

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY JUNE 24, 2021 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE *RICHMOND TIMES-DISPATCH* JUNE 7, 2021 AND JUNE 14, 2021.**
6
7

8 **Members Present:** Terone B. Green, Chair
9 Walter L. Johnson, Jr., Vice-Chair
10 Gentry Bell
11 Terrell A. Pollard
12 James W. Reid
13

14 **Also Present:** Benjamin Blankinship, Secretary
15 Paul M. Gidley, County Planner
16 R. Miguel Madrigal, County Planner
17 Lisa Blankinship, County Planner
18 Kristin Smith, County Planner
19 Kuronda Powell, Account Clerk
20
21
22
23

24 **Mr. Green -** I am now calling the Board of Zoning Appeals into order. And
25 please accept my apology for being late. I had to turn around because I left my phone at
26 home. And that threw me. But I started out getting here early. And for those who are
27 able to, would you please stand and join us in the Pledge of Allegiance?
28

29 **[Recitation of the Pledge of Allegiance]**
30

31 Thank you. Mr. Blankinship will now read our rules.
32

33 **Mr. Blankinship -** Good morning Mr. Chair, members of the Board, ladies and
34 gentlemen. We appreciate you being with us in the room this morning. There are also
35 two remote options for participating in this meeting. There's a live stream on the Planning
36 Department webpage and we are hosting a video conference using Webex.
37

38 I'd like to welcome everyone who's joining us remotely. If you wish to observe the
39 meeting, but you do not intend to speak, then welcome and thank you for joining us.
40

41 For those of you on Webex who wish to speak, we need to know that in advance so we
42 can connect you at the appropriate time. So if you are an applicant or if you have
43 questions or comments on one of the cases, please press the chat button now. It's
44 located in the bottom-right corner of the screen. And when the chat window opens, please
45 select Kristin Smith from the list of participants and let her know your name and which
46 case you're interested in.

47
48 The chat feature is only being used to identify speakers, so please do not type questions
49 or comments into a chat, but please send a chat to Kristin Smith now so we can organize
50 the queue.

51
52 Now, acting as secretary, I will call each case and we will ask everyone in the room who
53 is speaking to that case to stand and be sworn in. Then a member of the Planning
54 Department staff will give a brief presentation. Then the applicant will give their
55 presentation, and then anyone else who wishes to speak will be given the opportunity.
56 We will take people in the room first and then those on Webex.

57
58 After everyone has had a chance to speak, the applicant and only the applicant will have
59 an opportunity for rebuttal.

60
61 Now this meeting is being recorded, so we will ask everyone in the room when you speak,
62 please use the microphone in the back of the room there. Please state your name. And
63 please spell your name so we get it correctly in the record. We do have all five members
64 present, but we do have two requests for deferral, Mr. Chair.

65
66 Mr. Green - Thank you, sir.

67
68 Mr. Blankinship - So, if you'd like, I'll begin by calling those. Conditional use
69 permit 2021 number 13 Chandler and Ashely Ewing.

70
71 **CUP2021-00013 CHANDLER AND ASHLEY EWING** request a conditional use permit
72 pursuant to Section 24-12(e) of the County Code to allow a noncommercial kennel at
73 6116 Bradford Landing Drive (BRADFORD AT WYNDHAM) (Parcel 736-779-0758)
74 zoned One-Family Residence District (R-3C) (Three Chopt).

75
76 Mr. Blankinship - Is the applicant or their representative here this morning?

77
78 Ms. Blankinship - The applicant is on Webex.

79
80 Mr. Blankinship - Okay. Great. Mr. Ewing, do you want to explain your request
81 for deferral? We're not hearing anything in the board room. Is there a connection
82 problem?

83
84 Ms. Blankinship - I'm sorry. The applicant for this request is not online.

85
86 Mr. Blankinship - Oh. Okay. My mistake. I apologize. We do have a letter, or
87 an email I guess, from the applicant requesting deferral. Staff has distributed to the Board
88 this morning a copy of a letter that we received from one of their neighbors, an email with
89 an attachment stating that the Wyndham Association covenants prohibit any homeowner
90 from having more than two animals. And, of course, that would not necessarily control
91 your decision, but we figured it would have significant input to your decision.

92

93 The applicant had not notified us of that. We asked the applicant specifically if he had
94 checked with his HOA, and he told us that he had. But apparently he didn't check with
95 the right person, because apparently they are prohibited.

96
97 There was also a couple here this morning before the meeting began who I thought I
98 understood him to say that he was opposed to deferring the case, that he wanted the
99 hearing to take place this morning, but I believe they have left now. So as far as I know
100 what we have is a request to defer, which is necessary because there is conflicting
101 information about whether the HOA will allow the additional pets irrespective of your
102 decision.

103
104 So the Board has the choice of hearing the case while there's neither an applicant nor
105 any -- is there anyone else in the room who's here to speak to this case? Conditional use
106 permit 2021 number 13 Chandler and Ashley Ewing? Then I guess there's no point in
107 proceeding with a public hearing if we have neither the applicant nor any support or
108 opposition.

109
110 Mr. Green - Mr. Blankinship, I have a question.

111
112 Mr. Blankinship - Yes, sir.

113
114 Mr. Green - If the county rules state that you can have three, can a HOA
115 be even more restrictive?

116
117 Mr. Blankinship - Yes, sir.

118
119 Mr. Green - Or is it the governing body, you know, that has the authority?

120
121 Mr. Blankinship - The community can have more restrictive requirements. And
122 the applicant or the property owner is required to meet both. When you move into a
123 community like that, as you're aware, you agree to the covenants and restrictions that
124 come along with your ownership of the property. But that's a private contractual matter
125 that the county is not necessarily involved in.

126
127 So it's certainly possible -- legal for the Board to approve the use permit and the HOA still
128 to tell their property owner, you know, member, You cannot have that. Even though the
129 county has approved it.

130
131 But normally we would avoid a conflict like that. Normally we would not approve
132 conditional use permits where we know the community is opposed to it.

133
134 Mr. Green - Oh. Because I would think that the guiding authority would be
135 the county.

136
137 Mr. Blankinship - If, for example, Wyndham allowed up to eight pets, then you
138 would have to comply with the county requirement of three or get the use permit.

139
140 Mr. Green - Okay.
141
142 Mr. Blankinship - So you have to meet both. They're two independent
143 requirements. One is a matter of law, and the other is a private contract.
144
145 Mr. Green - Yes, sir. Okay.
146
147 Mr. Blankinship - So I guess a motion to defer that case would be in order.
148
149 Mr. Green - Since that's in my district, Is there a motion to defer CUP2021-
150 00013?
151
152 Mr. Johnson - I motion to defer.
153
154 Mr. Green - Is there a second?
155
156 Mr. Pollard - I second.
157
158 Mr. Green - The motion has been made and seconded to defer 00013. All
159 in favor. Opposed. The motion is deferred.
160
161 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **deferred case**
162 **CUP2021-00013 CHANDLER AND ASHLEY EWING's** request for a conditional use
163 permit until the July 22, 2021 Board of Zoning Appeals meeting.
164
165
166 **Affirmative: Bell, Green, Johnson, Pollard, Reid 5**
167 **Negative: 0**
168 **Absent: 0**
169
170
171 Mr. Blankinship - All right. And the other request for deferral is conditional use
172 permit 2021 number 15 Christopher Ryan Harris.
173
174 **CUP2021-00015 CHRISTOPHER RYAN HARRIS** requests a conditional use permit
175 pursuant to Section 24-95(i)(4) of the County Code to build a garage in the front yard at
176 1800 Brema Road (WESTWOOD HOME SITES) (Parcel 769-739-8024) zoned One-
177 Family Residence District (R-3) (Brookland).
178
179 Mr. Blankinship - Is Mr. Harris on Webex?
180
181 Ms. Blankinship - Mr. Harris is on Webex.
182
183 Mr. Blankinship - Oh. Okay, great. Mr. Harris, would you like to explain your
184 request for deferral?

185
186 Mr. Harris - Yes, sir. Thank you for having me. I'm down in South Beach,
187 Miami right now. Brought my laptop for this Webex. Thank you for having me. Thank
188 you for listening to me. I've been working with Paul Gidley on this garage that I'm
189 requesting. I've owned the home since December of '18. I came from New Kent County
190 where I had a big, oversized, three-car garage and I miss a garage badly. I've been
191 wanting one for a while. With the cost of lumber, I'm not necessarily in a rush to build it
192 immediately, but I'm looking to get approval due to the unique layout of my property.

193
194 In working with Paul Gidley, he suggested that a land survey be run in order to better
195 present my case to you guys. So there's a little bit of delay in getting the land surveyed,
196 but my architect and myself are working hard to find someone who can perform a land
197 survey before July 22nd so that we would have it for the next hearing. And that's the
198 reason for the request for deferral.

199
200 Mr. Green - All right. Great. Thank you. You know, you could have asked
201 us to join you in South Beach to hear the case. I don't think that we --

202
203 Mr. Harris - It's work related. Right? You could expense the trip down
204 here so we can discuss it.

205
206 Mr. Green - Yeah. We wouldn't have had a problem. Is there a motion to
207 defer 00015, the Brookland District?

208
209 Mr. Bell - I move that we defer this particular request.

210
211 Mr. Green - Is there a second?

212
213 Mr. Reid - Second.

214
215 Mr. Green - The motion has been moved and seconded. Any discussion?
216 Hearing no discussion, I would like to take a vote. All members of the Board in favor of
217 deferral. Those opposed. It has been deferred. And so I guess when we hear it next
218 time Mr. Blankinship will be in South Beach.

219
220 On a motion by Mr. Bell, seconded by Mr. Reid, the Board **deferred case CUP2021-**
221 **00015 CHRISTOPHER RYAN HARRIS's** request for a conditional use permit until the
222 July 22, 2021 Board of Zoning Appeals meeting.

223
224
225 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
226 **Negative:** 0
227 **Absent:** 0

228
229

230 Mr. Blankinship - Just for the record, both of those cases will be heard on July
231 22nd. That will be the next meeting of the Board.

232

233 All right then. Continuing with this morning's agenda. We have three remaining use
234 permits, and we have three variances after we finish those. The first use permit is a
235 deferral from last month. Conditional use permit 2021 number 11 Claudia Robles Arias.

236

237 **CUP2021-00011 CLAUDIA ROBLES ARIAS** requests a conditional use permit pursuant
238 to Section 24-12(g) of the County Code to operate a family day home with employees at
239 10401 Staples Mill Road (Parcel 764-765-7780) zoned One-Family Residence District (R-
240 2) (Brookland).

241

242 Mr. Blankinship - The applicant is with us on Webex. Is there anyone in the
243 room who wishes to speak to this case? All right. Mr. Gidley, you may begin.

