

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 JUNE 25, 2015 AT 9:00**
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH JUNE 8, 2015, AND JUNE 15, 2015.**
7

Members Present: Gentry Bell, Chairman
Greg Baka, Vice Chairman
Dennis J. Berman
Helen E. Harris
James W. Nunnally

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

8
9 Mr. Bell - Good morning. Welcome to the June meeting of the
10 Henrico Board of Zoning Appeals. I ask you to please stand and join me in
11 pledging allegiance to the flag of our country.
12

13 Mr. Blankinship, please read the rules.
14

15 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
16 ladies and gentlemen, the rules for this meeting are as follows: Acting as
17 secretary, I will announce each case. And as I'm speaking, the applicant should
18 come to the podium. We will then ask everyone who intends to speak to that
19 case to stand and be sworn in. Then the applicant will present their case. Then
20 anyone else who wishes to speak will be given the opportunity. After everyone
21 has spoken, the applicant, and only the applicant, will have time for rebuttal. After
22 the Board has heard all the testimony and asked any questions, they will proceed
23 to the next public hearing. They will render all of their decisions at the end of the
24 meeting. So if you wish to hear their decision on a specific case, you can either
25 stay until the end of the meeting, or you can check the Planning Department
26 website—we update it about half an hour to an hour after the meeting ends—or
27 you can call the Planning Department this afternoon.
28

29 This meeting is being recorded, so we'll ask everyone who speaks to speak
30 directly into the microphone on the podium, state your name, and please spell
31 your last name so we get it correctly in the record.
32

33 Finally, in the foyer there is a binder containing the staff report for each case,
34 including conditions that have been recommended by the staff. It's particularly
35 important that the applicants be familiar with those conditions.
36

37 Mr. Chairman, we're going to begin with a deferred case from last month. There
38 has been some new evidence submitted for this case in the form of several
39 elevation drawings of the proposed house and also some photographs of some
40 of the existing houses. The Board held a public hearing on this matter last month,
41 so we will ask everyone only address the new information, please. Everything
42 that was said last month is still on the record. This is VAR2015-00003.

43

44 *Deferred from Previous Meeting*

45 **VAR2015-00003** **JAMES D. AND FRANCES PREVETTE** request a
46 variance from Sections 24-9 and 24-94 of the County Code to build a one-family
47 dwelling at 5319 Wythe Avenue (Parcel 770-736-4519) zoned General
48 Residence District (R-5) (Brookland). The public street frontage requirement and
49 rear yard setback are not met. The applicant proposes 0 feet public street
50 frontage and 25 feet rear yard setback, where the Code requires 50 feet public
51 street frontage and 35 feet rear yard setback. The applicant requests a variance
52 of 50 feet public street frontage and 10 feet rear yard setback.

53

54 Mr. Walker - Good morning. My name is Eric Walker. Last name is
55 spelled—

56

57 Mr. Blankinship - Does anyone else intend to speak to this case?
58 Would you raise your right hands, please? Do you swear or affirm that the
59 evidence you're about to give is the truth, the whole truth, and nothing but the
60 truth so help you God?

61

62 Mr. Walker - I do.

63

64 Mr. Blankinship - Thank you.

65

66 Mr. Walker - Good morning. My name is Eric Walker. Last name is
67 spelled W-a-l-k-e-r. Again this morning I'm here requesting a variance to build a
68 single-family dwelling at 5319 Wythe Avenue. I have submitted proposed
69 elevations and recommended changes to the suggested conditions. And I'm
70 happy to answer any questions if you have any.

71

72 Mr. Bell - I don't have any questions. Does anybody?

73

74 Ms. Harris - Did we establish the dimensions of that lot at the last
75 meeting?

76

77 Mr. Walker - I've submitted an updated survey of the property,
78 which shows the actual dimensions of the property.

79

80 Mr. Berman - In fact, I believe you're also asking for a different
81 setback given the new knowledge of that survey.

82

83 Mr. Walker - That's correct. And specifically, I asked for the revised
84 variance on the rear yard specifically to allow for a future deck and potentially a
85 covered porch on the front of the home.

86
87 Mr. Blankinship - Thank you, Mr. Berman. I had forgotten that fact, and
88 that is important. Anyone who intends to speak is also welcome to address the
89 additional request of a 25-foot rear yard in lieu of a 35-foot rear yard.

90
91 Mr. Walker - And again, that setback is consistent with the
92 neighborhood adjacent to this parcel.

93
94 Mr. Bell - Any other questions?

95
96 Mr. Baka - For those in the audience that may not have the
97 benefit of the sheets in front of you, could you just give the summary of the
98 elevations, the discussion we had on elevations and also the summary of what
99 you resubmitted here in front of us for the elevations?

100
101 Mr. Walker - Sure. The elevation that I submitted shows a brick
102 front, as previously suggested. In addition to that, I have submitted elevations
103 that show both the two sides and the rear. And the two sides, proposing brick on
104 the first left, which is, again, consistent with what's in the neighborhood.

105
106 Mr. Baka - Thank you.

107
108 Ms. Harris - I do want to say, Mr. Walker, thank you so very much
109 for your plans.

110
111 Mr. Walker - I appreciate that.

112
113 Ms. Harris - We can really see now just what's—

114
115 Mr. Walker - And in all honesty, I should have done that the first
116 time, but hindsight is 20/20.

117
118 Mr. Berman - Mr. Walker, in the subsequent documents that you
119 just reviewed, am I to assume that all of them are all of the Cape Cod and no
120 longer referencing the rancher option?

121
122 Mr. Walker - Well, at this point I am proposing to build the Cape
123 Cod.

124
125 Mr. Berman - Okay. When we vote, I may ask for an additional
126 condition to stipulate the Cape Cod. I have a question for Mr. Mejia, but I'll wait
127 until you're done.

128

129 Mr. Bell - Thank you, Mr. Walker.

130

131 Mr. Walker - Thank you.

132

133 Mr. Kelley - Good morning. I'm Tom Kelley—K-e-l-l-e-y. And I
134 have a couple of comments on these drawings Mr. Mejia and I had discussed. I
135 think the house is nice, and I approve it to a point. There are a couple of things.
136 Three sides have now been designated as brick. We still want all brick. We would
137 like the back of the house to also be brick.

138

139 One other thing, on the front stoop there are wooden steps. Every house on the
140 block has a brick porch and brick steps and a slate top on it. I think that needs to
141 be changed to be in conformity with the rest of the houses on the block.

142

143 I have heard that there is a proposal to put a cover over the front door; that's a
144 nice gesture so you don't stand in the rain to open your door. None of the other
145 houses on the block have a cover over the door except for Mr. Mejia and the one
146 across the street, which were added later. That is an improvement and it is a nice
147 thing. I have an awning over my front door, which I've also added. So it's nice. If
148 they want to put that cover, that's fine. But I really would like to see that porch all
149 brick and enclosed all the way around instead of open like it is now. I just think
150 that is an accident waiting to happen when it's open like that. It could be used for
151 storage or lawnmowers or trash or whatever else you want to stick under there,
152 which would be visible on the front of the house. So I really would very much like
153 to see that closed and all brick.

154

155 That's about all I have to say this morning.

156

157 Mr. Berman - Mr. Kelley, do you, to the best of your recollection,
158 know if the other homes have brick in the rear? I didn't want to walk on
159 everybody's property to check that out.

160

161 Mr. Kelley - Yes. All of the house on the block are brick in the
162 rear.

163

164 Mr. Branin - Okay.

165

166 Mr. Kelley - The only thing that's not brick is the [unintelligible] on
167 the houses, which in this case it won't be either, but that's okay.

168

169 Mr. Berman - Thank you.

170

171 Mr. Baka - Is the rear of this home visible from—how many
172 neighboring properties is it—

173

174 Mr. Kelley - Well, everything behind it, of course, it's visible, but
175 nothing on the front. But I'm thinking more of a selling point at a later date. You
176 have three sides that are brick and then vinyl on the back, which I think just
177 brings down the value of the house. I think if that was brick all the way around
178 there wouldn't be a question about it.

179

180 Mr. Baka - Because of the access point to this neighborhood, the
181 neighborhood is generally characterized as Wythe Avenue, and you come down,
182 you turn around, and you pull out. Stokes is an entirely separate street to the
183 south of you, correct?

184

185 Mr. Kelley - Right.

186

187 Mr. Bell - And then you have a parking lot on the other side
188 there.

189

190 Mr. Baka - We drove into that parking lot.

191

192 Mr. Kelley - New houses, you don't see that much of the brick in
193 the back.

194

195 Mr. Berman - Especially if they put a porch in.

196

197 Mr. Bell - Any other questions?

198

199 Ms. Harris - Yes. Mr. Kelley, do you have this picture?

200

201 Mr. Blankinship - The new ones that were submitted? I don't know if
202 those are in the presentation or not.

203

204 Mr. Kelley - No, I don't have that one.

205

206 Ms. Harris - I have a question about that. The picture on the left-
207 hand bottom.

208

209 Mr. Kelley - Right.

210

211 Ms. Harris - That's a screened-in porch, right?

212

213 Mr. Kelley - Yes ma'am.

214

215 Ms. Harris - If that had been brick on the exterior in the back, it
216 would not be seen with the screened-in porch, right?

217

218 Mr. Kelley - No, that's on the side of the house, that screened-in
219 porch.

220
221 Ms. Harris - The one that's in the corner of this picture, the far left?
222
223 Mr. Kelley - Yes. The screened-in porch on that house is on the
224 opposite side from the one next door.
225
226 Ms. Harris - Okay. I was just wondering about the question you
227 wouldn't be able to see the brick exterior if you had a screened-in porch. That's
228 what I see here, I believe.
229
230 Mr. Kelley - Yes. If you're looking at the porch, you can see the
231 bricks on the porch. The bricks are on the porch as well. I mean you can't see if
232 from this picture, but if you're standing in front of the house and looking, you can
233 actually see the brick wall inside the porch there.
234
235 Ms. Harris - Okay.
236
237 Mr. Kelley - It is all brick, even inside the porch. The only thing
238 that would not be brick is this back wall. If I was looking to buy the house, I'd look
239 and say oh, that's strange, why didn't they do all brick. My first thought would be
240 what's up with that. I think it would make it a better saleable property to be all
241 brick.
242
243 Ms. Harris - So with this new information, are you no longer
244 opposing this home being built in your neighborhood?
245
246 Mr. Kelley - No, as long as it's like this, and it's all brick, and the
247 front porch is enclosed and brick, I don't oppose it.
248
249 Ms. Harris - I believe those are all of my questions. What about
250 the neighbors? Can you speak for all these neighbors who signed the petition?
251
252 Mr. Kelley - I think they all feel the same way. I've talked to three
253 other neighbors, and they are in agreement with what we've talked about here. I
254 tried to get two of them to come this morning, but it was not a success.
255
256 Ms. Harris - We thank you for coming.
257
258 Mr. Kelley - Thank you. I appreciate the opportunity to speak.
259
260 Mr. Bell - Thank you, Mr. Kelley.
261
262 Mr. Mejia - Good morning, ladies and gentleman. My name is
263 Michael Mejia—M-e-j-i-a. And I'm basically just reiterating what Mr. Kelley was
264 saying about the all brick and then the front little porch there to be brick. It's a

265 nice house. I just want the resale value to be there for later on in the future for
266 everybody and myself.

267
268 Mr. Bell - Any questions?

269
270 Mr. Berman - Yes. Mr. Mejia, you had discussed last month the
271 possibility of your father or your family purchasing the lot next door. I know that
272 Mr. Walker is already engaged in this, but did you have any further discussions?

273
274 Mr. Mejia - I did talk to Mr. Prevette, and he stated that he was
275 not too aware of everything going on with the situation, but because they're in a
276 contract, he's going to honor the contract. And that was pretty much the end of
277 that.

278
279 Mr. Berman - Okay, that's what I thought. Thank you.

280
281 Mr. Mejia - Yes sir.

282
283 Mr. Bell - Any questions? Thank you.

284
285 Mr. Mejia - All right. Thank you.

286
287 Mr. Bell - Any rebuttal, Mr. Walker?

288
289 Mr. Walker - I would just like to thank the gentlemen in the
290 neighborhood for coming and speaking and voicing their opinions about what's
291 being proposed. I believe I presented a fair case, not only in terms of aesthetics
292 of the house, but overall neighborhood. Thank you.

293
294 Mr. Bell - I have a question for you. With Mr. Kelley's
295 suggestion of all brick in the back and the front porch suggestion, are you
296 intending to do that or just pretty much leave it like it is?

297
298 Mr. Walker - Again, I believe I've presented the best case possible.

299
300 Mr. Bell - Okay.

301
302 Mr. Berman - Question about the driveway we discussed last
303 month. The proposed driveway is coming in from the turnaround as opposed to
304 sharing with Mr. Mejia's driveway?

305
306 Mr. Walker - That's correct.

307
308 Mr. Berman - Are you concerned that—I've observed on many
309 occasions that the JCC people park in that turnaround and could possibly block
310 the driveway the way it's positioned.

311
312 Mr. Walker - No, I'm not concerned with that at all. It's a situation
313 that could have happened not only on this street but anywhere else. If someone's
314 blocking your driveway, you politely ask them to move.

