr. Kirkland - Mr. Wright, do you want to have a work session with
1517 Mr. Tokarz?
1518
1519 Mr. Blankinship - I think that's all going to come out in the work that we
1520 do with the Board of Supervisors.
1521
1522 Mr. Wright - It's already in motion, so I think it would be redundant
1523 for us to be doing something.
1524
1525 Mr. Kirkland - Okay.
1526
1527 Mr. Wright - I think this will all be handled.
1528
1529 Mr. Kirkland - Will you keep us informed on—
1530
1531 Mr. Blankinship - Oh, absolutely.
1532
1533 Ms. Harris - Two-thirds of our caseload deals with that.
1534
1535 Mr. Kirkland - Seems to be of a reoccurring nature. If there is no
1536 further information or compliments or any words of wisdom, I make a motion we
1537 adjourn.
1538
1539 Mr. Wright - I second it.
1540
1541 Mr. Kirkland - All those in favor say aye. All those opposed say no.
1542 The ayes have it, the motion passes. Be gone.
1543
1544 There being no further business, the Board adjourned until the **July 26, 2007**
1545 meeting at 9:00 a.m.
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1561

Richard Kirkland CBZA
Acting Chairman

Benjamin Blankinship, AICP
Secretary