244

245 Mr. Gidley - Good morning. Thank you, Mr. Secretary and Mr. Chair,
246 members of the Board. The subject property consists of a 0.84-acre parcel located on
247 the northeast side of Staples Mill Road just before its intersection with Courtney. It
248 contains a 922-square-foot home that was purchased by the applicant back in August.
249 She currently operates a family day home here where care can be provided for up to 12
250 children. And here's the home right here.

251

252 The applicant would like to hire an outside employee to assist in the care of the children,
253 and this requires the approval of a conditional use permit.

254

255 The site is served by a gravel driveway on Staples Mill Road, which is a major arterial
256 highway that carries substantial traffic. The zoning ordinance allows a day home as an
257 accessory use to the applicant's residence and an outside employee is allowed via
258 conditional use permit.

259

260 As mentioned last month, there were three letters of opposition focusing mainly on
261 whether the applicant resided on the property and expressing concerns over traffic safety.
262 The applicant addressed the residency issue by indicating she lives here on weekdays
263 but travels with her children on weekends.

264

265 As for their traffic situation, the Board deferred the case to allow the applicant more time
266 to explore options, including a possible circular driveway.

267

268 Since this time VDOT has said they do not support a circular driveway, but that the
269 existing drive meets the requirements for a two-way, low-volume, commercial entrance.
270 I would let the applicant update the Board on any changes that have occurred since then.

271

272 In conclusion, the family day home has adequate parking and a large, fenced rear yard
273 that provides a safe area for children to play. The proposed outside employee should not
274 have a detrimental impact on nearby property. So long as the applicant can satisfy the
275 Board's concerns about her having this as her primary dwelling along with the safety

276 concerns regarding access to and from the property, staff can recommend approval of
277 this case subject to the conditions in your staff report.

278
279 This concludes my presentation. And if you have any questions, I'll be happy to answer
280 those. Thank you.

281
282 Mr. Green - Are there any questions from the Board members to staff in
283 reference to this?

284
285 Mr. Bell - No question, but a comment. With the safety issues as you
286 have reported already, VDOT did indicate there was no problem with going in and coming
287 out of that particular location.

288
289 Mr. Gidley - Yes, sir. They said her existing entrance was adequate.

290
291 Mr. Bell - Yes. Thank you.

292
293 Mr. Gidley - Yes, sir.

294
295 Mr. Green - All right --

296
297 Mr. Johnson - Also, did the applicant say that they were living there in the
298 evening after work hours?

299
300 Mr. Blankinship - The applicant is on Webex, if you'd like to ask her that
301 question.

302
303 Mr. Johnson - Okay. Okay.

304
305 Mr. Gidley - Okay. Thank you.

306
307 Mr. Blankinship - All right. Ms. Robles.

308
309 Ms. Robles - Hi. Yes. I'm here. I'm here.

310
311 Mr. Blankinship - Good morning. Would you like to --

312
313 Ms. Robles - Good morning. How are you? Thank you for having me.

314
315 Mr. Blankinship - Yes, ma'am. I think the biggest questions we had deferred
316 from last month had to do with the entrance. And also Mr. Johnson has asked to confirm
317 the status of you living at the property.

318
319 Ms. Robles - I do. I do live at the property. Last month I was in the middle
320 of soccer travel season and also swimming season, so I was extremely busy over the
321 weekends. But that has come to an end so I'm even able to spend a lot more time even

322 over the weekends on my house. So I do reside here and I'm able to spend a lot more
323 time over the weekends now.

324
325 Mr. Blankinship - Thank you. And your conversations with the Virginia
326 Department of Transportation?

327
328 Ms. Robles - So I have been in contact with VDOT, and they came and
329 inspected and they said that they cannot offer me to have a circular -- I mean, a two-
330 entrance -- what's it called? A second exit. Because I'm on Staples Mill Road, so that
331 will create a hazard. And they said that the minimum standard for a low-grade commercial
332 driveway is 18 feet wide, and mine is 20. I even have two extra feet to meet the
333 requirements.

334
335 So they said that it's not a safety issue, and that I don't really have to do anything to my
336 driveway because there's no concern on their part.

337
338 Mr. Pollard - And how many staff members do you have currently working?

339
340 Ms. Robles - I'm sorry. I couldn't hear that.

341
342 Mr. Pollard - How many staff members do you have currently working?

343
344 Ms. Robles - It's just me. So my request is to hire an employee to come
345 over and she'll be able to park right next to the minivan like you see on the left of the
346 picture. There's plenty of space there. So it would not interfere with parents dropping off
347 or picking up.

348
349 Mr. Pollard - And if this is approved, how many youth will you have?

350
351 Ms. Robles - How many what do I have? I'm sorry.

352
353 Mr. Pollard - Children.

354
355 Ms. Robles - Oh. I'm allowed to have up to 12, and that would not change
356 regardless of me having an outside of the home employee. So the ratio will still be the
357 same. I cannot have anything over 12 children.

358
359 Mr. Green - If I'm not mistaken, Mr. Gidley, one of the biggest issues last
360 time was that she would be hiring an employee to help her with the property. So that was
361 the critical factor. Was that true?

362
363 Mr. Gidley - That was the reason for the use permit application. Because
364 if you have an outside employee, that requires this board's approval.

365
366 Mr. Green - And she just admitted she was continue -- she will hire that
367 person. To help ease the stress of dealing with 12 children.

368
369 Mr. Gidley - Yes. The state has a certain formula depending on the age
370 of the kids and all of that dictating how many people you'll have working for you. So
371 having that employee enables her to take care of, you know, the children. Whatever limit
372 up to 12 that she chooses to have.

373
374 Mr. Green - The only reason I bring that up, because I know we got caught
375 up in the issue relative to drive and the turn, but one of the other major factors was the
376 fact that she would be hiring an additional employee. Now then, I didn't want us to miss
377 that piece from before.

378
379 Mr. Pollard - Okay. And I was curious, before these complaints, I mean,
380 before this application, had there been any complaints from the neighbors?

381
382 Mr. Gidley - Is that for me?

383
384 Mr. Blankinship - You probably should respond.

385
386 Mr. Gidley - Yes, sir. My understanding is there were one or two
387 complaints made to Community Revitalization. And those focused predominantly on
388 whether or not she actually lived on this property versus her home in Hanover. So that
389 was what that was focused on. And she told the inspector that she would be residing
390 here on weeknights, so they closed the case at that point.

391
392 Mr. Green - Okay. Thank you. Are there any questions from the Board of
393 the applicant and or staff? Hearing none, I would like to have a motion.

394
395 Mr. Bell - I move that we approve the conditional use permit subject to
396 the conditions recommended by the staff. There were some questions whether the
397 applicant lived in the dwelling, but she has stated under oath that she will. There is some
398 concern about traffic and parking, but VDOT, Virginia Department of Transportation, has
399 approved the entrance.

400
401 Other than those two concerns, I do not think there will be any detrimental impact, so I
402 move we approve it.

403
404 Mr. Green - All right. There was a motion by Mr. Bell. Is there a second?

405
406 Mr. Pollard - Second.

407
408 Mr. Green - The motion was moved by Mr. Bell, seconded by Mr. Pollard.
409 Is there any discussion before we take the vote? All in favor say aye. The conditional
410 use permit is granted.

411
412 On a motion by Mr. Bell, seconded by Mr. Pollard, the Board **approved case CUP2021-**
413 **00011 CLAUDIA ROBLES ARIAS's** request for a conditional use permit pursuant to

414 Section 24-12(g) of the County Code to operate a family day home with employees at
415 10401 Staples Mill Road (Parcel 764-765-7780) zoned One-Family Residence District (R-
416 2) (Brookland). The Board approved the request subject to the following conditions:
417

418 1. This conditional use permit applies only to the operation of a large family day home
419 with one employee from outside the home. All other applicable regulations of the County
420 Code remain in force.
421

422 2. The outside employee must park on the applicant's property.
423

424
425 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
426 **Negative:** 0
427 **Absent:** 0
428

429
430 Mr. Blankinship - All right. The next case is conditional use permit 2021 number
431 14 Thomas W. Belvin.
432

433 **CUP2021-00014 THOMAS W. BELVIN** requests a conditional use permit pursuant to
434 Section 24-95(i)(4) of the County Code to build an accessory building in the side yard at
435 11435 River Run Drive (ROCK SPRING ESTATES) (Parcel 765-775-7793) zoned
436 Agricultural District (A-1) (Brookland).
437

438 Mr. Blankinship - Would everyone who intends to speak to this case, please
439 stand and be sworn in? Raise your right hand. Do you swear the testimony you're about
440 to give is the truth, the whole truth, and nothing but the truth so help you God? Thank
441 you. You can be seated. Mr. Madrigal, you can begin.
442

443 Mr. Madrigal - All right. Good morning. Thank you, Mr. Secretary. Good
444 morning, gentlemen. Mr. Chair, members of the Board, before you is a request to build
445 an accessory building in the side yard of a one-family dwelling. The subject property is
446 in the Rock Spring Estates Subdivision recorded in 1981. The lot is 45,000 square feet
447 in area, is sparsely wooded, and slopes down significantly behind the dwelling at a 10
448 percent slope in the south-westerly direction.
449

450 The property is improved with a two-story, 3,000-square-foot home with an attached two-
451 car garage and is served by a private well and a septic system. The home was built in
452 1985, and the applicant purchased the property in 1993. About that time an above-ground
453 swimming pool, a bi-level deck, and a sunroom were constructed without the benefit of
454 permits.
455

456 The applicant would now like to construct a two-story, 1,150-square-foot workshop with
457 a 180-square-foot covered front porch, you can see here. The proposed building will be
458 in the side yard at the rear of the existing driveway. It will be 97 feet from the front property
459 line, 24 feet from the side property line, and approximately 35 feet from the dwelling. The

460 first floor of the building will be used as a workshop, and the second floor will be used for
461 storage. The applicant is requesting a conditional use permit to place the building in the
462 side yard as allowed by code.

463
464 The property is zoned A-1 and is designated Rural Residential on the 2026 Future Land
465 Use Map. A one-family dwelling is consistent with both of these designations. Accessory
466 structures are permitted by right in the rear yard and can be approved by CUP in the side
467 or front yards. Because the subdivision is served by private wells and on-site septic
468 systems, the lots have a minimum lot area of one acre, and a lot-width of 150 feet.

469
470 The subject lot is just over one acre in area and is approximately 190 feet in width. The
471 home has a 50-foot front-yard setback and a 90-foot western side-yard setback where
472 the building would be placed.

473
474 The applicant chose this location to prevent drainage problems, capitalize on the existing
475 driveway, and to avoid the removal of the trees. The building will be easily accessed from
476 the existing side-load garage. The building will have minimal visual impact due to its
477 location and the proposed setbacks. It'll match the existing home in architectural style,
478 materials and color, and will be set back 97 feet from the front property line. It will appear
479 to be located in the rear yard due to the significant front-yard setback.