315
316 Mr. Berman - Okay.

317
318 Mr. Walker - That driveway will accommodate at least two cars.

319
320 Mr. Berman - Okay. Will there need to be any mitigation—I guess
321 that would be between you all and the Mejias—with regards to their current
322 driveway going over the property line?

323
324 Mr. Walker - We've had some conversation, and I'm in agreement
325 to have further conversation with him.

326
327 Mr. Berman - Thanks.

328
329 Mr. Bell - Thank you, Mr. Walker.

330
331 Mr. Walker - Thank you.

332
333 **[After the conclusion of the public hearings, the Board discussed the case**
334 **and made its decision. This portion of the transcript is included here for**
335 **convenience of reference.]**

336
337 Mr. Blankinship - Mr. Chairman, I should have discussed this with you
338 during the break, and I'm sorry I didn't. I would like to suggest that you divide the
339 question on this application. As Mr. Berman pointed out, Mr. Walker added a
340 second request during the deferment period. So there are actually two variances
341 being requested. One is from public street frontage and the other is from the rear
342 yard setback. I think it would be worth your effort to have two separate motions
343 on those issues and vote separately.

344
345 Mr. Bell - Okay.

346
347 Mr. Baka - Which case has the conditions, then?

348
349 Mr. Blankinship - You could attach conditions to either or both at your
350 pleasure.

351
352 Mr. Bell - Would it be considered something like 00003 and 3a?

353
354 Mr. Blankinship - Yes, just two separate questions on the same case.

355

356 Mr. Bell - All right. Let's then go ahead and attached the
357 conditions to both and vote on the one that deals with the easement and cul-de-
358 sac. Am I going in the right direction?

359
360 Mr. Blankinship - Yes sir.

361
362 Mr. Bell - All right. So do I have a motion that we accept that
363 part or the new variance? I move that we accept that variance. Do I hear a
364 second?

365
366 Mr. Berman - Second the motion.

367
368 Mr. Bell - Any discussion?

369
370 Ms. Harris - Was there something that Mr. Walker said he had to
371 get with a group? I know it was not part of a condition, but I thought that he said
372 that he had to negotiate—

373
374 Mr. Blankinship - Last month there was conversation about the
375 adjoining property owner negotiating with the owner. He said that he pursued that
376 and it didn't go anywhere.

377
378 Ms. Harris - Okay.

379
380 Mr. Baka - Mr. Chairman, would this motion address either the
381 question of brick on three sides of the home or four sides and/or the wooden
382 steps on the front or the type of steps on the front? Would this motion discuss
383 that part or does that go with the second part of this motion?

384
385 Mr. Bell - I thought we split it.

386
387 Mr. Blankinship - I think it would be appropriate to discuss that at this
388 point.

389
390 Mr. Baka - Okay.

391
392 Mr. Blankinship - What is the pleasure of the Board in terms of the
393 condition—as drafted, the condition would accept the elevations presented
394 yesterday by Mr. Walker showing brick on three sides, no brick on the rear, and
395 showing pressure-treated wood porch steps.

396
397 Mr. Baka - So condition number 6 speaks about the architecture,
398 Mr. Bell. The second half of number 6 reads the front and eastern side elevations
399 of the dwelling shall be built of brick. So I guess I was just asking the question as
400 to would your motion include the brick on three sides as presented by the

401 applicant? There was discussion about brick on four sides, including the rear.
402 And there was also discussion about the steps out front, wooden or brick steps.

403
404 Mr. Blankinship - If I could make a suggestion, I would suggest that we
405 replace condition 6 with the standard condition requiring that the construction be
406 consistent with the elevations that were presented at the meeting.

407
408 Mr. Baka - That's fair. That addresses the comment right there.

409
410 Mr. Blankinship - And then if you want to address the rear or the porch
411 in addition to that, that would also be appropriate.

412
413 Ms. Harris - But I believe Mr. Walker stated that he would stand by
414 these. He did not agree to anything else.

415
416 Mr. Blankinship - That was Mr. Walker's position, yes.

417
418 Ms. Harris - I think it's ideal to have the brick stoop. I think that's
419 ideal. But I'm just wondering is it really necessary to create this Cape Cod effect.

420
421 Mr. Berman - I don't feel we should encumber Mr. Walker with
422 anything beyond what he's presented today.

423
424 Mr. Baka - I would agree with the comments from the Board. I
425 think the applicant made great strides from last month to this month by increasing
426 the sides of the brick to three. The rear of the home may not be visible from
427 many properties—granted, the next door neighbor. And the steps out front I think
428 will be sufficient as proposed by the applicant. I appreciate the strides the
429 applicant made in the last thirty days.

430
431 Mr. Bell - And also the concern of the citizens in the area was
432 the value. And when you're looking at the forty-year-old houses or fifty-year-old
433 houses in the area and take into consideration the new house that is even larger,
434 I think it might have a tendency to at least equal what's there or increase the
435 value the way it's designed at this time. Any other discussion?

436
437 Mr. Berman - On the elevations, if you do replace condition 6 to
438 state that it should match the newly presented document, could it be made more
439 clear that the new document is indeed a Cape Cod elevation?

440
441 Mr. Blankinship - Yes sir, we can do that.

442
443 Mr. Bell - We can go ahead and add that to number 6, right?

444
445 Mr. Blankinship - Yes sir.

446

447 Mr. Bell - Okay.
 448
 449 Mr. Blankinship - Do you want to call the question?
 450
 451 Mr. Bell - Yes. Do I call two questions?
 452
 453 Mr. Blankinship - Well let's call that one, and then we'll take a second
 454 one.
 455
 456 Mr. Bell - All right. This is a question on the cul-de-sac—
 457
 458 Mr. Blankinship - Public street frontage requirement.
 459
 460 Mr. Bell - Yes, public street frontage requirement. All in favor
 461 say aye. All opposed say nay. The ayes have it; that part of the motion is
 462 approved.
 463

464 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr.
 465 Berman, the Board **approved** the public street frontage part of application
 466 **VAR2015-00003, JAMES D. AND FRANCES PREVETTE's** request for a
 467 variance from Sections 24-9 and 24-94 of the County Code to build a one-family
 468 dwelling at 5319 Wythe Avenue (Parcel 770-736-4519) zoned General
 469 Residence District (R-5) (Brookland).
 470

471			
472	Affirmative:	Baka, Bell, Berman, Harris, Nunnally	5
473	Negative:		0
474	Absent:		0
475			

476
 477 Mr. Blankinship - And now a motion on the rear yard variance would be
 478 appropriate.
 479

480 Mr. Bell - Do I hear a motion on the rear yard variance? I move
 481 that we accept the variance. Do I hear a second on that motion?
 482

483 Ms. Harris - Second.
 484

485 Mr. Bell - Is there any discussion? Hearing none, let's go to the
 486 question. All in favor say aye. All opposed say nay. The ayes have it; the motion
 487 is approved. Both motions were approved.
 488

489 After an advertised public hearing and on a motion by Mr. Bell, seconded by Ms.
 490 Harris, the Board **approved** the rear yard setback portion of application
 491 **VAR2015-00003, JAMES D. AND FRANCES PREVETTE's** request for a
 492 variance from Sections 24-9 and 24-94 of the County Code to build a one-family

493 dwelling at 5319 Wythe Avenue (Parcel 770-736-4519) zoned General
494 Residence District (R-5) (Brookland).

495

496

497 Affirmative: Bell, Baka, Berman, Harris, Nunnally 5

498 Negative: 0

499 Absent: 0

500

501

502 The Board approved variance application VAR2015-00003 subject to the
503 following conditions:

504

505 1. This variance applies only to the public street frontage requirement and rear
506 yard setback for one dwelling only. All other applicable regulations of the County
507 Code shall remain in force.

508

509 2. Any dwelling on the property shall be served by public water and sewer. The
510 builder/developer of this lot shall execute agreements, have plans approved, and
511 install the water and sewer services.

512

513 3. The three maple trees along the western edge of the turnaround (adjacent to
514 the JCC) shall be retained by the builder and protected during construction by a
515 fence located along the drip line.

516

517 4. The applicant shall provide an easement to Henrico County for the use of the
518 existing turnaround on the property. This easement shall be in a form acceptable
519 to the Department of Public Works and shall be recorded.

520

521 5. Any building on the property shall comply with the setbacks shown on the
522 survey submitted with this request (Job No. 17828, June 2, 2015) with the
523 exception of those projections allowed under Section 24-95(i)(1) of the zoning
524 ordinance.

525

526 6. Any dwelling constructed on the property shall be a Cape Cod style dwelling
527 consistent with the elevation drawings submitted June 24, 2015 and approved at
528 the public hearing.

529

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

532

533 **CUP2015-00019** **JAMES W. PRYOR** requests a conditional use permit
534 pursuant to Section 24-95(i)(4) of the County Code to allow an accessory
535 structure in the front yard at 7118 Strath Road (STRATH ESTATES) (Parcel 816-
536 696-3572) zoned Agricultural District (A-1) (Varina).

537

538 Mr. Blankinship - Does anyone else intend to speak to this case?
539 Would you please raise your right hand? Do you swear the testimony you're
540 about to give is the truth, the whole truth, and nothing but the truth so help you
541 God?

542

543 Mr. Pryor - I do.

544

545 Mr. Blankinship - Thank you. State your name please.

546

547 Mr. Pryor - Good morning. My name is James W. Pryor—P-r-y-
548 o-r. I'm applying for a conditional permit for a carport enclosed into a garage.

549

550 Mr. Nunnally - Have you read the conditions on this, Mr. Pryor?

551

552 Mr. Pryor - Conditions on the?

553

554 Mr. Nunnally - Suggested conditions on the—

555

556 Mr. Blankinship - Did you receive the staff report in the mail?

557

558 Mr. Pryor - No.

559

560 Mr. Nunnally - You're going to replace this existing carport with a
561 garage, right?

562

563 Mr. Pryor - Yes.

564

565 Mr. Nunnally - Are you going to use it for cars only?

566

567 Mr. Pryor - Cars only.

568

569 Mr. Nunnally - No working on other people's cars or anything like
570 that? Just your own personal car?

571

572 Mr. Pryor - My own cars. I don't work on other people's cars.

573

574 Mr. Nunnally - And what's going into the garage? Are you going to
575 put water inside or?

576

577 Mr. Pryor - No water. Just a cement floor and just metal sides
578 and top.

579

580 Mr. Nunnally - You're just going to replace the carport with a garage.

581

582 Mr. Pryor - That's it.

583

584 Mr. Nunnally - Okay. And you agree with the conditions and so forth.
585
586 Mr. Pryor - Yes.
587
588 Ms. Harris - Mr. Pryor, have you had any complaints about your
589 carport being where it is since the garage is going to be in the position?
590
591 Mr. Pryor - No ma'am.
592
593 Ms. Harris - Okay. Can we see the map that you just removed?
594 Where is the Robertson's estate compared to your house?
595
596 Mr. Pryor - Robertsons.
597
598 Ms. Harris - You're not familiar with . . .
599
600 Mr. Pryor - I don't know the Robertsons. I'd probably know them
601 by face rather than name.
602
603 Ms. Harris - Dr. Benjamin Robertson?
604
605 Mr. Pryor - Oh. He's on the other side of Strath.
606
607 Ms. Harris - Okay, the other side.
608
609 Mr. Bell - Any other questions? How many cars are you
610 planning to keep in the garage there?
611
612 Mr. Pryor - No more than two.
613
614 Mr. Bell - Okay. All right, no questions. Thank you.
615
616 Mr. Pryor - All right.
617
618 Mr. Bell - Is there anyone else who would like to speak to this
619 issue? Thank you.
620
621 **[After the conclusion of the public hearings, the Board discussed the case**
622 **and made its decision. This portion of the transcript is included here for**
623 **convenience of reference.]**
624
625 Mr. Bell - Do I hear a motion on this case?
626
627 Mr. Nunnally - Mr. Chairman, I make a motion that we approve the
628 detached garage because it is screened by trees in the yard, and it would

629 certainly be an improvement over the carport they have in there now. So I move
630 we approve it.

631
632 Mr. Bell - Do I hear a second on that motion?

633
634 Mr. Baka - Second.

635
636 Mr. Bell - Is there any discussion? Hearing none, all in favor say
637 aye. All opposed say nay. The ayes have it; the motion passes.

638
639 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
640 Mr. Baka, the Board **approved** application **CUP2015-00019, JAMES W.**
641 **PRYOR's** request for a conditional use permit pursuant to Section 24-95(i)(4) of
642 the County Code to allow an accessory structure in the front yard at 7118 Strath
643 Road (STRATH ESTATES) (Parcel 816-696-3572) zoned Agricultural District (A-
644 1) (Varina). The Board approved the conditional use permit subject to the
645 following conditions:

646
647 1. This conditional use permit applies only to the accessory structure location
648 requirement for a garage. All other applicable regulations of the County Code
649 shall remain in force.

650
651 2. Only the improvements shown on the plot plan and building design filed with
652 the application may be constructed pursuant to this approval. Any additional
653 improvements shall comply with the applicable regulations of the County Code.
654 Any substantial changes or additions to the design or location of the
655 improvements shall require a new conditional use permit.