480
481 The distance between the workshop and the neighbor's home to the west, would be
482 approximately 34 feet. There are no windows on the side of the neighbor's home facing
483 the proposed building.

484
485 In conclusion, the applicant would like to construct a detached workshop in the side yard
486 at the end of the existing driveway. The building will appear to be behind the home.

487
488 No significant detrimental impacts are anticipated due to the large size of the lot, the
489 proposed setbacks, and the absence of windows on the neighbor's home facing the
490 proposed structure. The workshop will match the architectural style, materials, and color
491 of the existing home.

492
493 Staff recommends approval of this request subject to conditions. This concludes my staff
494 presentation, and I'll attempt to answer any questions you may have.

495
496 Mr. Green - You said something earlier about the pool not being approved.
497 Could you explain that?

498
499 Mr. Madrigal - Yes. In in doing my research, I noticed that there was a large
500 above-ground swimming pool and deck, and then the sunroom. And looking at the tax
501 records it wasn't showing up.

502
503 So, basically, the conclusion, it was built without the benefit of permits, so there's a
504 condition that we've added or recommended that they obtain building permits for these
505 improvements.

506
507 Mr. Green - So you are recommending building permits after the fact?
508
509 Mr. Madrigal - Yes, sir. That's something that's very common.
510
511 Mr. Green - Okay. Thank you.
512
513 Mr. Bell - Miguel?
514
515 Mr. Madrigal - Yes, sir.
516
517 Mr. Bell - Can you give me the overview of the streets? I'm trying to get
518 what we'd vote --
519
520 Mr. Blankinship - Aerial?
521
522 Mr. Madrigal - Oh, okay. There's the aerial there.
523
524 Mr. Bell - Yes. This lot's a large lot.
525
526 Mr. Madrigal - Yes, sir.
527
528 Mr. Bell - And where this shed is going, you look like you're looking up
529 another road before you even see it.
530
531 Mr. Madrigal - Yes. So the building's going to go here in the side yard.
532
533 Mr. Bell - Right.
534
535 Mr. Madrigal - And you can see it's at the end of the driveway.
536
537 Mr. Bell - Right. So it's almost no view.
538
539 Mr. Madrigal - Right.
540
541 Mr. Bell - And you can even see it better, I guess, coming down the side
542 street than this -- if there was a problem with it. Other than that, -- I rode through the
543 neighborhood many times, because I was checking on certain things, and there were
544 other homes that had also additional structures put on their property. Everything from
545 additional parking spaces to garage. So that's what I noticed when I rode through there.
546
547 Mr. Green - Yes, sir. Are there any questions from the Board to the staff?
548
549 Mr. Johnson - What type of workshop is it? Would it be just personal, or
550 would he be doing this for a business?
551

552 Mr. Madrigal - My understanding, this is a personal workshop, but you can -
553 - I'm sure the applicant can elaborate on that.
554
555 Mr. Johnson - Okay.
556
557 Mr. Green - Any other questions? May I hear from the applicant?
558
559 Mr. Blankinship - Mr. Belvin, there's a podium right behind you. Right behind
560 you there.
561
562 Mr. Green - We can't hear you.
563
564 Mr. Blankinship - Yeah. that's probably not his fault. Fred, is that microphone
565 on? Go ahead and speak again, sir. Go ahead and speak again.
566
567 Mr. Belvin - Okay. Can you hear me now?
568
569 Mr. Blankinship - Yes.
570
571 Mr. Belvin - Okay. Sorry about that. Good morning. I'm Thomas Belvin,
572 owner and resident of 11435 River Run Drive in Glen Allen. And I'm seeking the approval
573 for the CUP in order to build a workshop as noted.
574
575 First, I'd like to thank the planning staff, specifically Mr. Madrigal and Mr. Hinson, for their
576 help and guidance through the process. I agree with the conditions stated in the report.
577
578 But I wanted to clarify the item that was brought up earlier about the Florida room, the
579 pool, and the deck. Because I'm a believer of going through the process. Those three
580 items all existed as part of the house when I purchased the property in 1993. So they've
581 been there for 28 plus years.
582
583 I didn't realize that there was no building permit, I guess, recorded or kept for that. And
584 so I was trying to find out a way to document that. And I was able to find my original
585 inspection report from back when I bought the property in 1993. And I have a copy here
586 that I can provide that highlights areas of that report I would like to share that kind of
587 mention all three items.
588
589 So all three items, the Florida room, the deck, and the pool all existed as part of my
590 purchase of the property in 1993. And I have the original inspection report with me, but
591 it was just copies. And I highlighted on there where those items were mentioned. And,
592 plus, there's a document that my realtor had provided that kind of was a description of the
593 property that also documents that.
594
595 You know, there were no cellphone cameras in 1993. So it wasn't that easy to take
596 photographs and stuff for that kind of thing back then. But I am very happy to document

597 or go through whatever process I need to for the county to in order to document that as
598 part of the property.

599
600 Mr. Blankinship - And that'll be in your best interest too. I mean, if there is a
601 problem, you want to know about it. And when you go to sell the property today, you'll
602 want to have that documentation.

603
604 Mr. Belvin - Sure. Sure.

605
606 Mr. Blankinship - It's not meant to be punitive, just meant to --

607
608 Mr. Belvin - No. I was very surprised when Mr. Madrigal noted that to me.

609
610 Mr. Blankinship - Correct.

611
612 Mr. Belvin - Because, you know, I've had it for so long. And this is a
613 personal workshop. I just recently retired after 38 years with Dominion Energy. So it's
614 an opportunity to do some personal stuff and that sort of thing there.

615
616 And I also want to note that I have personally talked to each neighbor who has a view of
617 the structure and no one has had any issues at all about it.

618
619 Mr. Green - My question for staff is that since he bought that property in
620 good faith thinking that -- I guess all of the necessary approvals had been done and put
621 in place, why would we now do something that I would consider punitive in making him
622 go back and get a building permit? And what are the costs associated with that? And
623 since he's been in the property since '93, you know, is that -- is that really fair to him?

624
625 Mr. Madrigal - It addresses a lot of issues. Essentially -- the biggest one is
626 the life safety issue. If there's not a building permit on it, what standards were used to
627 construct it and is it safe?

628
629 So the inspector goes out, checks it for structural requirements, and also life safety
630 requirements since it is a pool. So there's a higher standard there. And there were a few
631 minor things that he's going to have to do to secure the pool.

632
633 My main concern was the whole structural components. Since the lot does slope back
634 and it's an above-ground pool. Plus it's a bi-level deck. So I want to make sure that all
635 that framing is up to par. So that's the first item.

636
637 Mr. Green - Is that more of an inspection thing --?

638
639 Mr. Madrigal - Yes.

640
641 Mr. Green - Than having to attain them all, or is that part of the building
642 permit process?

643
644 Mr. Madrigal - Yeah. The reason they obtained the permit is to authorize the
645 inspection.
646
647 Mr. Green - Right.
648
649 Mr. Madrigal - Right.
650
651 Mr. Green - And how much do they normally cost?
652
653 Mr. Madrigal - I couldn't tell you. I'm not involved in assessing the fees and
654 all that stuff. But I would assume it wouldn't be more than 200 or \$300 to get that. It's a
655 nominal fee, you know, for what you're getting, essentially. You know, you're getting
656 inspected for a lot there, check it, and verify that it meets code.
657
658 And then that will address the other issues that if he ever does go to sell the property,
659 then it's listed, it shows up on the tax record, insurance covers it. Because it, you know,
660 it is a legal structure.
661
662 So it has a lot of ramifications. Also, if he goes to refinance the property sometime in the
663 future, the bank's going to more than likely require, or request, that they get a confirmation
664 or a C of O on the property, too, to make sure that everything that's there is legal.
665
666 Mr. Green - Is it possible that he could be denied a building permit?
667
668 Mr. Madrigal - No. Not really. I mean, it could fail a building permit, because
669 it's not up to standard.
670
671 Mr. Green - Okay.
672
673 Mr. Madrigal - I mean, the only reason it would be denied the building permit
674 is if it's violating setback requirements, essentially.
675
676 Mr. Blankinship - Yes. If there's a 2 by 10 that ought to be a 2 by 12, then they'll
677 make him replace it with a 2 by 12. But it wouldn't be a denial, it'd just be a correction.
678
679 Mr. Green - Mr. Belvin, are you okay with that -- those modifications, if
680 there are any?
681
682 Mr. Belvin - I am. I am. I guess we'll have a formal review with the building
683 inspector when he comes out with the report and all that. But, yeah, I'm in favor of -- I
684 guess the question I have, and this might not be the appropriate venue -- is what code is
685 appropriate? Is it today's or is it 1993's? That kind of thing. And I guess the building
686 inspector would enlighten me on that. Right?
687

688 Mr. Blankinship - Yeah. They'll know for certain, but I'm fairly sure that it's
689 whatever code was in effect when the structure was built.

690

691 Mr. Belvin - Okay. Yeah. I'm fine with going through the process. I may
692 need a little help on exactly how to proceed.

693

694 Mr. Blankinship - Sure. Sure, we'll take care of that.

695

696 Mr. Green - Are there any other questions from the Board to the applicant?
697 Do you have any other comments?

698

699 Mr. Belvin - No, sir. I appreciate your time.

700

701 Mr. Green - All right. Hearing no other comments from the Board to the
702 applicant, or from the Board to the staff, I'd like to ask for a motion.

703

704 Mr. Bell - I move that we approve the conditional use permit subject to
705 the conditions recommended by the staff. The lot is over one acre in area, which is large
706 enough for an additional building. The building will appear to be in the rear yard. I do not
707 think there will be any detrimental impact, so I think we should approve it.

708

709 Mr. Green - Is there a second?

710

711 Mr. Reid - Second.

712

713 Mr. Johnson - Second.

714

715 Mr. Green - The motion to approve was made by Mr. Bell. It was
716 seconded by Mr. Reid. Is there any discussion? Hearing no discussion, I'd like to call for
717 a vote. All in favor of approving CPU2021-00014 say aye. Opposed? Approved, sir.

718

719 On a motion by Mr. Bell, seconded by Mr. Reid, the Board **approved case CUP2021-**
720 **00014 THOMAS W. BELVIN's** request for a conditional use permit pursuant to Section
721 24-95(i)(4) of the County Code to build an accessory building in the side yard at 11435
722 River Run Drive (ROCK SPRING ESTATES) (Parcel 765-775-7793) zoned Agricultural
723 District (A-1) (Brookland). The Board approved the request subject to the following
724 conditions:

725

726 1. This conditional use permit applies only to the location of a detached accessory building
727 in the side yard. All other applicable regulations of the County Code remain in force.

728

729 2. Only the improvements shown on the plot plan and building design filed with the
730 application may be constructed pursuant to this approval. Any additional improvements
731 must comply with the applicable regulations of the County Code. Any substantial changes
732 or additions to the design or location of the improvements will require a new conditional
733 use permit.

- 734
735 3. The applicant must obtain building permits for the existing swimming pool, deck, and
736 sunroom no later than September 30, 2021. The building permit for the proposed
737 workshop will not be approved until the swimming pool, deck, and sunroom pass final
738 building inspection.
739
740 4. The new construction must match the existing dwelling as nearly as practical in
741 materials and color. The bottom three feet of the front and sides of the garage must be
742 brick veneer to match the existing dwelling.
743
744 5. Before beginning any clearing, grading, or other land disturbing activity, the applicant
745 must obtain approval of an environmental compliance plan from the Department of Public
746 Works.
747
748 6. Any exterior lighting must be shielded to direct light away from adjacent property and
749 streets.
750
751 7. The proposed garage door must face the eastern side of the structure (toward the
752 dwelling).
753
754 8. The applicant must obtain a building permit for the proposed accessory building by
755 June 26, 2023, or this conditional use permit will expire. If the building permit is cancelled
756 or revoked after that date due to failure to diligently pursue construction, this conditional
757 use permit will expire at that time.

758
759

760 Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
761 Negative:		0
762 Absent:		0

763
764
765 Mr. Blankinship - All right. Conditional use permit 2015 has been deferred to
766 the July meeting. So the last conditional use permit for this morning is number 16 Brent
767 Christian.

768
769 **CUP2021-00016 BRENT CHRISTIAN** requests a conditional use permit pursuant to
770 Section 24-95(i)(4) of the County Code to build a detached garage in the side yard at
771 8971 Buffin Road (Parcel 822-678-6093) zoned Agricultural District (A-1) (Varina).

772
773 Mr. Blankinship - Would everyone in the room who intends to speak to this
774 case, please stand and raise your right hand? Do you swear the testimony you're about
775 to give is the truth, the whole truth, and nothing but the truth so help you God? Thank
776 you, sir. You can be seated. Mr. Madrigal.

777
778 Mr. Green - Sir, if you don't want to sit here, since your case has been
779 approved --

780
781 Mr. Blankinship - Yes, right. You're free to go.
782
783 Mr. Belvin - Have a great week.
784
785 Mr. Blankinship - Thank you.
786
787 Mr. Green - And that goes to anyone. Once your application is approved
788 and or denied you don't have to sit through the rest of the meeting. Unless you just want
789 to hear us. I'm sorry. You can begin, sir.
790
791 Mr. Madrigal - Quite all right. Thank you, Mr. Chairman. Before you is a
792 request to build a detached garage in the side-yard of a one-family dwelling. The subject
793 property is triangular in shape, and measures close to 1000 feet along Buffin Road and
794 is over 500 feet along the northern property line. It is a gently rolling and partially wooded
795 parcel that is constrained by a 150-foot powerline corridor along the north and a floodplain
796 in the northeast corner.
797
798 The applicant purchased the land in 2003 and built the home in 2006. The two-story brick
799 home is 4,300 square feet in area, has a 1,500-square-foot finished basement, and an
800 attached 3-car garage.
801
802 The owner would like to construct a detached 1,600-square-foot garage with a half-bath
803 and attached 8 by 15-foot storage room and an 8 by 16-foot covered porch. The property
804 is over 6 acres in area, and there is sufficient room to locate the proposed structure in the
805 rear yard as allowed by right. However, the rear yard of the property is mostly wooded.
806
807 There are two large, cleared areas on the property. One where the house is located and
808 another to the southeast where the proposed garage would be located. Placing the
809 garage in this area would preserve the existing woods behind the home. The proposed
810 building location is over 150 feet from Buffin Road, 75 feet from the house, and 65 feet
811 from the rear lot line. There are no homes within 1,000 feet of the proposed garage
812 location. The property across Buffin Road was rezoned for a residential development in
813 2013, but that project is not active.
814
815 The subject property is zoned A-1 and is designated Suburban Residential 1 on the 2026
816 Future Land Use Map. A one-family dwelling is consistent with both designations. The
817 garage is allowed by right in the rear yard and can be approved by CUP in the front or
818 side yard. There are no detrimental impacts anticipated by staff due to the rural nature
819 of the area, the lack of homes within 1,000 feet of the proposed garage, and the proposed
820 distance from Buffin Road.
821
822 In conclusion, the existing house has an attached three-car garage. The owner would
823 like to add a detached three-car garage. Although the property is large enough to
824 accommodate the proposed structure in the rear yard, the side-yard location would
825 minimize tree removal on the property. But because the proposed garage will have less

826 detrimental impact in the side yard than in the rear yard, staff recommends approval
827 subject to conditions. This concludes my presentation and I'll be happy to answer
828 questions.

829
830 Mr. Green - Do you have pictures of what the garage would look like and
831 what it will be constructed with?

832
833 Mr. Madrigal - Let's see.

834
835 Mr. Green - Yes.

836
837 Mr. Madrigal - There we go.

838
839 Mr. Green - Is it brick, or is it HardiePlank, or --

840
841 Mr. Madrigal - This looks like they're vertical slats. I'm not sure. Is this a
842 metal building, then, or is it a wood structure?

843
844 Mr. Blankinship - Be a good question for the applicant.

845
846 Mr. Christian - Good morning, may I speak?

847
848 Mr. Green - Yes, sir.

849
850 Mr. Blankinship - Let's make sure there's no more questions for staff.

851
852 Mr. Green - Are there any other questions from Board members to staff?
853 Hearing none, we'll now hear from the applicant.

854
855 Mr. Christian - Good morning. My name is Brent Christian. I am the owner
856 and occupant of the property. Requesting a conditional use permit. So the answer to the
857 question, the material, I haven't decided yet and, actually, if you could pull up another
858 picture, that is not the front. The guy who did the drafting did it wrong. If you pull up the
859 sideview -- yeah. The top picture is going to be the front.

860
861 So I kind of want it to look more like an old country store. And I want to do it in barn red
862 with white trim. But, I haven't decided whether I'm going to do HardiePlank siding or vinyl
863 Board & Batten siding, but it will be the Board & Batten look, whether I do HardiePlank or
864 I do vinyl.

865
866 The other thing I would like to say is thank you for considering the conditional use permit.
867 The main reason I'm going with the side yard as opposed to the rear yard is because of
868 the shape of the lot. And the parcel behind me that's owned by some owners from out of
869 state has several tall pine trees on it. And every year when we have a storm one or two
870 fall. So that's why I kind of need my garage at least 50 to 65 feet off of the property line,
871 because I don't want one of those trees falling on anything that I build.

872
873 Mr. Green - Are there any other questions from the Board to the applicant?
874
875 Mr. Johnson - I guess I noticed, too, that we have two entrances, one to the
876 home and one to garage?
877
878 Mr. Christian - Yes, sir. So I just contracted with Henrico County for the
879 entrance -- separate entrance to the garage. And the garage will be used for personal
880 use. It's not going to be used for business or anything. But I want to be able to pull my
881 truck and my car trailer in over on that side instead of blocking my garage where my wife
882 and my kids will be pulling in.
883
884 Mr. Johnson - Okay. So it'd give you about 75 feet to walk from your house
885 to the garage, then?
886
887 Mr. Christian - Yes, sir.
888
889 Mr. Reid - Mr. Christian, are you in agreement with the terms and
890 conditions in the staff report?
891
892 Mr. Christian - Yes, sir. I am.
893
894 Mr. Reid - Thank you.
895
896 Mr. Green - Since you want it look like a country store, how are you going
897 to make sure folks aren't going to pull up thinking they can buy groceries?
898
899 Mr. Christian - Actually there's a patch of woods right in front of it. So it's not
900 going to be that visible from the yard, actually. And there'd be no signs or anything at the
901 road. So I don't think I have to worry about that. Most of my neighbors have their own
902 gardens, anyway. So they're not foraging for food.
903
904 Mr. Green - So if we drive down and pull over thinking we can buy a soda,
905 we'd be okay.
906
907 Mr. Christian - I'll give you one. How about that?
908
909 Mr. Green - Thank you, sir.
910
911 Mr. Christian - All right.
912
913 Mr. Johnson - Is there some place you have a buffer between the two
914 houses as well when you're pulling in?
915
916 Mr. Christian - Yes. That wooded area is -- is that what you're asking? The
917 wooded area in the front that kind of sits in front of the garage is sort of a buffer.

918
919 Mr. Johnson - Right.
920
921 Mr. Christian - And then between the house where the garage, the proposed
922 garage is going, is my septic area. And I've got shrubs all around it.
923
924 Mr. Johnson - Okay.
925
926 Mr. Christian - Okay.
927
928 Mr. Johnson - It kind of got my attention.
929
930 Mr. Christian - Okay.
931
932 Mr. Green - Now you said you're going to put a half bath in there. So are
933 you going to have to put another septic in?
934
935 Mr. Christian - I'm going to try to tie into the same septic system. Because
936 there's no bedrooms, so I think the county will allow me to tie it to the same septic system.
937
938 Mr. Green - Are there any other questions from the Board to the applicant?
939
940 Mr. Johnson - No. That's fine.
941
942 Mr. Green - Are there any other questions from the Board to staff?
943 Hearing none, I'd like to close this case and move to a vote.
944
945 Mr. Johnson - I move that we approve the conditional use permit subject to
946 the conditions recommended by the staff. And this property is over 1,000 feet from the
947 other house and the garage will be 72 feet from Buffin Road. And I do not think that there
948 will be any detrimental impact, so I think we should approve this.
949
950 Mr. Green - It was motioned by Mr. Johnson. Is there a second?
951
952 Mr. Bell - Second.
953
954 Mr. Green - The motion was made by Mr. Johnson, seconded by Mr. Bell.
955 Is there any discussion before we take the vote? Hearing no discussion, all those in favor
956 say aye. All those opposed, nay. The motion is approved.
957
958 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved case CUP2021-**
959 **00016 BRENT CHRISTIAN's** request for a conditional use permit pursuant to Section 24-
960 95(i)(4) of the County Code to build a detached garage in the side yard at 8971 Buffin
961 Road (Parcel 822-678-6093) zoned Agricultural District (A-1) (Varina). The Board
962 approved the request subject to the following conditions:
963

- 964 1. This conditional use permit applies only to the location of the proposed garage in the
 965 side yard. All other applicable regulations of the County Code remain in force.
 966
- 967 2. Only the improvements shown on the plans titled "8971 Buffin Road New Detached
 968 Garage" by Contemporary Concepts and Design dated January 2021 may be constructed
 969 pursuant to this approval. Any additional improvements must comply with the applicable
 970 regulations of the County Code. Any substantial changes or additions to the design or
 971 location of the improvements will require a new conditional use permit.
 972
- 973 3. The new construction must match the existing dwelling as nearly as practical in
 974 materials and color.
 975
- 976 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant
 977 must obtain approval of an environmental compliance plan from the Department of Public
 978 Works.
 979
- 980 5. The applicant must obtain a building permit for the proposed garage by June 26, 2023,
 981 or this conditional use permit will expire. If the building permit is cancelled or revoked after
 982 that date due to failure to diligently pursue construction, this conditional use permit will
 983 expire at that time.
 984

985			
986	Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
987	Negative:		0
988	Absent:		0
989			

990 Mr. Christian - Thank you. You all have a good day.

991 Mr. Green - You too.

992 Mr. Blankinship - Thank you, sir.

993 Mr. Green - And we'll be looking for that soda.

994 Mr. Blankinship - That completes the conditional use permit's portion of the
 995 agenda. There are three variances on this morning's agenda. The first is variance 2021
 1000 number 12 Jason Markowitz.
 1001

1002
 1003 **VAR2021-00012 JASON MARKOWITZ** requests a variance from Section 24-9 of the
 1004 County Code to build a one-family dwelling at 149 York River Road (Parcel 835-718-
 1005 3009) zoned Agricultural District (A-1) (Varina). The public street frontage requirement is
 1006 not met. The applicant proposes 0 feet public street frontage, where the Code requires
 1007 50 feet public street frontage. The applicant requests a variance of 50 feet public street
 1008 frontage.
 1009

1010 Mr. Blankinship - Would everyone in the room who intends to speak to this
1011 case, please stand and raise your right hand. Do you swear the testimony you're about
1012 to give is the truth, the whole truth, and nothing but the truth so help you God? Thank
1013 you. Mr. Madrigal, you can begin.