656
657
658 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
659 Negative: 0
660 Absent: 0

661
662
663 **[At this point, the transcript continues with the public hearing on the next**
664 **case.]**

665
666 **CUP2015-00020** **TERESA JONES** requests a conditional use permit
667 pursuant to Section 24-95(i)(4) of the County Code to allow an accessory
668 structure in the front yard at 10810 Branberry Lane (CROSS KEYS SOUTH)
669 (Parcel 747-755-1040) zoned One-Family Residence District (R-3) (Three
670 Chopt).

671
672 Mr. Blankinship - Does anyone else intend to speak to this case?
673 Would you please raise your right hand? Do you swear the testimony you're

674 about to give is the truth, the whole truth, and nothing but the truth so help you
675 God?

676
677 Ms. Jones - I do.

678
679 Mr. Blankinship - State your name, please.

680
681 Ms. Jones - Teresa Jones.

682
683 Mr. Blankinship - Thank you.

684
685 Ms. Jones - J-o-n-e-s. Sorry.

686
687 Mr. Blankinship - Take your time. Whenever you're ready.

688
689 Ms. Jones - Respectfully, the TARDIS replica is not an accessory
690 structure. The zoning code defines an accessory structure as a structure which is
691 on the same property as the principal structure and the use of which is incidental
692 to the use of the principal structure. The TARDIS does not have a use. There's
693 nothing inside it and never will be because there's no lock on the door. It is not a
694 police call box. You can't call the police with it no matter what the words on the
695 top say. Most regrettably, it is not a working time and space traveling machine. It
696 is art, something that was created with imagination and skill as a representational
697 form, and that is beautiful and to be appreciated, or not, because art is
698 subjective.

699
700 The zoning evaluation states that since the TARDIS model is not easily moved, it
701 requires a fixed location and thus qualifies as an accessory structure. I disagree
702 with this qualification. What else is not easily moved? My cast iron bench. My
703 two-foot-by-three-foot rock in the front yard. The cement stepping stones in my
704 front yard. They're not easily moved. These items fall under the code definition of
705 landscaping, which may include: mounds of earth forms; pedestrian walks;
706 flowerbeds; ornamental objects such as trellises, fountains, or statues; water
707 features; and other natural or manmade features. Most of these items listed
708 under the definition of landscaping are not easily moved and require a fixed
709 location. The model TARDIS requires a stable location, just like a fountain or a
710 birdbath or any other statue.

711
712 I disagree with the word term *signage*. This is another code violation. The words
713 are part of the art, much as an inscription or a quote may be part of any other
714 statue or sculpture. Give me your tired, your poor—these words are not signage.
715 The words on my model TARDIS do not identify it as a real police call box.

716
717 The First Amendment protects whatever the human creative impulse produces
718 whether some find it objectionable or not. You have received two letters against
719 the call box. I have brought with me six letters for it, if you'd like to see those.

720

721 I know in the letters some have called it an eyesore. In these letters, some
722 people refer to it as fun and whimsical and art, which is what I consider it to be.
723 But this is not a popularly contest. It is about this object identified by the zoning
724 inspector as being a model of a TARDIS, a fictional time machine/space ship
725 from the television show *Dr. Who* that happens to resemble a phone booth. It is
726 representational. It is art that I created out of wood and paint and plastic in
727 homage to this television show, the character of which is called The Doctor, who
728 is a universal hero and a symbol of good. I don't think I need to go on about the
729 show, but the point is I just consider it art.

730

731 Zoning has said it does not interfere with sight lines. My neighbors on each side
732 do not have a problem with it. And that's—thank you.

733

734 Mr. Blankinship - Just to ask one question for clarification, Mr.
735 Chairman. You said you built this yourself?

736

737 Ms. Jones - Yes I did.

738

739 Mr. Blankinship - Okay. I have seen that they are for sale, but I did not
740 realize that—

741

742 Ms. Jones - I could not possibly afford to buy one.

743

744 Mr. Blankinship - I did not realize that it was handmade.

745

746 Ms. Jones - Yes.

747

748 Mr. Bell - What I'm hearing is that you're referring to this box in
749 the location as environmental art.

750

751 Ms. Jones - Yes.

752

753 Mr. Bell - More so than anything.

754

755 Ms. Jones - An ornamental object.

756

757 Mr. Bell - Okay.

758

759 Ms. Jones - Part of the landscaping. I cannot grow grass myself,
760 so I'm surprised I haven't had complaints on that end.

761

762 Mr. Bell - How long has the box been there?

763

764 Ms. Jones - It's been there for a year and a half, since 2013,
765 Halloween.

766
767 Mr. Bell - Have you had a chance to look through your
768 package?
769
770 Ms. Jones - Yes sir.
771
772 Mr. Bell - When I went over to look at it, I noticed that when
773 you're coming in, the way you have it landscaped, you can't even see that it's
774 there. You're on a cul-de-sac, correct?
775
776 Ms. Jones - Correct.
777
778 Mr. Bell - And there are nine other homes behind you.
779
780 Ms. Jones - Mmm-hmm.
781
782 Mr. Bell - They're the only ones who can see it, and that would
783 be coming out or being right in front of it as long as the trees are there. How
784 many of the six people there live in that cul-de-sac behind you?
785
786 Ms. Jones - I have one letter. And another neighbor on the other
787 cul-de-sac, he didn't write me a letter, but I could give you his name if you felt
788 you needed to contact him. He is all for it as well.
789
790 Mr. Bell - So there are nine homes, and you have two letters
791 from that side, and then two on both sides of you said it's all right.
792
793 Ms. Jones - Yes.
794
795 Mr. Bell - Okay. Prior to the complaints you received through
796 the County, had you had any other complaints?
797
798 Ms. Jones - No. So this was a very big surprise to me to find out
799 somebody had objected to it for a long time for reasons I don't understand. One
800 of the complaints in the letter that you received said she feels it's an offense to
801 police officers, her son being a state trooper. One of my letters is from a police
802 sergeant on the Richmond police force who lives at the far end of Branberry. And
803 he said he doesn't take offense to it, as a police officer.
804
805 Mr. Bell - And I noticed one of the letters that I received, the
806 people live two streets away from you and probably wouldn't go down there at all.
807 Thank you. Any other questions?
808
809 Mr. Baka - I had a couple of questions. Thank you for appearing
810 today and for explaining the case. I understand with your own work and effort
811 you've created this and built this as art. And I understand you feel that it's art.

812 The core of some of the objections from the two letters opposed are basically
813 that the structure is considered by that author of that letter to be an eyesore and
814 detracting from the character of the neighborhood. So I guess my first question is
815 as beautiful art that you created, why couldn't you put it in the backyard?
816

817 Ms. Jones - Because I have dogs in the backyard and I don't want
818 it to be peed on. When I first put it out, when I built it and moved it to this position,
819 it was for a Halloween display. And then my children said it's very cool, let's
820 leave it. And I have a rebuttal in my stack, a letter from a lady who just sold a
821 home on Dragana, which is right around the corner. And she said in the forty-
822 eight days her house was on the market, no one ever brought up the fact there
823 was a phone box in the neighborhood or anything like that. Another letter from a
824 lady who will be selling in a couple of years, she also does not have any concern
825 about the property values being brought down by this piece of art on my street.
826

827 Mr. Baka - Nothing would necessarily prevent you from putting it
828 in the backyard for most of the year and even bringing it to the front of the yard
829 for Halloween in October.
830

831 Ms. Jones - If I had a couple of friends the size of Dwayne "The
832 Rock" Johnson, that would not be an issue. The thing is moveable. It actually has
833 handles—you can't really see them—on the base on the left side. It's really hard
834 to see, but there is a handle on either side.
835

836 Mr. Baka - Okay. That's what I was getting at.
837

838 Ms. Jones - And it is moveable.
839

840 Mr. Baka - For practical purposes, if it were in another location
841 on the side yard or backyard, it's pretty much going to stay where it's put. I guess
842 one question I have is the size of it. From what I read, I'm guessing it's
843 approximately four feet wide by about four feet long and about eight feet high. As
844 I looked at it on the street and drove by, and we took a look at it for a while,
845 regardless of the police and the text on the box, in character, if you just didn't
846 know that it was a TARDIS, it doesn't appear to be any different in its general
847 character than a tool shed, for example, if someone has a really, really small
848 garage or a tool shed. So if you have a four-by-four tool shed, that's a structure
849 also. From the outside, it could be a structure that's used for storage; it could be
850 a structure that's empty.
851

852 So regardless of what the art is, regardless of the text, it appears to me that it's
853 not a whole lot different in character than a tool shed. And because of that, it
854 gives me concern to allow an accessory structure in a front yard. It's basically
855 similar to a tool shed.
856

857 So I guess my question would be other than artistic purposes—I guess I come
858 back to the question of if it's an accessory structure and the code defines it as a
859 structure, it's not allowed by right in the front yard. I guess I'm trying to better
860 understand what reason there is that you believe it has to remain in the front yard
861 and couldn't be successfully used as art in another part of the yard.

862
863 Ms. Jones - Because art is to be shared. Art is to be experienced.
864 The only people experiencing it if I put it in my backyard are me, my daughters,
865 and my dogs. So many people have gotten such pleasure out of this. There are a
866 lot of Dr. Who fans. They come up to me all the time, ask if they can take a
867 picture with it. They go to my next door neighbor—she said so in her letter. If I'm
868 not home, they'll go and knock on her door for permission to take a picture with
869 the TARDIS. So whether one person recognizes it or a hundred people recognize
870 it is moot, I feel. For someone to assume well, that's a storage shed, it's a really
871 weird looking storage shed on her property, again, that's an interpretation. Art is
872 open to interpretation. I don't feel it's fair for you to judge it as a shed because
873 you're not familiar with its background.

874
875 Mr. Baka - Well, first of all, I'm not assuming anyone is going to
876 judge that this is a shed. I'm not saying that whatsoever. I'm saying there's very
877 little difference in character than a tool shed or small garage as an accessory
878 structure in a front yard. I guess that's the root of some of my comments. I don't
879 have any other further questions at this time, Mr. Chairman.

880
881 Mr. Bell - Thank you. Questions?

882
883 Mr. Berman - Yes I do. First of all, Ms. Jones, I totally get your
884 emotional investment. I respect that. I'm a huge fan of the arts, and I'm also a
885 huge sci-fi fan, and I am very familiar with Dr. Who. Having said that, though, this
886 Board is not attempting to make an art judgment here; they're trying to look at the
887 consistency of the neighborhood and regulations in the area. So let me just ask
888 you a couple of questions.

889
890 First, are you a member of the homeowners association?

891
892 Ms. Jones - No I'm not.

893
894 Mr. Berman - Okay. I know it's optional. I just wanted to ask you
895 that. Second, one of my concerns is the markings on it, the "Police Public Call
896 Box," and I'll tell you why. You and I are not allowed to put blue flashing lights on
897 our cars because people may misinterpret it as that we're offering a service of
898 security, like a police officer. And this box—hear me out—could make somebody
899 come up to it and say—not that it's a time machine, but that it's a place where
900 they can seek security and service from a police officer. And I'm concerned about
901 labeling something that does not provide that service.

902

903 Ms. Jones - I think in this country this is such an unusual object
904 that no American would come up to it and say, "Oh my gosh, I could call the
905 police here." Most people have phones. And if they wouldn't have a phone, for
906 them to walk up to this thing that's made out of wood that you can't even enter—
907 it's wired shut just so the door doesn't blow open because I'm no locksmith. But it
908 would be like, "Well, it says 'Public Call Box,' what does that mean?" people
909 wouldn't even interpret "public call box." It doesn't say "phone box." It's such an
910 unusual wording and so un-American that I think the possibility of a stranded
911 stranger trying desperately to call the police with this prop is really, really slim.
912

913 Mr. Berman - I agree with you completely that it is a remote
914 possibility that that could happen, but it is a possibility. Again, I can see that it's
915 not much of it happening, but if it happened once in a thousand times, it could be
916 an issue. I'll give you an example.
917

918 I park in a parking lot that has the blue call boxes with the flashing blue light. And
919 if it's late at night—and I work late at night—and if there's somebody else who is
920 working there late at night and he or she is not able to fend for themselves, they
921 will run to that call box. And again, I know it's a remote possibility, but what's
922 represented in this item is that somebody could think they'll be able to contact the
923 police or that even a police person is there. I know I'm stretching it, but I'm telling
924 you that I don't think you want to be responsible for that happening. I'm just
925 putting it out there for you.
926

927 Ms. Jones - I understand.
928

929 Mr. Berman - I'm sure this hurts your feelings, but somebody
930 commented that it looked like a port-a-pot. When I drove by, I actually thought
931 that because earlier in the day we went by a construction site, and there was
932 something that looked similar to this. Of course when you get up close to yours, it
933 isn't. But I can understand one of the complaint letters because I actually thought
934 that as well.
935

936 Ms. Jones - So we might need to move it because somebody
937 might try to go to the bathroom in it?
938

939 Mr. Berman - That wasn't where I was going, but that's a good
940 point.
941

942 Ms. Jones - If someone could mistake it for a public call box and
943 could not discern that it is not such a thing upon closer inspection, just as they
944 could discern it's not a port-a-potty upon closer inspection, I don't see the
945 difference there. It's a prop; it's a piece of art.
946