1014
1015 Mr. Madrigal - Thank you Mr. Secretary, Mr. Chair, members of the Board.
1016 Before you is a request to build a one-family dwelling in an agricultural district on a parcel
1017 with no public street frontage. The subject property is accessed by way of York River
1018 Road, a 20-foot-wide private drive serving three other homes.

1019
1020 The property was originally part of a 9-acre tract of land that was partitioned into 6, 1 and
1021 1/2-acre lots conveyed to the surviving children of William and Lois Pankey in 1949. Of
1022 the six parcels, three have been developed with single-family dwellings and three remain
1023 undeveloped. And if you look at the aerial here, you can see the three that are developed
1024 and then these three here are undeveloped.

1025
1026 The subject property is one of the undeveloped parcels, and is still held by a family
1027 member. It is 65,862 square feet in area. It is moderately wooded and slopes down
1028 approximately 6 percent to the south. The lot is roughly 60 feet south of Meadow Road,
1029 and is the first parcel served by the private road.

1030
1031 In 1994, the Board approved a variance for a public street frontage requirement, but that
1032 proposed house was not built, and the permit expired. The subject lot is also one of four
1033 lots subject to a private access easement and road maintenance agreement recorded in
1034 1991.

1035
1036 The applicant has a contract to purchase the property and would like to construct a one-
1037 story, 1,900-square-foot home to be served by a private well and septic system. The
1038 home will be located approximately 65 feet from the front property line, over 80 feet from
1039 each side property line, and over 200 feet from the rear property line.

1040
1041 With respect to the threshold question, although the property is zoned A-1, it is designated
1042 Suburban Residential 1 on the 2026 Future Land Use Map. The surrounding area is
1043 semi-rural in character, transitioning from large undeveloped tracts of land to residential
1044 subdivisions and single-family dwellings on smaller parcels. Because of the lot's small
1045 size, limited access, and adjacent residential uses, it is not suitable for farming or
1046 ranching. Absent of variance to allow a one-family dwelling, the property would appear
1047 to lack any reasonable beneficial use under the agricultural zoning.

1048
1049 Also, because the lot was divided prior to 1960 when the public street frontage
1050 requirement was adopted, the hardship existed at the effective date of the ordinance.

1051
1052 As a result, the Board has the authority to grant the variance if the five subtests are met.

1053

1054 In this case, the applicant has satisfied all five items as outlined in the staff report. Briefly,
1055 the applicant is in the process of acquiring the property in good faith and did not create
1056 the circumstances that lead to the hardship situation.

1057
1058 With respect to item number 2, substantial detriment, the prevailing development pattern
1059 in the immediate area is residential. The proposed dwelling would be consistent with the
1060 surrounding homes and would be approximately 150 feet from the existing dwellings to
1061 the north and south.

1062
1063 The property has entered into -- or did enter in a road access and maintenance agreement
1064 with three of his neighbors in '91. This agreement runs with the land and is binding on all
1065 current and future property owners.

1066
1067 Based on these facts, staff does not anticipate any detrimental impacts if the request is
1068 approved.

1069
1070 With respect to item number three, lack of public street frontage for any existing parcel is
1071 a general and recurring issue.

1072
1073 In recent years, the county adopted family subdivision standards to address this problem,
1074 but those standards did not apply in this case because the lot was subdivided prior to
1075 their adoption.

1076
1077 Additionally, three homes have already been built along the private road. The last of
1078 these was granted a variance from the public street frontage requirement.

1079
1080 If this variance is approved and the subject lot is developed, it would be the fourth of the
1081 original six parcels in the family division. The remaining two undeveloped lots do not
1082 have access to the private drive as currently configured so this should be the last variance
1083 request on York River Road unless circumstances change.

1084
1085 In conclusion, this request is consistent with both the zoning and comprehensive plan
1086 designations of the property. The property was divided in 1949 prior to the public street
1087 frontage requirement. Due to its small size, restricted access, and the surrounding
1088 development pattern, the parcel is not suitable for agricultural use. Absent of variance it
1089 has no reasonable beneficial use.

1090
1091 Given the circumstances and layout of the property and the recorded access and road
1092 maintenance agreement, staff does not anticipate any detrimental impacts if the request
1093 is approved.

1094
1095 Based on these facts, staff recommends approval subject to conditions.

1096
1097 Mr. Green - Do you have a picture of what the house would look like?

1098
1099 Mr. Madrigal - Yes. It's a one-family structure. Here's the floor plan.

1100
1101 Mr. Green - Are there any questions from the Board to staff?
1102
1103 Mr. Johnson - Looking at the floor plan, you know, sent to the county, is that
1104 lot in the center of the house?
1105
1106 Mr. Madrigal - This courtyard here?
1107
1108 Mr. Johnson - Right.
1109
1110 Mr. Green - She can answer. She can answer it.
1111
1112 Mr. Johnson - Okay.
1113
1114 Mr. Green - Not yet.
1115
1116 Mr. Johnson - No. Not yet.
1117
1118 Mr. Green - Are there any additional questions to staff?
1119
1120 Mr. Johnson - No. Because everything else is --
1121
1122 Mr. Green - All right. We'll now hear from the applicant.
1123
1124 Mr. Blankinship - All right. You should step up to the podium now.
1125
1126 Ms. Henderson - Hi. My name is Kelly Henderson, and I am representing Jason
1127 Markowitz in this hearing. So you had a question about the floor plan of the house?
1128
1129 Mr. Johnson - Yes. These -- seemed like the center of the house, is that a
1130 flat plain?
1131
1132 Ms. Henderson - That is an exterior courtyard. So it would be accessed --
1133 there's a covered masonry deck on the back that would be through the master suite or
1134 the kitchen. And then there would be an open courtyard for vegetation in the middle of
1135 the house. I designed it. I love that house.
1136
1137 Mr. Johnson - It's different. Yeah. Okay. And also being on a private road,
1138 you made regulations with the other property owners on the street?
1139
1140 Ms. Henderson - I'm sorry, I didn't hear you.
1141
1142 Mr. Blankinship - Are you familiar with the road maintenance agreement for
1143 York River Road?
1144

1145 Ms. Henderson - Yes. I read through that with our closing attorney to make
1146 sure that it existed, first of all, and that we would be partially monetarily responsible for
1147 maintenance on that. And then also read the conditions that staff had for making sure
1148 that it was safe for emergency services to access the house once it's built.

1149
1150 Mr. Johnson - Okay.
1151
1152 Mr. Green - Are there any additional questions from the Board to the
1153 applicant? Okay. Hearing none, I'd like to close that aspect and move to a
1154 recommendation.

1155
1156 Mr. Johnson - Mr. Chairman, I move that we approve the variance subject to
1157 the conditions recommended by staff. And when this lot was created, they would have
1158 been able to build on it. Without the variance there would be no use for the property. The
1159 proposed dwelling would fit in with the area and would not be detrimental. And they have
1160 a maintenance agreement for the private road. And the other tests would seem to be
1161 met. So I think we should approve this variance.

1162
1163 Mr. Green - is there a second?

1164
1165 Mr. Pollard - Second.

1166
1167 Mr. Green - Motion was made by Mr. Johnson. It was seconded by Mr.
1168 Pollard. Is there any discussion among the members of the Board? Hearing none, all
1169 those in favor of approving say aye. Those opposed? It has been approved. Okay.

1170
1171 Ms. Henderson - Thank you. You guys have a great day.

1172
1173 Mr. Green - You too. Thanks, Ms. Henderson.

1174
1175 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved case**
1176 **VAR2021-00012 JASON MARKOWITZ's** request for a variance from Section 24-9 of the
1177 County Code to build a one-family dwelling at 149 York River Road (Parcel 835-718-
1178 3009) zoned Agricultural District (A-1) (Varina). The Board approved the request subject
1179 to the following conditions:

1180
1181 1. This variance applies only to the public street frontage requirement for one dwelling
1182 only. All other applicable regulations of the County Code remain in force.

1183
1184 2. Only the improvements shown on the plot plan filed with the application and the design
1185 titled "Henderson Residence" by Pinnacle Design Consulting dated 4/18/2021 may be
1186 constructed pursuant to this approval. Any additional improvements must comply with the
1187 applicable regulations of the County Code. Any substantial changes or additions to the
1188 design or location of the improvements will require a new variance.

1189

1236
1237 The home on the property was constructed in 1968 and the applicant purchased it in
1238 1973. At the time it was not subject to any floodplain regulations. In 1981 the county
1239 adopted new floodplain maps and these incorporated the property into the 100 year
1240 floodplain. Since this time, the property has been a lawful, nonconforming use. And,
1241 basically, that means the use may continue, but it may not be expanded.

1242
1243 The prohibition against an expansion also means a deck may not be constructed. The
1244 applicant indicates she is physically handicapped and unable to safely exit the home's
1245 kitchen in case of a fire. The applicant would like to add a deck, a 16 by 19-foot deck,
1246 with an extension to the kitchen door onto the back of the home. However, because this
1247 is within the floodplain, again, the home may not be expanded. Thus the application for
1248 the variance. This shows the proposed exit here in the deck. And this is another view of
1249 that area.

1250
1251 In evaluating the threshold tests, as I mentioned, the applicant refers to the need for a
1252 reasonable modification to accommodate a person with a disability. In this case, a deck
1253 would allow safe egress from the kitchen for someone who cannot exit the kitchen door
1254 safely, and the Code of Virginia allows the Board to grant a variance in such a case
1255 assuming the five subtests are also met.

1256
1257 Staff believes the five subtests are met. Looking briefly at subtest number two,
1258 detrimental impact, I would just cover that and note the proposed deck would not be
1259 visible from either of the two adjacent streets, because that is blocked by the house. It
1260 may be partially visible from the property to the west at 1703 Hollandale Road, but that's
1261 roughly 85 feet away, so that should not have any detrimental impact at all on their
1262 property. And then as far as the back yard here, you can see it's rather spacious, the
1263 yard there. So staff does believe the five subtests are met.

1264
1265 So, in conclusion, the applicant has owned the property since 1973. It was mapped in
1266 the floodplain in 1989, which made it a legal, nonconforming use. A deck to provide safe
1267 egress from the home is arguably a reasonable modification for a person with a disability.
1268 The five subtests are met and so staff can recommend approval of this request subject to
1269 the conditions in your staff report.

1270
1271 That concludes my presentation. If you have any questions, I'll be happy to answer those.

1272
1273 Mr. Green - Are there any questions from the board members to staff?
1274 Hearing none, we'll now hear from the applicant.

1275
1276 Ms. Harrison - Good morning. I'm Suzanne Harrison. And part of the
1277 information was slightly incorrect. My parents purchased the property in 1973. At the
1278 time, I guess there were no restrictions. They always play by the book, so I'm sure it's on
1279 permit -- they had a garage and a porch at one point added onto the property. And then
1280 later on they extended out the kitchen to the property.

1281

1282 The property, I own it, it's in trust to me. When I die my daughter gets the house also.
1283 She has some handicapped issues, too. And one of the concerns is, if there were a fire
1284 in the kitchen and I had to get out of there, by the time I get down the stairs that are
1285 currently there, I'd be trapped between the garage and the kitchen wall.
1286

1287 At least with the deck, besides, you know, being nice to have a deck, I would be able to
1288 get myself out the side of the kitchen and at least at the end of the deck where, at that
1289 point, if I had troubles getting off, the fire department would already be there to help me
1290 get away from a fire.
1291

1292 So, basically, it's mainly a problem with safety at this point. My neighbor, Amy Kirchoff,
1293 who lives to the north of me, she came over and took a look, and I believe she sent some
1294 sort of written documentation in yesterday stating that she agrees it could be a safety
1295 issue to not have the deck.
1296

1297 I don't know if Brad Fischer, a neighbor across the street, sent in anything or not. I felt I
1298 was kind of in a catch-22 here. Because when I wanted to build the deck, I called the
1299 county fully knowing that I was in a floodplain. And I asked them, Can I do this? Knowing
1300 that. And the person I spoke to said, Oh, sure. There's no problem as long as you stay
1301 15 feet away from your neighbor. Which we met that.
1302

1303 It was only then when somebody said we had to have a no rise certification and it came
1304 out that it was going to cost us about \$2,800 to do this that my contractor sent an email
1305 into a person named Katelyn and said, We think for an \$18,000 deck, a \$2,800 no-rise
1306 certificate is kind of overkill. And so that's kind of where things got tangled.
1307

1308 I think if I would have just at that point stopped and said, Okay. I'll do the no rise
1309 certificate, we would already have a deck to be sitting on. But that just started a whole
1310 chain of events where everybody from county attorney to zoning all got involved and
1311 everybody interpreted the rules a little bit differently.
1312

1313 So they decided I would have to come get a variance if I was going to proceed to do this
1314 project. And I don't have a problem with the no rise certificate, except for the fact it's kind
1315 of costly. But it, you know, if this is granted today, I will go ahead and do that. Unless
1316 there's some other way to not have to do a no rise certificate. But I would do whatever
1317 was asked of me to do.
1318

1319 Mr. Green - Could someone explain to us about this no rise certificate.
1320 And if she needs one?
1321

1322 Mr. Blankinship - Floodplains are regulated at the federal level and the state
1323 level and the local level. And we are required to have our ordinances approved by the
1324 state and federal agencies to make sure that they're not inconsistent. But you do have
1325 to meet all these different levels of regulation. And I think that's why this was such a
1326 challenge. Because the answer she was given at first was the answer for the county
1327 regulations. But the person answering that was not aware of the federal regulations.

1328
1329 I am not by any means an expert in the federal regulations either. My understanding,
1330 from Kristin Owen, who is our floodplain Manager, who is fairly new with the county, is
1331 that she will still be required to get a no rise certificate, but that there may be an alternative
1332 way to do it that does not require the engineer's approval. I -- but I'm not certain of the
1333 details on that. I can report back to the Board if you like. But --
1334
1335 Ms. Harrison - It's kind of difficult. I went online, I Googled and everything,
1336 to find who does no rise certificates.
1337
1338 Mr. Blankinship - Yeah.
1339
1340 Ms. Harrison - I don't know who my contractor, you know, found that was
1341 \$2,800, but I couldn't even find anybody that does no rise certificates in the area. So, I
1342 don't even know where to go at this point, to obtain one.
1343
1344 I don't know if the county has a list of, you know, people that do that service or not.
1345
1346 Mr. Blankinship - Yeah. And, again, I apologize. But the best I can do is point
1347 you back to Kristin Owen who is the Floodplain Manager for the county. She would be
1348 the best person to answer those questions.
1349
1350 Ms. Harrison - Okay.
1351
1352 Mr. Blankinship - But in terms of the zoning impact here, the problem is merely
1353 a setback.
1354
1355 Mr. Green - Right.
1356
1357 Mr. Blankinship - Anything built on a house has to be at least the side-yard
1358 distance from the floodplain. Since, in this case, the whole house is in the floodplain,
1359 there is no way to build a deck that meets the setback. So the only way under zoning
1360 that she can get approval is through a variance.
1361
1362 Mr. Green - Now the reason I ask that question was because I always
1363 know the staff has always been very helpful with individuals in solving problems and that's
1364 one good thing about Henrico. You know. You can always count on a lot of staff to help
1365 in any way we possibly can. If we could just find some way to assist in understanding the
1366 certificate situation and, you know, I'm confident that our folks would help you.
1367
1368 Ms. Harrison - Okay. Thank you.
1369
1370 Mr. Green - Any other discussion, questions from the Board to the
1371 applicant?
1372

1373 Mr. Reid - Ms. Harrison, are you in agreement with the conditions of
1374 approval in the staff report?

1375
1376 Ms. Harrison - Yes, I am.

1377
1378 Mr. Green - Are there any other questions? I'd like to go ahead and close
1379 this discussion and ask for a recommendation from the Board.

1380
1381 Mr. Reid - I move that we approve this variance subject to the conditions
1382 recommended by the staff. When this lot was created, the house was not in a floodplain,
1383 so the hardship was created when the floodplain was changed.

1384
1385 This is also a reasonable accommodation for a person with a disability. The proposed
1386 deck would not be detrimental to the neighbors and the other tests have been made, so I
1387 think we should approve the variance.

1388
1389 Mr. Green - Is there a second to that?

1390
1391 Mr. Pollard - I second.

1392
1393 Mr. Green - A motion was made by Mr. Reid and seconded by Mr. Pollard.
1394 Is there any discussion? Hearing no discussion, all in favor say aye. All those opposed
1395 say nay. So approved.

1396
1397 On a motion by Mr. Reid, seconded by Mr. Pollard, the Board **approved case VAR2021-**
1398 **00014 SUZANNE HARRISON's** request for a variance from Section 24-95(u)(2) of the
1399 County Code to build a deck at 1701 Hollandale Road (TUCKAHOE VILLAGE) (Parcel
1400 736-744-2220) zoned One-Family Residence District (R-2) (Tuckahoe). The Board
1401 approved the request subject to the following conditions:

1402
1403 1. This variance applies only to the floodplain setback requirement for a deck. All other
1404 applicable regulations of the County Code remain in force.

1405
1406 2. Only the improvements shown on the plot plan and building design filed with the
1407 application may be constructed pursuant to this approval. Any additional improvements
1408 must comply with the applicable regulations of the County Code. Any substantial changes
1409 or additions to the design or location of the improvements will require a new variance.

1410
1411 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must
1412 obtain all necessary approvals from the Department of Public Works.

1413
1414 4. The applicant must obtain a building permit for the proposed deck by June 26, 2023,
1415 or this variance will expire. After that date, if the building permit is cancelled or revoked
1416 due to failure to diligently pursue construction, this variance will expire at that time.

1417
1418

1419	Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
1420	Negative:		0
1421	Absent:		0

1422

1423

1424 Ms. Harrison - Thank you so very much.

1425

1426 Mr. Blankinship - Right. The last case on this morning's agenda is variance
1427 2021 number 15 Tebow, LLC.

1428

1429 **VAR2021-00015 TEBOW LLC** requests a variance from Section 24-94 of the County
1430 Code to build a one-family dwelling at 2801 Purcell Court (PURCELL MANOR) (Parcel
1431 770-763-8924) zoned One-Family Residence District (R-3) (Brookland). The street side
1432 yard setback and setback for a deck are not met. The applicant has 14 feet street side
1433 yard setback and 28 feet setback for a deck, where the Code requires 25 feet street side
1434 yard setback and 30 feet setback for a deck. The applicant requests a variance of 11 feet
1435 street side yard setback and 2 feet setback for a deck.

1436

1437 Mr. Blankinship - The applicant is joining us on Webex so, Mr. Gidley, you can
1438 begin with your report.

1439

1440 Mr. Gidley - Thank you, Mr. Secretary. The subject property is part of the
1441 Purcell Manor Subdivision, which is a five-lot subdivision located off of Purcell Road. It
1442 was recorded back in 2017. The property in question is here in yellow, it is lot 5, which is
1443 one of two lots located at the entrance to the subdivision. The front of the lot faces Purcell
1444 Road and has a 40-foot setback. There is a 25-foot setback along Purcell Court. And
1445 that's because this property is a reverse-corner lot rearing on the side lot line of the
1446 property behind them.

1447

1448 This leads to a buildable area that is roughly 43 feet wide and 27 1/2 feet deep. While
1449 this is large enough to construct a home, it would not allow for a home similar to the others
1450 in the neighborhood that contain an attached garage. This is a view of the lot right here
1451 in question.

1452

1453 This situation is compounded by the fact that the applicant wants to build a home that's
1454 quite a bit larger than the others in the neighborhood. The proposed home is shown
1455 here. Because this home is on the lot with the narrowest buildable area, yet it would be
1456 the largest home in the neighborhood, the applicant is requesting an 11-foot variance to
1457 allow the home to be 14 feet from the Purcell Court right-of-way and a 2-foot front-yard
1458 variance to allow a 12-foot deck.