947 Mr. Berman - I think what you're not conceding is that everyone in
948 the world today is not a Rhodes Scholar. Let me put it to you that way. Okay?
949 That's all I'm saying.
950
951 Ms. Jones - I will agree with that.
952
953 Mr. Berman - Present company excluded. Thank you, that's all I
954 have.
955
956 Ms. Harris - Ms. Jones, I didn't hear why you could not place this
957 in your side yard. I know you said in the backyard you have dogs.
958
959 Ms. Jones - I don't really have much of a side yard. I don't know if
960 you can tell from the plat.
961
962 Ms. Harris - I could not.
963
964 Ms. Jones - One the left side as you're looking at the house, there
965 is a walkway about three feet, and then there's ivy. The ivy has totally taken over
966 the side yard. It's shared between me and my next door neighbor. So it would be
967 really very difficult to get it back in there.
968
969 Ms. Harris - But you can cut the ivy. And in the backyard, you
970 could build a little fence around it to keep the dogs out, right?
971
972 Ms. Jones - Anything's possible.
973
974 Ms. Harris - Yes. I congratulate you on your artwork.
975
976 Ms. Jones - Thank you.
977
978 Ms. Harris - Just imagine a four-by-four—you said the height is
979 eight feet tall. If we place artwork in our yard, all of us, just imagine the precedent
980 that would set. I think that's something you might not consider, although we take
981 these case by case.
982
983 Ms. Jones - Right. And I tried desperately, searching through the
984 zoning ordinances to find what the legislation on art is, and I could not come up
985 with anything. I called the office and spoke to somebody, and they said they'd
986 look into it. They never got back to me about what the zoning of art is, what
987 statuary would fall under, fountains, what size limitations there. Couldn't find
988 anything.
989
990 Ms. Harris - Maybe because art usually goes in a museum, you
991 know, or in some place that the entire public can truly appreciate it. Those are my
992 questions. Thank you.

993

994 Mr. Blankinship - When this case came to our attention, we did have a
995 very difficult time determining how to handle it, how to proceed. We were in a
996 spot where there was a complainant who wanted action. I'm the first to say that it
997 is not clearly addressed in our zoning ordinance. So we did struggle somewhat to
998 decide what avenue would be the best way to address this. One of the reasons
999 this solution appealed to us is because it does involve a public hearing in front of
1000 an appointed body. That gives everybody a chance of fairness rather than just
1001 somebody sitting in my office making a decision and everyone having to live with
1002 that.

1003

1004 Mr. Baka - So one follow-up question, if I may. Mr. Blankinship,
1005 would you summarize why the staff believes this is a structure?

1006

1007 Mr. Blankinship - Well, the definition of *structure* is intentionally very
1008 broad. It was written that way so that a very wide range of items can be classified
1009 as structures and regulated as such. It's basically anything that's assembled from
1010 different materials that either has or requires a fixed location on the ground.
1011 Again, what is a fixed location on the ground; you can move a house. But this
1012 has been in this location for a year and a half, so as far as we're concerned it's a
1013 fixed location. Not to say it can't be moved, but it's unlike a vehicle or something
1014 that is frequently moved to different places.

1015

1016 Mr. Baka - And that would make it a structure, an accessory
1017 structure to the house. Okay. Thank you.

1018

1019 Mr. Blankinship - I doubt when those regulations were drafted that
1020 anyone envisioned this item.

1021

1022 Mr. Berman - Two more quick questions. Do you have any issues
1023 with any of the suggested conditions, mainly the electrical permit.

1024

1025 Ms. Jones - No, I don't have a problem with that.

1026

1027 Mr. Berman - Just one more quick.

1028

1029 Mr. Blankinship - Is the light functional?

1030

1031 Ms. Jones - Pardon?

1032

1033 Mr. Blankinship - The light on top, is that functional?

1034

1035 Ms. Jones - Yes. It's about forty watts.

1036

1037 Mr. Blankinship - Okay.

1038

1039 Ms. Jones - So it's not even as bright as a porch light.
1040
1041 Mr. Berman - Would you have any issue with a conspicuous sign
1042 that says this is not a working police call box?
1043
1044 Ms. Jones - I'd be happy to put that up.
1045
1046 Mr. Blankinship - What does the sign on the door say?
1047
1048 Ms. Jones - Something to the effect of—I can't remember. In case
1049 of emergency pull—the little sign is actually supposed to be a little door itself.
1050 And it says in case of emergency, open this to access the phone.
1051
1052 Mr. Blankinship - I see.
1053
1054 Ms. Jones - But it doesn't open.
1055
1056 Mr. Blankinship - Okay. So you could reword that sign as appropriate.
1057
1058 Ms. Jones - Yes.
1059
1060 Mr. Blankinship - Sort of like the letters that they put at the bottom of
1061 the commercial, you know, professional driver on closed course; do not attempt.
1062
1063 Mr. Bell - Any other questions?
1064
1065 Ms. Harris - Yes, I have one concern, although this does not deal
1066 directly with this box. One of the letters from a neighbor said that you walk seven
1067 dogs even though you only allow so many animals and—so this to me is relevant
1068 to whether or not you'll obey what we'll say.
1069
1070 Ms. Jones - That resident is not up to date on my current situation.
1071 I have a kennel license for twenty animals, and she was not aware of this.
1072
1073 Ms. Harris - At that location.
1074
1075 Ms. Jones - Yes, at this location. And it is posted. And if she'd
1076 called in a complaint, which I can't imagine she didn't, they would have come and
1077 see on the back fence where it says twenty animals on the little metal tag.
1078
1079 Mr. Baka - How was the approval for twenty animals given?
1080 What is that from?
1081
1082 Ms. Jones - Pardon? It's a kennel license application. In 2009, I
1083 applied for a conditional use permit to just have six animals. I came to this
1084 hearing. It was decided I was allowed to have four dogs and a cat. Okay. In

1085 2013, I had gotten rabies shots for my four dogs. And then I received a letter
1086 from the County saying you're in—what's the term?
1087

1088 Mr. Baka - Compliance?
1089

1090 Ms. Jones - No. Non-compliance.
1091

1092 Mr. Baka - Non-compliance.
1093

1094 Ms. Jones - Thank you. Because you have more than three
1095 animals. And so I called the office and said I have this conditional use permit for
1096 four dogs and a cat. And they said, "We don't know what you're talking about."
1097 So I went down in person. I said I applied, and the Board said I could have four
1098 dogs and a cat. And they said, "We don't have any record of that." And I said well
1099 what am I supposed to do. And I'm shortening this a lot, you understand. They
1100 said, "Well why don't you just get a kennel license?" I said how do I do that. They
1101 handed me a form. They said take it upstairs. So I took it upstairs, and Mr.
1102 Blankinship signed it. That was really easy. I would never have more. Two of the
1103 animals are fosters, and I'm hoping to find them homes this summer. But five are
1104 legally mine.
1105

1106 Male - [Off microphone.] How many animals do you have
1107 now?
1108

1109 Ms. Jones - I have seven dogs and a cat. But, like I said, legally. I
1110 do have a kennel license.
1111

1112 Mr. Berman - One more question. This goes to what Mr. Baka was
1113 bringing up. If we approve this and other neighbors interpret it as a precedent to
1114 put in structures similar to this up and down your street that maybe wasn't art,
1115 would you take issue with that or be concerned about resale?
1116

1117 Ms. Jones - As Mr. Blankinship stated, every case is seen as an
1118 individual, case-by-case. So for me to say oh, now that I've got a TARDIS
1119 everyone's going to want one. The complaint in 2009 was if you let this woman
1120 have these dogs, everybody's going to have dogs. No, it's always case by case.
1121 Everybody has to come and state their case and be evaluated. I'm not
1122 concerned.
1123

1124 Mr. Berman - I'm not asking you for that. I'm asking you—it's
1125 hypothetical, so you can refuse to answer if you want. Fast forward a year from
1126 now. Assuming that you get the approval, everybody's got something in their
1127 front yard.
1128

1129 Ms. Jones - I think that would be awesome. The more art the
1130 better.

1131
1132 Mr. Berman - No, let's say it wasn't art.
1133
1134 Mr. Baka - A detached garage, a one-car garage, 12 by 24.
1135
1136 Ms. Jones - I was kind of hoping I could have a detached garage,
1137 but I know zoning won't allow me to.
1138
1139 Mr. Baka - You can in the side or rear yard. Mr. Berman, is that
1140 what you were getting at, maybe it was a small garage in the front yard.
1141
1142 Ms. Jones - Again, if they can get the permits and permissions,
1143 more power to them.
1144
1145 Mr. Berman - Okay. But you would have no concern over aesthetics
1146 and continuity of your neighborhood if everybody started to put stuff in their front
1147 yards.
1148
1149 Ms. Jones - I think individualism is a very good thing.
1150
1151 Mr. Berman - All right. Thank you.
1152
1153 Mr. Bell - Any other questions? Is there anyone else here who
1154 would like to speak to this issue? Thank you.
1155
1156 Ms. Jones - Thank you.
1157
1158 **[After the conclusion of the public hearings, the Board discussed the case**
1159 **and made its decision. This portion of the transcript is included here for**
1160 **convenience of reference.]**
1161
1162 Mr. Bell - Do I hear a motion on this case?
1163
1164 Ms. Harris - I move that this conditional use permit be denied. I
1165 feel that this structure can be moved to a side yard or fenced-in area of the
1166 backyard and maybe not be so adversely impactful to the neighborhood, to
1167 members who have been complaining.
1168
1169 Mr. Bell - Do I hear a second on this motion?
1170
1171 Mr. Berman - I second the motion.
1172
1173 Mr. Bell - Is there any discussion?
1174

1175 Mr. Baka - I'd add a brief discussion item. As mentioned, I feel
1176 that we would set a precedent for other structures of different sizes in front yards.
1177 I'll leave it at that. I support the motion.

1178
1179 Mr. Bell - Any other discussion? Hearing none, let's vote. All in
1180 favor say aye. All opposed say nay. The ayes have it; the motion passes.

1181
1182 After an advertised public hearing and on a motion by Ms. Harris seconded by
1183 Mr. Berman, the Board **denied** application **CUP2015-00020, TERESA JONES'**
1184 request for a conditional use permit pursuant to Section 24-95(i)(4) of the County
1185 Code to allow an accessory structure in the front yard at 10810 Branberry Lane
1186 (CROSS KEYS SOUTH) (Parcel 747-755-1040) zoned One-Family Residence
1187 District (R-3) (Three Chopt).

1188
1189
1190 Affirmative: Baka, Berman, Harris, Nunnally 4
1191 Negative: Bell 1
1192 Absent: 0

1193
1194
1195 **[At this point, the transcript continues with the public hearing on the next**
1196 **case.]**

1197
1198 **VAR2015-00004 MT INVESTMENTS, LLC** requests a variance from
1199 Section 24-95(b)(5) of the County Code to build a one-family dwelling at 7500
1200 Moss Side Avenue (STUART RIDGE ADDN) (Parcel 786-753-3006) zoned One-
1201 Family Residence District (R-3) (Fairfield). The lot width requirement and total lot
1202 area requirement are not met. The applicant proposes 7,500 square feet lot area
1203 and 50 feet lot width, where the Code requires 8,000 square feet lot area and 65
1204 feet lot width. The applicant requests a variance of 500 square feet lot area and
1205 15 feet lot width.

1206
1207 Mr. Blankinship - Does anyone else intend to speak to this case?
1208 Would you raise your right hand, please. Do you swear the testimony you're
1209 about to give is the truth, the whole truth, and nothing but the truth so help you
1210 God?

1211
1212 Mr. Teal - I do.

1213
1214 Mr. Blankinship - And state your name, please.

1215
1216 Mr. Teal - It's Larry Teal—T-e-a-l.

1217
1218 Mr. Blankinship - Thank you.

1219

1220 Mr. Teal - As you mentioned, we're just looking to—we bought
1221 this property two or three years ago. We own the home to the right of it as well as
1222 this lot, so we were interested in being able to use the lot for construction. The
1223 current width of the lot is fifty feet, and I think the code is sixty or sixty-five. So we
1224 were looking for the variance to be able to build on the property, understanding it
1225 will have the ten-foot setback from the road. And I think it's seven on the other
1226 side. There are multiple homes around there—a lot of them are older—that are
1227 built on pretty small lots, 7500 square feet, similar to what we see here. And I
1228 believe that's pointed out in the packet that's from the County.

1229
1230 One other thing I wanted to point out is the plat. I don't know if you have—yes.
1231 Where you see the frame shed right now on the home that's 7504, the one to the
1232 right, we own that house as well. That shed has been moved already to the back
1233 of that property. We can get an updated survey if we need to, but that was one
1234 thing for the fact that it was encroaching onto this lot. So that has been moved. I
1235 wanted to point that out. Just looking to try to make use of that property if we can
1236 to be able to put a structure on it if that's something you guys deem to be
1237 worthwhile.

1238
1239 Mr. Baka - I had one question based on a comment you said
1240 there, sir. Thank you for speaking about this case. You mentioned you own the
1241 adjacent house on lot four. We drove to the site. We saw the frame shed was
1242 gone and it's just dirt or gravel or something underneath it. Had you given any
1243 consideration especially with that tight corner to shift the lot line further north so
1244 that not as significant of a variance would be needed?

1245
1246 Mr. Teal - It is something we thought about, and you can see the
1247 asphalt drive. I don't know. We may only have a couple feet until we start to
1248 encroach on the driveway on 7504. So that driveway you may be able to move a
1249 foot or two, but I don't know that we're buying a whole lot by doing that. Not to
1250 say that we couldn't. It's definitely something we can talk about. I'm not sure what
1251 that process is, probably coming back in front of you guys and being able to get
1252 that exception. But that is something we've talked about, but we were just
1253 concerned about the drive and not be able to buy a whole lot of feet basically
1254 moving that way.

1255
1256 Mr. Baka - Is there a photo from the street, because I believe that
1257 it is very tight there on that driveway we saw. All right.

1258
1259 Mr. Teal - We're in the process of renovating 7504, so that's the
1260 other thing. This looks different, and you can see there's construction going on
1261 right now when you guys took the picture. So it's come a pretty good ways. So
1262 that's part of the interest is we're probably at a point where we may want to
1263 divest ourselves of the house right here and maybe look at doing something with
1264 what's next to it.

1265

1266 Mr. Berman - Would you go back to the plat, please? Is that not to
1267 scale? We paced it off and it just did not . . .
1268
1269 Mr. Teal - Which piece?
1270
1271 Mr. Berman - The left, the two-story home.
1272
1273 Mr. Teal - My business partner drew that. I think he tried to get it
1274 as close as he could, but he was looking for the eight feet and the ten feet, which
1275 is what—I think we saw seven feet, maybe, in the documents you guys sent. So
1276 it may not be exactly to scale. I think he was just trying to give you guys an idea
1277 of what it would look like to the extent that it was on that lot.
1278
1279 Mr. Berman - Yes. My issue is that this actually looks like it's portrait
1280 when in fact I believe the house is really like landscape, so to speak.
1281
1282 Mr. Teal - We're going to have to go deeper, so I guess I'm not
1283 understanding your question or concern.
1284
1285 Mr. Berman - We went out there to try to picture how tight this
1286 would be. We took the 7504 house and kind of photoshopped it into the lot and
1287 shaved off four feet from the side of it. And I believe that is—now correct me if
1288 I'm wrong. That would be the shape of the house that plan to put in that lot.
1289
1290 Mr. Teal - Well I think we'd probably go narrower and longer
1291 with the fact that we've only got fifty feet of width on that lot. So I would say 7504
1292 is a little wider than it is deep. So we would probably almost take that and spin it
1293 90 degrees where you'd dealing with something that's a little narrower but a little
1294 bit longer is what we proposed to work within the ten feet and the seven-foot or
1295 eight-foot setbacks from the side.
1296
1297 Mr. Berman - Okay. Because we thought that we could eyeball
1298 fitting the house in that way. The gravel driveway, is the darkened portion inside
1299 the two-story home rectangle? Is that a garage in there or?
1300
1301 Mr. Teal - I think he's just trying to show where it's still gravel
1302 today. So if you go back to the picture that you had, there was a van parked
1303 there. So that gravel—
1304
1305 Mr. Berman - Yes, I get it.
1306
1307 Mr. Teal - You can see the van's parked on gravel that day
1308 where somebody had parked their car. And there's less gravel towards the road.
1309 There's kind of a big bed of gravel back where that van was parked.
1310

1311 Mr. Berman - I understand now. I thought maybe you were putting a
1312 garage.
1313
1314 Mr. Teal - So I think it's more we're building on top of what's
1315 currently that gravel piece.
1316
1317 Mr. Berman - Okay. There's a house cattycorner to that, that is,
1318 diagonal across. Is the house you're proposing similar to that one in nature?
1319
1320 Mr. Teal - I think we would probably go—there are homes being
1321 built within this on lots that are popping up that are I guess I would say newer
1322 than what you're seeing there. I think that's a single story or maybe it has a little
1323 Cape Cod. But probably more just your traditional two-story, similar to what's
1324 being built in different lots around that neighborhood.
1325
1326 Mr. Berman - I meant the footprint itself.
1327
1328 Mr. Teal - I'd say we're maybe a little bit bigger than probably
1329 what some of those houses are that are cattycorner. There are two cattycorner
1330 that I think are thirty or forty years old. So I think they were probably much
1331 smaller from a square footage standpoint.
1332
1333 Mr. Berman - Okay. From a neighborhood consistency standpoint,
1334 you're not going to be the smallest house.
1335
1336 Mr. Teal - No, I don't think we would intend to do that. And I saw
1337 what you guys have put in here as far as the brick fronts and some of that stuff.
1338 And I think we would have no problem with the criteria you guys have
1339 established, the suggested conditions. That shouldn't be a problem at all.
1340
1341 Mr. Berman - Okay. I don't have any more questions.
1342
1343 Ms. Harris - Okay, I have several questions. You said in this
1344 neighborhood the width would not be too far off. But in this block, I thought that
1345 the staff report said that it would be the only fifty-foot-wide lot in this block.
1346
1347 Mr. Teal - Going north on Moss Side. But if you look directly
1348 across Ridge, the two houses that are cattycorner and across the street from
1349 that, those have very similar lot overall dimensions, about 75, 7600 square feet.
1350
1351 Ms. Harris - The width of the lots.
1352
1353 Mr. Teal - I think the one across Moss Side may even be
1354 narrower, but they're close to the fifty feet that we're talking about.
1355

1356 Ms. Harris - The one directly across the street in the 7500 block,
1357 they have quite a bit of footage there.
1358
1359 Mr. Teal - Cattycorner or directly across?
1360
1361 Ms. Harris - No, I'm talking about the block, the 7500 block on
1362 Moss Side.
1363
1364 Mr. Teal - I'm with you. So going that way, we're probably
1365 narrower than a lot, but directly across Ridge, I think there are plenty of other
1366 homes. But I agree with you in going north on Ridge there is probably nothing
1367 that's quite that narrow.
1368
1369 Ms. Harris - Yes. I'm only dealing with the 7500 block.
1370
1371 Mr. Teal - Understand.
1372
1373 Ms. Harris - So in that block, I don't see anything that small. Also,
1374 this lot was used for or held for twenty-seven years, at least twenty-seven years
1375 as a part of the house that's built there. I know you're familiar with the Cochran
1376 case that talked about the reasonable beneficial use of the property taken as a
1377 whole. So taken as a whole, it was used for more than—it was considered a part
1378 of the lot for more than twenty-seven years. So I'm having a problem applying the
1379 Cochran case to this particular—
1380
1381 Mr. Teal - And I have no idea what it was used for. It looks like it
1382 was used for a parking lot with a gravel driveway.
1383
1384 Ms. Harris - It could have been, but it was still taken as a whole
1385 where the house is and the adjacent lot. Also, I notice that on the—I know you
1386 said ten feet and then seven feet, which will give you about thirty-three feet for
1387 the house. But in that ten feet are there gutters? Is there a gutter that runs for
1388 drainage?
1389
1390 Mr. Teal - Yes. Along Ridge there is a drainage ditch.
1391
1392 Ms. Harris - I'm just wondering. This is going to take a mighty
1393 clever builder to avoid all of that. I had questions about that. This to me is one of
1394 those examples of a substandard lot. And in as much as it was used or
1395 considered as a whole adjacent to this property, the 7502, I just have concerns
1396 about it being a separate lot. It just changed in what, 2012? I believe those were
1397 my concerns.
1398
1399 Mr. Baka - I have one question to follow up on what Ms. Harris
1400 just said. I believe you said prior to 1985 lot 5 was independently owned. So it

1401 was owned by the adjacent parcels, but was it ever combined with that same
1402 parcel or did it remain a separate parcel for that time period?

1403
1404 Mr. Blankinship - It was not formally consolidated.

1405
1406 Mr. Baka - Okay. So it was a separate parcel just without a use,
1407 vacant property.

1408
1409 Mr. Teal - I know we pay taxes on two separate ones, so I don't
1410 know that it ever was formally.

1411
1412 Mr. Baka - Okay. Thanks. That's all.

1413
1414 Mr. Berman - I believe with regards to item 6 on the suggested
1415 conditions where it talks about mature trees, when we paced off the lot, it
1416 seemed like you'd have to get rid of almost all of them along that street.

1417
1418 Mr. Teal - I was looking at it the other day. The batch towards
1419 the corner I don't think would be a problem. But there is kind of a set of three,
1420 and then a single, and a set of three along the middle of the lot. So I would think
1421 probably at least four of those need to go to the extent we did something. But
1422 understanding the front, I think, would be fine and the back would be fine. But
1423 somewhere in the middle—and we haven't gotten far enough along to even
1424 contact a builder. This is just something as we're exploring, like I said, divesting
1425 ourselves of 7504, we just want to understand our options with this lot. We
1426 haven't gotten that far around what would need to come down, but I understand
1427 your concerns on the mature growth there.

1428
1429 Mr. Blankinship - The way we drafted that condition, it says front and
1430 rear yard. So if you stake out where the house is going to go and then just
1431 continue those front and rear lines to the street, then we would expect everything
1432 within that to have to come down. But we would hope everything outside of that
1433 would be preserved.

1434
1435 Mr. Teal - Our intent is to preserve as much as we can. With
1436 building up, you're going to need to probably run into some of those, the trees
1437 that are in the middle part of the lot and that they may need to come down. But
1438 the intent is to keep as much as we can.

1439
1440 Mr. Berman - Okay.

1441
1442 Ms. Harris - Mr. Teal, a similar variance was denied in 1976. What
1443 difference do you see now?

1444
1445 Mr. Teal - There is a lot of building going on. I'm not sure why it
1446 was denied back then with looking at some of the houses. To your point, not in

1447 the 7500 block, but just directly across Ridge there are houses with similar or
1448 smaller overall lot sizes that were built upon. And I believe that was maybe even
1449 prior to that. The constructions I believe are over forty years old. I don't think
1450 we're asking for anything that isn't inconsistent with what's been done in the past,
1451 but this is obviously your jobs to try to figure out and preserve this stuff. So just
1452 understanding what we can and can't do with the lot.

1453

1454 Mr. Blankinship - The curious thing here is that in 1968, the Board of
1455 Supervisors rezoned this whole area from R-4, which would have allowed houses
1456 on fifty-foot lots, to R-3. And it's stated in the report that it was specifically for the
1457 purpose of preventing this from happening. So I guess that's why when the
1458 variance application came in in 1976, that would still have been just eight years
1459 previous and still fresher in people's memories.

1460

1461 Mr. Teal - So maybe some of those structures predate that, that
1462 were built on the smaller lots. The house across the street I believe is a double
1463 lot as well. And it could have been post that that people were looking at just
1464 buying two parcels to build and having some width to be able to build in that 7500
1465 block. So like I said, we're just here to understand what we can do and what you
1466 guys will potentially allow with this as far as options.

1467

1468 Ms. Harris - One more thing. We have many substandard lots all
1469 throughout Henrico County.

1470

1471 Mr. Teal - Sure.

1472

1473 Ms. Harris - What you're doing here can actually be done in each
1474 of those cases. We think that's why there is a code and that's why there was the
1475 Cochran case to keep this from continually happening. So that's my concern
1476 about these lots.

1477

1478 Mr. Teal - A substandard lot, though, your concern is that it's
1479 going to be too tight for what we build there or?

1480

1481 Ms. Harris - I'm talking about substandard as far as the Code of
1482 Henrico, the Ordinance of Henrico County is concerned.

1483

1484 Mr. Teal - I guess I hear substandard and just substandard
1485 meaning just that the lot's small.

1486

1487 Mr. Blankinship - Smaller than 65 feet and 8,000 square feet.

1488

1489 Ms. Harris - Which is required by the County.

1490

1491 Mr. Teal - Sure. I understand the code.

1492

1493 Ms. Harris - Which is why you're here.
1494
1495 Mr. Teal - Yes, I agree. And that's why we're just trying to
1496 understand options, seeing that there's been stuff built, understanding the code
1497 was changed. We're just trying to understand what our options are in relation to
1498 this lot.
1499
1500 Mr. Berman - Could I ask one more follow-up question? Since you
1501 own both parcels, had any consideration been given to putting a rather large
1502 addition south of that house onto this lot so you could have one larger home on
1503 two parcels?
1504
1505 Mr. Teal - I think then you're starting to get the biggest house in
1506 the neighborhood, and I don't know that we would necessarily get the value we
1507 would want out of doing something like that. So we just looked at staying in the
1508 existing footprint of this house for renovation and just exploring, you know,
1509 looking at the other lot individually as opposed to doing something like that.
1510
1511 Mr. Berman - That's all.
1512
1513 Mr. Bell - Any other questions? Thank you.
1514
1515 Mr. Teal - Thank you.
1516
1517 **[After the conclusion of the public hearings, the Board discussed the case**
1518 **and made its decision. This portion of the transcript is included here for**
1519 **convenience of reference.]**
1520
1521 Mr. Bell - Do I hear a motion on this case?
1522
1523 Ms. Harris - I move that this variance would be denied. I don't see
1524 much of a difference between when the case came before the Board of Zoning
1525 Appeals in the past. I also feel that we are sandwiching, if I may use that word,
1526 houses on substandard lots. Our purpose is not to rewrite the code; our purpose
1527 is to use the guidelines that have been set before us through Cochran and other
1528 litigation to be sure that they conform to the Code of Henrico County. And if it
1529 does not, then we I think have examined completely this case to see just what
1530 we're going to have. We have here so many feet that must be to the east of the
1531 property—or to the south of the property. I just question how are we going to
1532 sandwich this 33 foot wide dwelling on this particular lot.
1533
1534 Mr. Bell - Do I hear a second on the motion?
1535
1536 Mr. Baka - I'll second the motion with just a discussion item. In
1537 looking at the aerial photograph, I didn't feel that the house is entirely out of
1538 character with the other two lots diagonal from it and on the opposite block. I

1539 don't know if that's the 7400 or 7600 block in the other direction. I understand the
1540 reasons in the motion, so I seconded it so we have a chance to discuss it here as
1541 a board.