1459

1460 This is the applicant's proposal here. And you can see here the 14-foot setback off of
1461 Purcell Road. The proposed 12-foot deck, if that was reduced to 10 feet, then there would
1462 be no problem and no need for that variance in the front yard.

1463

1464 The concern here, obviously is, you know, this is just 14 feet off the entryway, whereas
1465 all the other homes here are at 40 feet plus, so that would look rather unusual pulling into
1466 a neighborhood and having a setback here that's, you know, maybe roughly a third of
1467 what everybody else has.

1468
1469 As an alternative, staff has come up with an additional proposal. This would be to reduce
1470 the setback along Purcell Road from 40 feet down to 25 feet and retain the existing 25-
1471 foot setback along Purcell Court. This would provide additional building area.

1472
1473 While the proposed home would not fit in there, the applicant, you know, legally speaking,
1474 does not have the right to come in and say, Hey, I want this home on this lot and you
1475 need to make this work.

1476
1477 I mean, the courts have been pretty clear about that. But adjusting the front-yard setback
1478 down to 25 feet would provide enough room to allow a home that's similar in size to the
1479 other homes in the neighborhood and could contain an attached garage as well.

1480
1481 The other two advantages to this is, one, the setback along Purcell Road would be
1482 reduced to just 25 feet. That's similar to the side-yard setback of the other house that is
1483 also at the entrance to the subdivision. So that would at least be consistent when you
1484 enter the neighborhood. And, in addition, it would retain the 25-foot setback along Purcell
1485 Court. While that's not 40 feet, that's certainly not as much of an issue as reducing it
1486 down to 14 feet.

1487
1488 So, in evaluating this request briefly, the existing building area would allow for a two-story
1489 home 2,365 square feet in area. That's similar in size to the others in the neighborhood.
1490 That's not enough room, however, for an attached garage like the other homes have.

1491
1492 As noted, the applicant wants to build the largest home in the neighborhood, even though
1493 they have the smallest building area. Their proposed home would be 3,583 square feet.
1494 More than 800 feet larger than the largest home currently in the neighborhood. And their
1495 proposal would bring it to only 14 feet of the Purcell Court cul-de-sac compared to the
1496 other homes that are set back 40 feet.

1497
1498 There is no hardship present that would justify such a large variance. As far as the
1499 subtests, several are not met.

1500
1501 Subtest 1 dealing with any hardship created by the applicant. When the applicant
1502 acquired the lot, the buildable area was shown on the plans. The desire to build the
1503 largest home in the neighborhood on the narrowest lot is entirely self-imposed.

1504
1505 Secondly, as far as detrimental impact, as I've noted, all the lots in the subdivision have
1506 a 40-foot setback off of Purcell Court except this one. Which is only a 25-foot setback.
1507 And that's because, again, its front is on Purcell Road.

1508

1509 The applicant wants to reduce this down to only 14 feet. Allowing that compared to the
1510 40 feet of the neighbors, would be detrimental to the neighbors. Especially, as one enters
1511 the neighborhood, it would certainly be noticed.

1512
1513 Staff's alternative, as I noted, would reduce the setback down to 25 feet off Purcell Road
1514 while retaining this 25-foot setback. That is more consistent with what's in the
1515 neighborhood now and would have less of an impact on the neighbors.

1516
1517 So, in conclusion, while the lot is unusually shaped, it does contain a rectangular building
1518 area of roughly 43 feet by 27 1/2 feet. The desire to put the largest home on the smallest
1519 lot is a self-imposed hardship and would be detrimental to nearby property. Staff
1520 recommends its alternative.

1521
1522 We would just ask the Board to deny the applicant's request and move to approve staff's
1523 suggestion.

1524
1525 That concludes my presentation if there's any questions.

1526
1527 Mr. Bell - (indiscernible)

1528
1529 Mr. Gidley - I'm sorry.

1530
1531 Mr. Blankinship - I believe the way we drafted the motion, Mr. Bell, would be
1532 just to approve the variance subject to the conditions recommended by staff.

1533
1534 Mr. Bell - Right.

1535
1536 Mr. Blankinship - And our recommendations are not the same as what the
1537 applicant requested. So approving it subject to the recommended conditions is not giving
1538 the applicant what he originally requested, but it is giving him a variance that would allow
1539 him to build what he needs to build.

1540
1541 Mr. Bell - All right.

1542
1543 Mr. Green - Mr. Gidley, do you have pictures of the houses?

1544
1545 Mr. Gidley - Yes, sir. I have some here.

1546
1547 Mr. Blankinship - The existing houses in the neighborhood?

1548
1549 Mr. Green - Yes.

1550
1551 Mr. Gidley - Yes. That's one right there. This is the lot here, so this is
1552 across the street.

1553

1554 Mr. Johnson - The one in the far back. Is that going to be smaller than the
1555 one being built?
1556
1557 Mr. Gidley - Yes.
1558
1559 Mr. Johnson - All right.
1560
1561 Mr. Gidley - The one being built is at least 800 feet larger than any of the
1562 other homes out there.
1563
1564 Mr. Johnson - Because that one's a good distance from the road, too, the
1565 one in the back. So you have that illusion of --
1566
1567 Mr. Gidley - Yeah. All of those in the back are set back at least 40 feet off
1568 the cul-de-sac.
1569
1570 Mr. Green - Because that one is directly in the back. If that house that
1571 would be built would block the view of that home in the back. Correct?
1572
1573 Mr. Blankinship - Yes. It'll be between the main road, Purcell Road, and that
1574 house.
1575
1576 Mr. Green - Right. And then it appears that the applicant is trying to build
1577 a modern house versus houses that look consistent. Is that true?
1578
1579 Mr. Gidley - All I have is what they submitted here. But I understand where
1580 you're coming from. I can certainly see your perspective.
1581
1582 Mr. Green - Then is it possible for them to build the same house, but just
1583 reduce it by 800 square feet?
1584
1585 Mr. Blankinship - They could built in the same style but a smaller footprint. Yes.
1586
1587 Mr. Green - Okay. Are there any other questions from the Board members
1588 to staff?
1589
1590 Mr. Bell - Pull up that data on the cul-de-sac.
1591
1592 Mr. Blankinship - Aerial photo?
1593
1594 Mr. Bell - Yeah. So you only going to have one more house built in that
1595 area.
1596
1597 Mr. Gidley - Well, there would be one right here, sir.
1598
1599 Mr. Bell - Right.

1600
1601 Mr. Gidley - And that would be 40 feet off also.
1602
1603 Mr. Bell - All these over here also were built not as a subdivision, but lot
1604 by lot by lot. So this is really being built, in a sense, in conjunction -- or not in conjunction,
1605 but similar or like the lots we sold on the other side. You had a small one or a big one or
1606 whatnot, and you had a bunch of houses over here.
1607
1608 Nothing else is going in there but this one house. So that being the case, now I
1609 understand what they approved here the approval was made clear to me.
1610
1611 Mr. Green - Yes, sir. Any other questions from Board to the staff? Hearing
1612 none, we will now hear from the applicant.
1613
1614 Ms. Blankinship - Mr. Bill, you are now unmuted.
1615
1616 Mr. Bill - Hello. How are you guys doing today?
1617
1618 Mr. Green - Well, thank you.
1619
1620 Mr. Pollard - Good.
1621
1622 Mr. Reid - Good.
1623
1624 Mr. Bill - That's good to hear. So let me start off by saying thank you
1625 for seeing me, hearing me, today. I'm sorry I couldn't be there in person. I was feeling a
1626 little under the weather, so why take the chance? But getting to this plot of land, when
1627 the owner, Tebow, LLC originally purchased this plot of land, thinking that the person who
1628 surveyed the land and who sold it to us, did it properly which they didn't in a sense. So,
1629 therefore, we had to go around these obstacles to try to meet the requirements from
1630 Henrico County.
1631
1632 And so we are definitely interested in going with the suggestion of what the staff member
1633 has said. Right now, we're just trying to move forward. So, anything you guys have with
1634 recommendations or whatnot, we are all ears.
1635
1636 Mr. Green - Any questions?
1637
1638 Mr. Bell - So you agree then wholeheartedly with the conditional --
1639 conditions that's been put on the lot if it's approved?
1640
1641 Mr. Bill - Yes, sir.
1642
1643 Mr. Bell - All right.
1644

1645 Mr. Green - Are there any other questions from the Board to the applicant?
1646 Any other comments from the applicant?
1647
1648 Mr. Bill - There's none.
1649
1650 Mr. Green - Hearing none, I would like to move into a recommendation
1651 from the Board.
1652
1653 Mr. Bell - I move that we approve the variance subject to the conditions
1654 recommended by the staff. When the lot was created, the buildable area was acquired,
1655 but not nearly as large as the other lots on the street. In order to allow this property owner
1656 to build the same size dwelling the others are allowed to build, a variance is necessary.
1657 Allowing the house to be 25 feet from Purcell Road and 25 feet from Purcell Court, is
1658 reasonable and would not be a deterrent in the neighborhood. The other tests have been
1659 met, so I think we should approve the variance.
1660
1661 Mr. Green - Prior to a second, we have some clarification.
1662
1663 Mr. Blankinship - Yeah. Thank you, Mr. Green. Let me read to you the draft
1664 condition that I'm referring to, number three. This states, The dwelling must be located
1665 at least 25 feet from the right-of-way of Purcell Road, at least 25 feet from the right-of-
1666 way of Purcell Court, and at least 12 feet from the southern property line.
1667
1668 Mr. Bell - Which it meets.
1669
1670 Mr. Blankinship - Right.
1671
1672 Mr. Green - Mr. Bell has made a motion. Clarification relative to that has
1673 been made. Is there a second?
1674
1675 Mr. Pollard - I second.
1676
1677 Mr. Green - Now we can move into discussion. Mr. Johnson.
1678
1679 Mr. Johnson - This modification, is that making it little bit smaller than it was
1680 before?
1681
1682 Mr. Gidley - The applicant's proposal was here, as I said coming to just 14
1683 feet off Purcell Court. And to put a 12-foot deck here, which would have required a 2-foot
1684 variance.
1685
1686 Mr. Blankinship - But notice that that -- go back. Notice that that's 40 feet from
1687 the main road, from Purcell Road.
1688
1689 Mr. Gidley - Right.
1690