1542
1543 Mr. Bell - Any other discussion?

1544
1545 Mr. Baka - Those are the only comments I have. Thanks.

1546
1547 Mr. Bell - Any other discussion?

1548
1549 Mr. Berman - The motion is for denial?

1550
1551 Mr. Bell - To deny, yes. Hearing none, let's go ahead on the
1552 vote. All in favor of denying, say aye. All opposed say nay. The ayes have it; the
1553 motion passes.

1554
1555 After an advertised public hearing and on a motion by Ms. Harris seconded by
1556 Mr. Baka, the Board **denied** application **VAR2015-00004, MT INVESTMENTS,**
1557 **LLC's** request for a variance from Section 24-95(b)(5) of the County Code to
1558 build a one-family dwelling at 7500 Moss Side Avenue (STUART RIDGE ADDN)
1559 (Parcel 786-753-3006) zoned One-Family Residential District (R-3) (Fairfield).
1560 The lot width requirement and total lot area requirement are not met.

1561
1562
1563 Affirmative: Baka, Bell, Harris, Nunnally 4
1564 Negative: Berman 1
1565 Absent: 0

1566
1567
1568 **[At this point, the transcript continues with the public hearing on the next**
1569 **case.]**

1570
1571 **VAR2015-00005 EMERALD LAND DEVELOPMENT LLC** requests a
1572 variance from Section 24-94 of the County Code to build a one-family dwelling at
1573 10908 Greenwood Road (Parcel 776-769-6061) zoned Agricultural District (A-1)
1574 (Brookland). The lot width requirement is not met. The applicant proposes 126
1575 feet lot width, where the Code requires 150 feet lot width. The applicant requests
1576 a variance of 24 feet lot width.

1577
1578 Mr. Blankinship - Does anyone else intend to speak to this case?
1579 Would you raise your right hands, please? Do you swear the testimony you're
1580 about to give is the truth, the whole truth, and nothing but the truth so help you
1581 God?

1582
1583 Mr. Rempe - I do.

1584

1585 Mr. Blankinship - Thank you. Sir, you can have a seat, and if you'll state
1586 your name.

1587
1588 Mr. Rempe - Good morning, Mr. Chairman, Board, staff. My name
1589 is Mark Rempe with Emerald Land Development. We're requesting a variance on
1590 10908 Greenwood Road. The variance is for a lot-width variance. The code
1591 requires 150 feet for lot width; we have 126 feet. We need a variance for 24 feet.

1592
1593 The lot was recorded prior to the Zoning Ordinance. There are no other
1594 reasonable beneficial uses. Therefore, by not granting this variance would be a
1595 taking.

1596
1597 I'd like to see if you guys could pull up the GIS, if you could, for hydric soils, if you
1598 have access to that. And then hit *soils*, the very last one right there. There we
1599 go. I don't know if everyone can see this. The red indicates hydric soil, which is
1600 an indication of wetlands. And you can see the wetlands all around not only at
1601 this particular parcel, but the one next door and the one next door. That kind of
1602 negates the development for this if you were to combine everything at once. As
1603 far as beneficial uses of timbering and farming, with the land outside the
1604 wetlands, it's just not enough for timbering and agricultural use.

1605
1606 It's important to point out that the Cochran rule uses the words "as it stands." So
1607 the application, as it stands today, is an application for this particular piece, this
1608 particular property, not combining them, not looking at the Comprehensive Plan
1609 what might happen, one might speculate what is going to happen in the future.
1610 The last case was 2005. It's been ten years and there have been no takers for
1611 the property. There is nobody combining this, no rezoning going on. So that in
1612 and of itself is evidence that this is not going to happen probably because of the
1613 wetlands.

1614
1615 We do have a homebuyer for the house that we're going to build. We had the
1616 homebuyer first, and they wanted to live in this area, they wanted this house. And
1617 then we reached out to the landowner and said we want to build a house here for
1618 this particular person.

1619
1620 We talked about no reasonable uses, so thereby a taking. So the threshold of the
1621 Cochran rule has been fulfilled. The exceptional situation is the wetlands. It's not
1622 going to be a detriment to the neighborhood because there are other houses built
1623 as a similar use, similar sizes. And as far as being reoccurring, just rezoning it by
1624 itself would just give us one house. If we rezone it by itself and we don't have the
1625 person next door, it's going to be spot zoning because it's only like two acres. So
1626 we don't think it's going to be a reoccurring issue.

1627
1628 In conclusion, we think we have fulfilled our burden of proof for all the different
1629 elements, and we look for approval on it.

1630

1631 Mr. Bell - I have a couple of questions. You refer to the 2005
1632 report and I'll read what it says because you didn't address it. At the public
1633 hearing, the Board concluded that the property could be used for agriculture
1634 without rezoning it or that it could be rezoned to a residential zoning district and
1635 developed in the future. The Board denied the variance application. There are
1636 wetland areas right now, and once you cut the timber, you can't put any more
1637 there. And you say it cannot be used for agriculture. So there is a change that
1638 you are pointing out by showing us the wetlands.

1639
1640 Mr. Rempe - The wetlands and the small amount of area outside of
1641 the wetlands.

1642
1643 Mr. Bell - Why couldn't the piece of property that you have right
1644 now still be zoned for R-3 like many in the area has already been done?

1645
1646 Mr. Rempe - If we don't have the other piece and it's only two
1647 acres, would it be considered spot zoning by itself?

1648
1649 Mr. Blankinship - I think because the Comprehensive Plan—it's
1650 important to be consistent with the Comprehensive Plan. I think that would get
1651 you over the spot zoning.

1652
1653 Mr. Rempe - And we would only get one house.

1654
1655 Mr. Blankinship - Yes.

1656
1657 Mr. Rempe - It seems like it would be a wasted step as we're only
1658 getting one more—we're not getting anything else from it, nothing additional.

1659
1660 Mr. Baka - Typically on a property like this there is typically not a
1661 wetlands delineation done at this time, until the time of development. So I'm
1662 assuming you haven't done one of those yet?

1663
1664 Mr. Rempe - We haven't done a complete wetlands delineation.
1665 We think we can go back from Greenwood about 200 feet and then the wetlands
1666 will be back past that.

1667
1668 Mr. Baka - When you walk back that way—I've driven by on the
1669 road, but when you walk back that way, can you describe the soil conditions the
1670 further back you get?

1671
1672 Mr. Rempe - It gets lower and wetter back there.

1673
1674 Mr. Baka - Okay. I know the school owns the property to the
1675 west, or the County owns the school property, Greenwood. Who owns the
1676 property to the east of you?

1677
1678 Mr. Rempe - That property to the east is owned by one individual,
1679 and he owns the other side as well, and he owns across the street. He's thinking
1680 office-type use.

1681
1682 Mr. Baka - Office-type use? Okay. That parcel directly to the east
1683 of you shares the similar condition that you have. It's a very long, narrow lot,
1684 almost a similar size. Your situation, again, is shared by that lot. I realize the soil
1685 conditions would be wet the further back you go. In all likelihood, because the
1686 land—now I didn't go back onto this private property back there. In all likelihood,
1687 the lower you get and the wetter you get, you are going to hit some wetlands. But
1688 I just wanted to point out that on the map where you're showing the hydric soils,
1689 merely having hydric soils doesn't necessarily imply that they're absolutely
1690 wetlands there at that point. And you have to have both hydrophilic vegetation
1691 and also you have to have hydrology. So in all likelihood, you're going to hit that
1692 point. You may not hit it where it was labeled on the map because that shows
1693 just hydric soils.

1694
1695 Commonly throughout Henrico County, a lot of developers these days are trying
1696 to find the last few pieces or lands or woodlands that have hydric soils on them
1697 because that's all that's left to put additional subdivisions or houses. So it is not
1698 by any means without—by going through a wetlands delineation and asking the
1699 Corps for certain minimizing impacts and asking for certain mitigation, it's clearly
1700 possible to develop subdivision lots in areas that have hydric soils. That is done.

1701
1702 Just to kind of take that a step further, when the land use plan shows Suburban
1703 Residential for this area, one of the concerns or questions I have is you have a
1704 timing issue in the market. If the Comp Plan shows SR-2, Residential, and you
1705 could go to R-3 zoning one day with that as successful rezoning, the market
1706 considerations are such that maybe this is a piece of land that takes longer to
1707 develop than others, but there still is a remedy there. I guess my question is if
1708 you're waiting for that remedy, have you either tried to consider buying that
1709 adjacent sliver of land similar to yours so that you wouldn't need this request
1710 today or have you considered selling to that property owner?

1711
1712 Mr. Rempe - The adjacent property next door is owned by this guy
1713 who owns everything, the one to the right and the one across the street. The
1714 price he wants for it is just—he thinks office use over there. It just doesn't make a
1715 good—it doesn't make any sense.

1716
1717 Mr. Baka - All right. Those are all the questions I have.

1718
1719 Mr. Bell - Any other questions?

1720
1721 Mr. Berman - In the past, I've used the wetlands mapper to
1722 delineate wetlands. Is that available in this case?

1723

1724 Mr. Baka - It's a source, but it doesn't necessarily have the
1725 accuracy that a delineation would do. An NWI, a National Wetlands Inventory
1726 map yes, does have fairly reliable data. If anything, it's not quite to scale.

1727

1728 Mr. Rempe - Wetland mitigation is pretty expensive.

1729

1730 Mr. Baka - It is. But if you zoom out from this map—if there's any
1731 way you can zoom out. I mean, with other residential subdivisions nearby or
1732 whether it's office at Woodman and I-295, there are long-term options for this
1733 property which tests one's patience, yes.

1734

1735 Mr. Bell - Any other questions?

1736

1737 Ms. Harris - Yes, I do. Is your property adjacent to Greenwood
1738 Elementary School, directly adjacent?

1739

1740 Mr. Rempe - It is.

1741

1742 Ms. Harris - Okay. And so with the wetland concerns for your
1743 property, would that have not been the case for Greenwood Elementary School
1744 also?

1745

1746 Mr. Baka - That's a good question.

1747

1748 Mr. Blankinship - Do you still have that map, the GIS?

1749

1750 Mr. Rempe - No, sorry.

1751

1752 Mr. Blankinship - I shouldn't have closed that out. As Mr. Gidley is
1753 bringing that back up, I'll just explain that the Greenwood Elementary School was
1754 sited on a higher spot within that same parcel. I don't know exactly how the
1755 wetlands delineation was performed on that, whether we had to do any mitigation
1756 when we built the school. But it is clear that it's less impacted in that corner of the
1757 property, which is why the school building was sited the way it is.

1758

1759 Ms. Harris - Okay. Were they required to have a berm by building
1760 that close to wetlands?

1761

1762 Mr. Blankinship - I don't know.

1763

1764 Mr. Baka - Again, they may have hydric soils extending into the
1765 school-owned property. But merely because there are hydric soils on that
1766 property doesn't necessarily mean that that's wetlands, considered by the Corps
1767 of Engineers.

1768

1769 Mr. Blankinship - It's one of three indications, as Mr. Baka explained
1770 before.
1771

1772 Ms. Harris - What about spot zoning? Have you sought rezoning?
1773

1774 Mr. Rempe - I'm sorry?
1775

1776 Ms. Harris - Have you sought—
1777

1778 Mr. Blankinship - Rezoning.
1779

1780 Ms. Harris - —rezoning?
1781

1782 Mr. Rempe - I just didn't know if having the size of the property
1783 around two acres the County would allow a rezoning to R-3 because that's just
1784 one application. I just didn't know if they would do that or not. They mentioned
1785 before on some of my other cases that that's too small to do by itself. They
1786 wanted a combining of a large critical mass of land to do a larger rezoning.
1787

1788 Ms. Harris - I thought that there was some other spot zoning in
1789 that neighborhood.
1790

1791 Mr. Blankinship - I wouldn't call it spot zoning. There have been other
1792 lots rezoned in that area, other parcels rezoned for development. There is quite a
1793 bit of development just on the other side of 295 in the Woodman Road corridor.
1794 And you can see on the map now, Ms. Harris, what I was saying about the
1795 wetlands on that parcel. The less hydric soils are yellow. The green is not hydric
1796 at all. Or I should say less likely to be hydric soils I think is the yellow. So the
1797 building was sited specifically to get it in the area less likely to be wetland.
1798

1799 Mr. Baka - There are a large number of homes in this new
1800 subdivision next to Greenwood Elementary School in the hydric soil area that are
1801 not in wetlands.
1802

1803 Mr. Blankinship - Right.
1804

1805 Ms. Harris - If we were to approve this permit here or the variance,
1806 I think you may have seen that—our one concern is the highest and best use of
1807 this property. You're going to build this small home right at the edge where the
1808 land seems to be okay. Yet you have all of this other acreage that something
1809 wonderful can happen just like on the other side of the school.
1810

1811 Mr. Rempe - As the application stands right now, we're not
1812 speculating on what we can put together later on. We'd like to get one house.
1813 The highest and best use for the property might ultimately be residential lots kind
1814 of using the road frontage of Greenwood Road with the fact that you have hydric

1815 soils below. We might only get the Greenwood Road frontage for lots. Nice big
1816 houses, nice acreage pieces. We might not be able to use that property behind it.
1817 You have 295, you have Woodman Road. It looks like all that stormwater is just
1818 collecting there because that's part of the lowest spots. So highest and best use,
1819 you have to look at feasibility, and you have to look at what you can do now not
1820 necessarily in the future. Right now we have a homebuyer for the house.

1821

1822 Ms. Harris - Right. We don't want to create a situation where your
1823 house will be the only house stationed right there at that particular point, and
1824 there's a subdivision completely out of character for that particular house that's
1825 sitting right there.

1826

1827 Mr. Rempe - Well across the street you have another house.

1828

1829 Ms. Harris - I saw that. So they had to use spot zoning for that, did
1830 they not?

1831

1832 Mr. Rempe - That's probably A-1 zoning.

1833

1834 Ms. Harris - Is it A-1? Okay.

1835

1836 Mr. Baka - I asked about the property to the east. The property to
1837 the west is the school board. Twenty-five or thirty feet would avoid a variance.
1838 Have you considered talking to the school board about perhaps a very small
1839 acquisition to avoid the need for this application?

1840

1841 Mr. Rempe - I have not.

1842

1843 Mr. Bell - Any further questions? Thank you.

1844

1845 Mr. Rempe - Thank you for your time.

1846

1847 Mr. Blankinship - There is another gentleman.

1848

1849 Mr. Carter - Mr. Chairman, members of the Board, my name is
1850 Ronald L. Carter—C-a-r-t-e-r. Just so that you'll know my interest in it, ours is the
1851 property right straight across Greenwood from this property in question. That's it
1852 right there.

1853

1854 Our concern is that while ultimately this property may very well indeed be
1855 developed in some fashion or form, we don't believe at this time that this is the
1856 best use, especially since at some point in time a group of folks just like you set
1857 up the rules and guidelines for just what we're talking about, the property
1858 dimensions and those kinds of things. Over time, nothing has changed in that
1859 particular location that I believe would mean that you really should change those
1860 requirements now. Percentage-wise, 26 feet on a—or 24 feet as it was maybe on

1861 that 150-foot percentage-wise is substantial. It's not like it's 2 feet or 3 feet.
1862 That's a substantial variance, I believe.

1863
1864 I believe I understand the gentleman right that they don't own—or the people
1865 he's representing don't own the adjacent lot or that larger piece of property
1866 either. So then right now in the short term, they're the only ones that can benefit
1867 from a change should you desire to make a change. In the long term and in, as
1868 folks like to say, the bigger picture, is it worth a one-time and short-term benefit
1869 for maybe something bigger and better, we'll say, in the future. Perhaps at some
1870 point maybe the County would want to buy it. Maybe they want to put another
1871 park there; I don't know. But something that would be less congesting. The area
1872 is already pretty well developed going down Greenwood, albeit there is still some
1873 open land there and right down the street a larger piece that is land for
1874 development.

1875
1876 The bottom line is I'm asking you to deny their request for rezoning, particularly
1877 based on short-term gain for we'll say one individual as opposed to long-term
1878 benefit for the entire area. Thank you.

1879
1880 Mr. Baka - One question.

1881
1882 Mr. Carter - Yes sir.

1883
1884 Mr. Baka - If the gentleman were to build a really large home in
1885 character that would be as big in square footage as the other homes on the north
1886 side of Greenwood Road and be a tremendous value, would you have concern
1887 with it in that situation?

1888
1889 Mr. Carter - On that particular lot, I don't think anything much
1890 bigger than what he's building with a footprint that they have proposed would go
1891 there. If, for instance, someone had that entire block of property, the two narrow
1892 strips as well as the adjacent one, they could build a substantial house over
1893 there, assuming that the ground is suitable to build on. I have walked over there
1894 after a long dry spell and come back with wet feet.

1895
1896 Mr. Baka - I think the plat just showed 47-foot side yard
1897 setbacks. So Ben or Paul, what would be the minimum side yard setbacks? It
1898 appears to me a person could build a much larger home and it could in general
1899 character, just driving by, wouldn't look a whole lot different than other homes in
1900 the area.

1901
1902 Mr. Blankinship - The sum of the side yards would have to be 50 feet,
1903 so you could build about a 75- or 76-foot-wide house.

1904
1905 Mr. Baka - Which is fairly wide. Okay, thank you.

1906

1907 Mr. Carter - Thank you.
1908
1909 Ms. Harris - Mr. Carter.
1910
1911 Mr. Carter - Yes ma'am.
1912
1913 Ms. Harris - You said something about our denying the request for
1914 zoning. We're not the Planning Commission, you know that. But if he did take this
1915 case to be rezoned, would you still be opposed to rezoning the property?
1916
1917 Mr. Carter - I would want to know the details.
1918
1919 Ms. Harris - Thank you. That's all I had, thank you.
1920
1921 Mr. Bell - Thank you.
1922
1923 Mr. Carter - Thank you.
1924
1925 Mr. Blankinship - Is there anyone else to speak to this case? Did you
1926 want to rebut at all?
1927
1928 Mr. Rempe - I just want to point out that there are a lot of lots all
1929 over America that were platted and recorded prior to the zoning ordinance. The
1930 mechanism for this hearing is to take those substandard lots that don't fit that
1931 zoning ordinance and give those property owners some relief. They're paying
1932 taxes. People are dumping on the properties. They have to go out there and
1933 weed them sometimes. They have to take care of them. This guy has been
1934 holding onto the property for ten years, and it's been available for purchase for
1935 ten years. I just wanted to point that out. And the highest, best use is what we
1936 can do right now in the short term because ultimately, long term, trying to buy a
1937 piece from another person who might not want to sell it or sees something totally
1938 different, sees maybe office use over there—that might not work out. And
1939 ultimately it might be just residential housing facing Greenwood Road that will fit
1940 in to what our application is right now. I appreciate your time.
1941
1942 Mr. Bell - Thank you.
1943
1944 **[After the conclusion of the public hearings, the Board discussed the case**
1945 **and made its decision. This portion of the transcript is included here for**
1946 **convenience of reference.]**
1947
1948 Mr. Bell - Do I hear a motion? I move that we deny this because
1949 I believe it would be more appropriate to go through an R-3 proceeding than to
1950 be handled here. There were a number of questions that came up that we had
1951 information on, but we felt like more would make for a better decision. I also don't
1952 see many changes that have been made in the last ten years since 2005 when it

1953 was denied by that board. We had the water problem and everything, and they
1954 looked at it in terms of agriculture, et cetera, and decided to deny it. So I move
1955 that we deny granting the variance. Do I hear a second on the motion?
1956

1957 Mr. Baka - Second.

1958
1959 Mr. Bell - Is there any discussion? Hearing none, all in favor of
1960 denying the motion say aye. All opposed say nay. The ayes have it; the motion
1961 passes.
1962

1963 After an advertised public hearing and on a motion by Mr. Bell seconded by Mr.
1964 Baka, the Board **denied** application **VAR2015-00005 EMERALD LAND**
1965 **DEVELOPMENT LLC's** requests for a variance from Section 24-94 of the
1966 County Code to build a one-family dwelling at 10908 Greenwood Road (Parcel
1967 776-769-6061) zoned Agricultural District (A-1) (Brookland).
1968

1969
1970 Affirmative: Baka, Bell, Harris, Nunnally 4
1971 Negative: 0
1972 Absent: Berman 1
1973

1974
1975 **[At this point, the transcript continues with the public hearing on the next**
1976 **case.]**
1977

1978 **CUP2015-00022 EASTERN HENRICO RURITAN CLUB** requests a
1979 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
1980 allow a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768) zoned
1981 Agricultural District (A-1) (Varina).
1982

1983 Mr. Fifer - Good morning, ladies and gentlemen. My name is
1984 Tom Fifer—F-i-f-e-r.
1985

1986 Mr. Blankinship - Excuse me, Mr. Fifer. Does anyone else intend to
1987 speak to this application? Would you raise your right hand please? Do you swear
1988 the testimony you're about to give is the truth, the whole truth, and nothing but
1989 the truth so help you God?
1990

1991 Mr. Fifer - I do.
1992

1993 Mr. Blankinship - Thank you. You can proceed.
1994

1995 Mr. Fifer - We're here this morning to request the renewal of our
1996 turkey shoot. We've had a turkey shoot at the Eastern Henrico Ruritan Club since
1997 1967, I believe, which is something like forty-eight years. We've never had any
1998 problems with our neighbors. Never had any accidents as far as people getting

1999 shot by mishandling of firearms. I have read your suggestions or conditions. If I
2000 may, I have a question of my own. I'm not familiar with the legal jargon, and I'm
2001 not quite sure what we're seeing here in this number 8:
2002

2003 This use permit shall not be effective until the applicant and the
2004 County enter into a license agreement or memorandum of
2005 understanding, which shall include an indemnification and hold
2006 harmless clause in favor of the County, its elected officials,
2007 employees, agents, and volunteers. This agreement must be in
2008 place no later than Thursday, October 1, 2015, and a copy of the
2009 agreement shall be submitted to the Planning Department.
2010

2011 Is this a separate form that the club has to enter into with the County or is this a
2012 clause I can put into the insurance policy itself?
2013

2014 Mr. Blankinship - I believe it's a separate agreement. There was one
2015 four years ago. The County acquired this property from the school board about
2016 five years ago, so we're in kind of an unusual circumstance where this Board is
2017 the reviewing agent, but the County is the property owner. So we're kind of
2018 negotiating with you from both ends, if you will.
2019

2020 Mr. Fifer - So we have a separate form other than the insurance
2021 policy.
2022

2023 Mr. Blankinship - Yes sir. And there was such an agreement four years
2024 ago. I believe two years ago, this condition was on the use permit and it was not
2025 complied with. We can't find a copy of the agreement from two years ago. And so
2026 that's why we ask that it be submitted in advance so that we can make sure it
2027 gets done.
2028

2029 Mr. Fifer - Is this a form that you have that you can give to me to
2030 fill out or?
2031

2032 Mr. Blankinship - We can send you a copy of the one that was
2033 submitted four years ago.
2034

2035 Mr. Fifer - I would appreciate that, if you would be so kind.
2036

2037 Mr. Blankinship - We can do that.
2038

2039 Mr. Fifer - The rest of your suggested conditions we're in
2040 agreement with and have been following in the past.
2041

2042 Mr. Nunnally - Is this the same operation you've had for the last
2043 forty-seven years, you said?
2044

2045 Mr. Fifer - Forty-eight years, yes sir.
2046
2047 Mr. Nunnally - And you're using the same type of gauge?
2048
2049 Mr. Fifer - Low-powered, 12-gauge shotgun shells. Nothing
2050 larger than a 12-gauge.
2051
2052 Mr. Nunnally - Two point three-quarter inch?
2053
2054 Mr. Fifer - Yes sir.
2055
2056 Mr. Nunnally - Have we ever had any complaints, Mr. Blankinship,
2057 that you know of?
2058
2059 Mr. Blankinship - No sir, none that I'm aware of.
2060
2061 Mr. Nunnally - That's a pretty good record.
2062
2063 Mr. Fifer - Thank you. We're very cautious. We have two people
2064 on the firing line at all times monitoring.
2065
2066 Mr. Nunnally - Two people?
2067
2068 Mr. Fifer - Who has the shells, when they get them, and when
2069 they're to shoot them. And they're not to load their weapon until they're at the
2070 firing post. And the weapon is to be pointed downrange at all times.
2071
2072 Mr. Berman - What are the qualifications of those two people? Are
2073 they range-certified?
2074
2075 Mr. Fifer - No sir. They're just two average citizens like yourself
2076 and myself that are very safety conscious. And we do have rules and regulations
2077 that we abide by that have resulted in a very safe turkey shoot over the last forty-
2078 eight years.
2079
2080 Mr. Berman - And we're all thankful for that. Would they recognize a
2081 higher caliber rifle?
2082
2083 Mr. Fifer - I'm sorry?
2084
2085 Mr. Berman - Would they recognize a higher caliber rifle? I mean a
2086 12-gauge, I have one, and it has quite the kick even with the two and three-
2087 quarter.
2088
2089 Mr. Fifer - Yes sir.
2090