1691 Mr. Blankinship - Okay. Now go ahead.
1692
1693 Mr. Gidley - The applicant has indicated he's agreeable to staff's
1694 suggestion, which would retain the existing 25-foot setback off Purcell Court, but reduce
1695 the 40-foot setback off of Purcell Road from 40 down to 25 feet, which would be in line
1696 with the house that's across the road, also at the entrance to the subdivision. So, this is
1697 what would be approved here.
1698
1699 Mr. Johnson - Okay. Yes. So I'm satisfied with that.
1700
1701 Mr. Green - Question. I have a question for the applicant. This is if he is
1702 still on. Are you building a modern-style house which is somewhat different from the other
1703 homes? And if you are, are you now agreeing to reduce it by 800 feet?
1704
1705 Mr. Bill - Yes. I was doing it a contemporary modern home for the
1706 client. We are going to do that with the 800 less square foot.
1707
1708 Mr. Green - Okay. Any other questions or discussion from members of
1709 the Board?
1710
1711 Mr. Pollard - And is all that included in the motion? Because I'm saying the
1712 setbacks. So the setback's a condition? Is the style of the home a condition also?
1713
1714 Mr. Blankinship - No. We normally would not put a condition on the style of a
1715 home. You could add that condition if you want, but there is a fine line between using the
1716 zoning ordinance to impose aesthetic preferences.
1717
1718 Mr. Pollard - Right. Okay.
1719
1720 Mr. Blankinship - We normally stay away from that.
1721
1722 Mr. Green - Okay. The motion was made. Any other discussion from the
1723 Board to staff and or the applicant? The motion was made by Mr. Bell. It was seconded
1724 by Mr. Pollard. All in favor say aye. All opposed say nay. Approved.
1725
1726 On a motion by Mr. Bell, seconded by Mr. Pollard, the Board **approved case VAR2021-**
1727 **00015 TEBOW LLC's** request for a variance from Section 24-94 of the County Code to
1728 build a one-family dwelling at 2801 Purcell Court (PURCELL MANOR) (Parcel 770-763-
1729 8924) zoned One-Family Residence District (R-3) (Brookland). The Board approved the
1730 request subject to the following conditions:
1731
1732 1. This variance applies only to the side yard setback requirement for one dwelling only.
1733 All other applicable regulations of the County Code remain in force.
1734
1735 2. Only the improvements shown on the plot plan and building design filed with the
1736 application, as amended by these conditions, may be constructed pursuant to this

1782 you with new copies of the new zoning ordinance and doing some training on how the
1783 new ordinance will affect this board's responsibilities.

1784
1785 Mr. Green - Do you have just a quick overview of what the changes are?

1786
1787 Mr. Blankinship - We have added planned development districts, which allow
1788 for large projects to be more innovative and more creative. We have introduced
1789 something called a form-based alternative overlay district, which is a completely different
1790 way of looking at zoning.

1791
1792 That won't affect this board that much, but we'll go into it in more detail. We are updating
1793 some of the standards. We have often discussed in this setting reversed-corner lots. We
1794 are not doing reverse-corner lots anymore. That term does not occur in the new
1795 ordinance.

1796
1797 You have occasionally seen these awkward situations where somebody meets the
1798 minimum side-yard on both sides, but they fail to meet the sum of the side-yard
1799 requirement and so they can't do what they want and they come in and get a variance.
1800 We are no longer requiring a sum of side yards. As long as you meet the side yard on
1801 each case that's all you need to meet is the side yard on each side.

1802
1803 Some of the fun stuff for you is that we will be allowing people to apply for backyard hens.
1804 As you now have kennel permits for more than four animals, you will be hearing requests
1805 from people to keep up to six hens in their back yard.

1806
1807 Mr. Green - No roosters.

1808
1809 Mr. Blankinship - No roosters. Those are prohibited. And also accessory
1810 apartments, which is another issue we also get tangled around where somebody wants
1811 to do an in-law suite for their, you know, parents or an adult child or something. And our
1812 regulations have always been very restrictive on that.

1813
1814 We are now presenting a set of rules for somebody to meet, and if they meet those --
1815 and, you know, we're going to notify the neighbors and have a public hearing. So it will
1816 be up to you all to approve in the last case. But the two big changes for you will be
1817 accessory apartments and backyard hens.

1818
1819 Mr. Bell - There's one that isn't on there. Bed and breakfasts.

1820
1821 Mr. Blankinship - That did not change. We just carried forward what we already
1822 had on Airbnb and on full-sized bed and breakfasts.

1823
1824 Mr. Bell - Okay.

1825
1826 Mr. Green - So this gives us little bit more authority.

1827

1828 Mr. Blankinship - A little bit more. There are some other uses that in the past
1829 had to come to you that will no longer. One example of that, you -- I'm not sure -- Mr. Bell
1830 will remember. I'm not sure who else was on the Board when we had a funeral home
1831 come to request a conditional use permit to have one cremation unit added to the funeral
1832 home. That no longer would come to this body. That would instead go through the Plan
1833 of Development process.

1834
1835 And a couple of little things like that, where there were obscure historical reasons why
1836 they came to this body that we have reorganized now, and if it's something that you would
1837 normally expect to be part of a commercial site plan, now it will be part of a commercial
1838 site plan.

1839
1840 Mr. Pollard - Any change at all to Airbnbs?

1841
1842 Mr. Blankinship - No. Those regulations are just being carried forward.

1843
1844 Mr. Green - The recent thing that came up in Richmond that I was looking
1845 at and I talked to one of the Board of Zoning Appeals members there. And they operate
1846 totally different than we do. How do we really figure out who does what and under what
1847 authority.

1848
1849 Because I was surprised that certain things that we did we have authority to do they don't.
1850 It goes through their Planning Commission. And when can we get back on schedule?
1851 Because I know Mr. Johnson went through a training session. Mr. Pollard might benefit
1852 from that and I missed it. I would like to go through that again. And I'm sure Mr. Bell and
1853 Mr. Gentry went through that. When is that coming back?

1854
1855 Mr. Blankinship - I know they did continue doing them through the pandemic.
1856 We did not, you know, send anybody during the pandemic. But I guess next year,
1857 probably around this time, they'll have -- I'm not sure if it's March or June. There will be,
1858 I'm sure, another class next year. And I presume that they will have it in person next year.
1859 I hope that everything will be back to normal enough by next year to do in person classes.

1860
1861 Mr. Bell - A while ago when you were talking about how different it was.
1862 When I went to the training, it just blew my mind. The whole state's different. So I walked
1863 away feeling -- they told us to do what Henrico County does now, and that's right.
1864 Hanover County at the time had one board member. One.

1865
1866 Mr. Blankinship - Yeah. One of the requirements of the training is that you
1867 attend another jurisdiction's BZA meetings. That you actually watch another group go
1868 through the process.

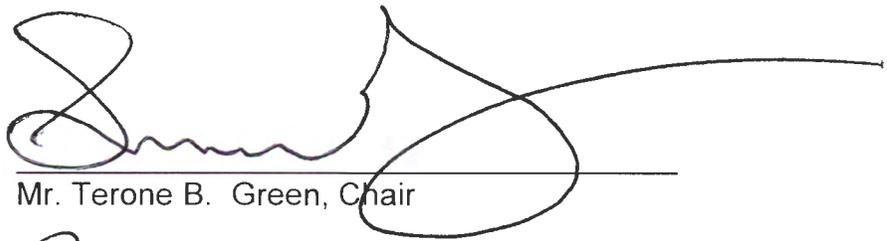
1869
1870 Mr. Bell - And that's been 20 years ago. Where we've been styled this
1871 way for a long time. But I've been here now 12 years.

1872
1873 Mr. Green - You mean they had one Board of Zoning Appeals.

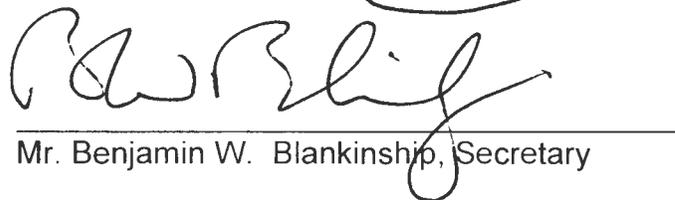
1874
1875 Mr. Bell - One member. Yeah.
1876
1877 Mr. Johnson - And attending the different ones. I've attended Richmond for
1878 a while, and this is a little bit different from theirs.
1879
1880 Mr. Bell - Richmond has a meeting in April and wouldn't come back until
1881 first of January next year. April to January.
1882
1883 Mr. Johnson - And then they have alternative board members.
1884
1885 Mr. Bell - They did some other things, too, that we -- that I wouldn't
1886 agree with. But there's things there that you'll pick up that will be very helpful.
1887
1888 Mr. Green - Is it possible for us -- and I don't want to burden. But is it
1889 possible for us to, you know, get a refresher from Henrico as to what our responsibilities
1890 or duties are?
1891
1892 Mr. Blankinship - I would be delighted to do that. And now, with the new
1893 ordinance, it's the perfect time to do that.
1894
1895 Mr. Green - Yeah.
1896
1897 Mr. Blankinship - Because, as I say, some of your responsibilities will change
1898 and some will not. So --
1899
1900 Mr. Green - Can we schedule --
1901
1902 Mr. Blankinship - Yes.
1903
1904 Mr. Green - I guess a mini retreat.
1905
1906 Mr. Blankinship - Right. I would be delighted to. We have a very light agenda
1907 for July. We only have one new case and then the two that you deferred this morning.
1908 So we can do some of that in July, and then maybe we can make some additional time in
1909 August. So we don't have to try to break out a whole day. We could just take an hour or
1910 two at a time.
1911
1912 Mr. Green - Well we were looking for lunch!
1913
1914 Mr. Blankinship - Oh, I see. All right. Well, I'll have to talk to the director. You
1915 wanted to do this in South Beach as well. Right?
1916
1917 Mr. Green - But, if we could just have that refresher. Because I think that
1918 -- I know, Mr. Pollard, you were on here last year when we went through that session.
1919

1920 Mr. Blankinship - Yes. He was.
 1921
 1922 Mr. Green - Well, no. I thought it was Ms. Harris.
 1923
 1924 Mr. Pollard - I went through a refresher.
 1925
 1926 Mr. Green - Was that when we went upstairs?
 1927
 1928 Mr. Pollard - Upstairs, yeah.
 1929
 1930 Mr. Green - Yes?
 1931
 1932 Mr. Johnson - You got a --
 1933
 1934 Mr. Blankinship - Yes. He was brand new.
 1935
 1936 Mr. Green - Yes. I think that would be good for us to --
 1937
 1938 Mr. Blankinship - I would be delighted to do that for you.
 1939
 1940 Mr. Green - Yes, sir. Okay. Is there any other business that would come
 1941 before the board other than Mr. Blankinship planning our trip to South Beach for the
 1942 retreat? And everybody looking at their schedule? Right, Mr. Blankinship?
 1943
 1944 Mr. Blankinship - Yes, sir. Absolutely.
 1945
 1946 Mr. Green - Is there a motion to adjourn?
 1947
 1948 Mr. Reid - So moved.
 1949
 1950 Mr. Green - Second. Is there a second?
 1951
 1952 Mr. Pollard - Second.
 1953
 1954 Mr. Green - We're adjourned.

1955
 1956
 1957
 1958
 1959
 1960
 1961
 1962
 1963
 1964
 1965



 Mr. Terone B. Green, Chair



 Mr. Benjamin W. Blankinship, Secretary