2091 Mr. Berman - So my question to you is if they were on the line, and
2092 somebody brought something more powerful and that, either the shells or the
2093 shotgun itself, would they recognize it and could that—
2094

2095 Mr. Fifer - No sir. If someone brought anything larger—they
2096 shoot our shells; they can't bring their own shells. We provide the shells.
2097

2098 Mr. Berman - I did not know that.
2099

2100 Mr. Fifer - And we have nothing larger than a 12-gauge. We do
2101 shoot 20 and 16 gauge and 410s, if you have them.
2102

2103 Mr. Berman - Okay, that's good. That's very pertinent. When you
2104 say there weren't any complaints, I thought—
2105

2106 Mr. Baka - Was there anyone in the neighborhood adjacent to
2107 this out in left—I want to say out in left field, but in the neighborhood?
2108

2109 Mr. Fifer - Yes sir. Off the left-field line there's a housing
2110 development, and it's quite a distance from the firing line.
2111

2112 Mr. Baka - We walked on the County property there. But have
2113 you had any complaints from that neighborhood? I thought maybe there had
2114 been, but I wasn't sure.
2115

2116 Mr. Fifer - Not that I'm aware of. I try to call the non-emergency
2117 police number every night before we fire and let them know that we are going to
2118 start shooting the turkey shoot. If any of the neighbors should complain, they'll
2119 know what's going on and won't send the SWAT team down to investigate. But
2120 we've had no problems.
2121

2122 Mr. Baka - Thank you for that clarification.
2123

2124 Mr. Berman - With the low-power birdshot shell, from an
2125 environmental impact standpoint, what remains after you fire the gun?
2126

2127 Mr. Fifer - The shell remains, which we pick up and put into a
2128 box and discard. Out near where the targets are between the first and second
2129 baseline, there are plastic—the insides of the shells. Where the shells and all are
2130 wadded up there's a plastic wad that comes out with it. And it's left there. We try
2131 to clean those up before we finish the turkey shoots.
2132

2133 Mr. Berman - So there wouldn't be anything with poison, like lead
2134 that would poison the soil or a choking hazard for any kids playing baseball there
2135 later?
2136

2137 Mr. Fifer - Not that I'm aware of. They generally come by after
2138 our turkey shoot before spring and take the tractor and drag the infield. And that's
2139 where all these plastic wads, I call them, are generally deposited. And they will
2140 rake them all up and dispose of them.

2141
2142 Mr. Blankinship - When the County first acquired the property from the
2143 school board, we actually had a condition four years ago requiring that they use
2144 only lead-free shot. Then two years ago when they renewed, we checked with
2145 General Services and Risk Management about whether they wanted to continue
2146 that. They did some research, and apparently the only real need for that is if the
2147 shot is falling in water. As long as it's falling on dry ground, lead-free shot doesn't
2148 cause them any concern. We did some research into that and have removed that
2149 condition.

2150
2151 Ms. Harris - Mr. Fifer, have you observed any new residential
2152 construction in the area? Have you observed any *new* residential construction?
2153

2154 Mr. Fifer - No ma'am, not within the distance of our range that
2155 the shell might impact. In fact, the County owns the property directly behind the
2156 ball field for I think equipment storage or something. And we've never had any
2157 problems with them.

2158
2159 Ms. Harris - Okay. I know that you've been doing this for forty-
2160 seven years or more. Is there a shell that's less impactful that you could use, or
2161 must you use, what it is, 12-gauge? Is there any type of weapon you could use
2162 during a turkey shoot that doesn't create such an impact?
2163

2164 Mr. Fifer - Not that I'm aware of, unless went to rifles, which of
2165 course are long range. Rifles go a mile and require pretty much more accuracy
2166 than a turkey shoot. A turkey shoot is kind of a game of chance or luck. You're
2167 shooting a bunch of pellets at a target, and whoever happens to have a pellet hit
2168 closest to the center of the target wins the shoot.

2169
2170 Mr. Blankinship - You said you provide the shells. But do most of the
2171 contestants bring their own shotguns?
2172

2173 Mr. Fifer - Yes sir, they bring their own shotguns. We do have a
2174 single 12-gauge shotgun that we call the house gun. If you want to shoot and you
2175 don't have a gun, you're welcome to use the house gun. We have one gun.

2176
2177 Mr. Blankinship - So you use 12-gauge because that's what people
2178 own?
2179

2180 Mr. Fifer - I'd say 95 percent of the people shoot 12-gauge. We'll
2181 get some 20 and 16 gauge and 14 shells, and we probably won't go through a
2182 box a year.

2183
 2184 Mr. Blankinship - Oh really? Okay.
 2185
 2186 Mr. Fifer - But we go through several cases of 12-gauge.
 2187
 2188 Ms. Harris - This is fundraising for the Eastern Henrico Ruritan
 2189 Club?
 2190
 2191 Mr. Fifer - Yes, yes ma'am. All of Eastern Henrico Ruritan Club's
 2192 money goes to charity. In fact, Mr. Donati said, when he was supervisor, that the
 2193 County could not replace the money that the Eastern Henrico Club places into
 2194 the County as a charitable organization.
 2195
 2196 Mr. Bell - Any other questions? Thank you.
 2197
 2198 Mr. Fifer - Thank you.
 2199
 2200 Mr. Bell - Would anybody else like to speak to this issue?
 2201 Hearing none, let's take a five-minute break.
 2202
 2203 **[After the conclusion of the public hearings, the Board discussed the case**
 2204 **and made its decision. This portion of the transcript is included here for**
 2205 **convenience of reference.]**
 2206
 2207 Mr. Bell - Do I hear a motion on this case?
 2208
 2209 Mr. Nunnally - I move we approve it according to the conditions on
 2210 there and the record they have had in the past. I think it's a good operation, so I'll
 2211 move we approve it.
 2212
 2213 Ms. Harris - I second that motion. I, too, feel that this operation
 2214 does not adversely affect the health, safety, or welfare of the community.
 2215
 2216 Mr. Bell - Is there any discussion? Hearing none, all in favor say
 2217 aye. All opposed say nay. The ayes have it; the motion passes.
 2218
 2219 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
 2220 Ms. Harris, the Board **approved** application **CUP2015-00022, EASTERN**
 2221 **HENRICO RURITAN CLUB's** request for a conditional use permit pursuant to
 2222 Section 24-116(c)(1) of the County Code to allow a turkey shoot at 3808 Nine
 2223 Mile Road (Parcel 806-723-4768) zoned Agricultural District (A-1) (Varina). The
 2224 Board approved the conditional use permit subject to the following conditions:
 2225
 2226 1. Hours of operation shall be limited to 6:00 p.m. to 10:00 p.m. on Fridays,
 2227 October through December, and on the Wednesday before Thanksgiving Day,
 2228 2015 and 2016. This permit shall expire on December 31, 2016.

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2274

2. No firearm shall be discharged within 300 feet of any lot occupied by a dwelling, or across any road or street, or within 300 feet of any building other than buildings immediately adjacent to the shooting area located on the same parcel.

3. The turkey shoot shall only involve the use of shotguns no larger than 12 gauge and low powered (2-3/4") shells.

4. The site shall be clearly posted to show where shooting will occur.

5. Sufficient off-street parking shall be provided for all cars visiting the premises.

6. No alcoholic beverages may be consumed on the property during the turkey shoot. A sign to this effect must be conspicuously posted in the immediate vicinity of the shooting area. No person under the influence of alcohol, as defined in Section 18.2-266 of the Code of Virginia, may be permitted in the shooting area.

7. Restrooms shall be provided.

8. This use permit shall not be effective until the applicant and the County enter into a license agreement or memorandum of understanding, which shall include an indemnification and hold harmless clause in favor of the County, its elected officials, employees, agents and volunteers. This agreement must be in place no later than Thursday, October 1, 2015, and a copy of the agreement shall be submitted to the Planning Department.

9. The applicant shall provide general liability insurance in the minimum amount of \$1 million per occurrence, \$2 million aggregate, naming the County of Henrico as an additional insured. This coverage shall be primary to the additional insured and to any self-insurance or insurance afforded to the County of Henrico. This insurance policy must be in place no later than October 1, 2015, and a copy shall be submitted to the Planning Department.

Affirmative:	Baka, Bell, Berman, Harris, Nunnally	5
Negative:		0
Absent:		0

Mr. Bell - Let's go ahead and we'll vote on the minutes. Do I hear a motion on the minutes?

Mr. Berman - I move we approve the minutes.

2275 Mr. Bell - Do I hear a second?
 2276
 2277 Ms. Harris - Second.
 2278
 2279 Mr. Bell - Any discussion? Hearing none, all in favor say aye.
 2280 All opposed say nay. The ayes have it; the motion passes.
 2281
 2282 On a motion by Mr. Berman, seconded by Ms. Harris, the Board **approved as**
 2283 **submitted** the **Minutes of the May 28, 2015**, Henrico County Board of Zoning
 2284 Appeals meeting.

2287	Affirmative:	Baka, Bell, Berman, Harris, Nunnally	5
2288	Negative:		0
2289	Absent:		0

2290
 2291
 2292 Mr. Bell - And then lastly, let's go ahead and vote on the
 2293 adjournment.
 2294

2295 Mr. Blankinship - Mr. Chairman, we do have some business—well, not
 2296 really business, but I would like to just bring the Board up to speed. I'd mentioned
 2297 to you a couple of times since January that the General Assembly has made
 2298 some substantial changes to the state code as it relates specifically to variances,
 2299 but also there were several other matters addressed in boards of zoning appeals.
 2300 Those changes will be effective on July 1.
 2301

2302 There are several things moving at the same time to deal with that. The first is
 2303 that the County Attorney's Office has drafted an amendment to the County Code
 2304 that will incorporate the state code changes and also make some other changes
 2305 to the code to clean up some things. Whenever we open a section of the code to
 2306 amendments, we like to fix everything that we feel has gotten out of date in that
 2307 section. So there will be a substantial amendment to the code that's working its
 2308 way through the process.
 2309

2310 Also, the County Attorney's Office is preparing a training session for the Board of
 2311 Zoning Appeals, which we hope will be presented at your August meeting. And I
 2312 would suggest having it be the first thing on the agenda. That way you will have
 2313 the benefit of that training for when you hear the August cases. That does mean
 2314 we'll go through the July meeting sort of doing our best to move forward with the
 2315 new code language.
 2316

2317 Starting July 1, we have new application forms. As you know, our form was
 2318 modeled after—particularly the variance form was modeled after the Cochran
 2319 decision to try to walk the applicants through making that case. So now that there
 2320 are new state code requirements, we will have a new form again to try to get the

2321 applicants to address the issues that you're supposed to address under the new
2322 code. The staff report will then also follow that same format, so your staff reports
2323 will look different.

2324
2325 And that brings up the larger change. The director of Planning has for some time
2326 been thinking about the issue that with the Board of Zoning Appeals, the
2327 applicants themselves are the first persons to speak after the case is announced.
2328 At the Planning Commission and Board of Supervisors' meeting, the staff comes
2329 to the podium first and sort of sets out the background and the factors to be
2330 considered, and then the applicant has their opportunity to speak. The director
2331 has decided that that's what he would like us to start doing in July. So at the next
2332 meeting, for each case, a member of the staff will speak and just set out the
2333 background on that case before the applicant speaks.

2334
2335 And also, as I mentioned to Mr. Bell and Mr. Berman earlier—I'm sorry—Mr.
2336 Baka and Mr. Berman earlier, before rezoning and provisional use permit cases
2337 go to the Planning Commission and the Board of Supervisors, we put out a sign
2338 at the location. In addition to the advertisement in the newspaper and notifying
2339 the adjoining property owners, we post a little sign on the property just making
2340 the neighbors aware that something is going on so they can call if they're
2341 concerned. And the director would also like us to start doing that for BZA cases.
2342 So for the July cases, we will be putting out the sign in addition to the other
2343 notifications.

2344
2345 So, some big changes coming. There will be a letter going out probably next
2346 week from the director to you addressing these more formally. And then you'll
2347 start seeing the changes in July. And then the work session will be in August.

2348
2349 Ms. Harris - Will we get a copy of the new state code?

2350
2351 Mr. Blankinship - Yes ma'am.

2352
2353 Mr. Bell - Sounds good. Thank you. We'll go ahead and vote on
2354 adjournment. Do I hear a motion that we adjourn?

2355
2356 Mr. Baka - So moved.

2357
2358 Mr. Bell - Do I hear a second?

2359
2360 Ms. Harris - Second.

2361
2362 Mr. Bell - All in favor say aye. All opposed say nay. The ayes
2363 have it; the motion passes. We are adjourned.

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2365
2366

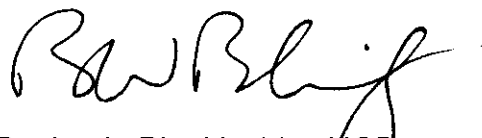
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Affirmative:
Negative:
Absent:

Baka, Bell, Berman, Harris, Nunnally

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Gentry Bell
Chairman



Benjamin Blankinship, AICF
Secretary