

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 MARCH 25, 2021 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE *RICHMOND TIMES-DISPATCH* MARCH 8, 2021 AND MARCH 15, 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 Mr. Green - Welcome to the March 25th meeting of the Henrico County
23 Board of Zoning Appeals. Will those who are able to please stand and join us in the
24 Pledge of Allegiance?
25

26 [Recitation of the Pledge of Allegiance]
27

28 Mr. Green - Mr. Blankinship will now read our rules.
29

30 Mr. Blankinship - Morning Mr. Chair, members of the Board. Good morning to
31 those of you who are in the room with us. There are also two remote options for
32 participating in this meeting. Excuse me. There is a livestream on the Planning
33 Department web page, and we are hosting a video conference using Webex. I'd like to
34 welcome everyone who is joining us remotely.
35

36 If you wish to observe the meeting, but you do not intend to speak, welcome and thank
37 you for joining us. For those of you on Webex, if you wish to speak, we need to know
38 that in advance so we can connect you at the appropriate time. So if you are an applicant,
39 or if you have questions or comments on one of the cases, please press the chat button
40 now. It's located in the bottom-right corner of the screen. And when the chat window
41 opens please select Kristin Smith from the list of participants and let her know your name
42 and which case you're interested in. The chat feature is only being used to identify
43 speakers, so please do not type questions or comments into the chat. Please send a
44 chat to Kristin Smith now so she can organize the feed.
45

46 Acting as secretary I will call each case and we will ask everyone who is present in the
47 room to stand and be sworn in and then a member of the Planning Department staff will
48 give a brief presentation. Then the applicant will speak and then anyone else who wishes
49 to speak will be given the opportunity. We will hear from citizens in the room first and
50 then from those on Webex. After everyone has had a chance to speak, the applicant and
51 only the applicant will have an opportunity for rebuttal.

52
53 This meeting is being recorded, so we'll ask everyone in the room who speaks to speak
54 into the microphone on the podium at the back of the room there and please state your
55 name and spell your last name so we get it correctly.

56
57 And with that, Mr. Chair, I think we are ready to begin.

58
59 Mr. Green - Thank you. Would you please call our first request?

60
61 Mr. Blankinship - There are three conditional use permits and one variance on
62 this morning's agenda. The first conditional use permit is 2021, number 4, Charles and
63 Angela Loftis.

64
65 **CUP2021-00004 CHARLES AND ANGELA LOFTIS** request a conditional use
66 permit pursuant to Section 24-12(e) of the County Code to allow a private noncommercial
67 kennel at 12212 Country Hills Terrace (CROSS CREEK) (Parcel 737-776-6991) zoned
68 Agricultural District (A-1) (Three Chopt).

69
70 Mr. Blankinship - I believe the applicant may be out in the foyer. Good time for
71 him to come on in. Oh, I'm sorry. The applicant is on Webex. I misunderstood the earlier
72 instruction. So, Mr. Madrigal, you may begin.

73
74 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, good morning, members
75 of the Board. Before you is a request for a noncommercial kennel in a one-family
76 residence. The subject property is part of Section 2 of the Cross Creek Subdivision, a
77 large-lot residential development recorded in 1988.

78
79 The lot is approximately 63,000 square feet in area and is improved with a two-story,
80 4,000-square-foot home with an attached two-car garage located in the front half of the
81 lot. The rear half of the property is undeveloped and partially wooded.

82
83 The applicants purchased the property in 2017 and have lived there for approximately
84 four years. They have three pets and have been fostering two others. The animals
85 include four dalmatians ranging age between 4 months and 3 years of age, and an 8-
86 year-old golden retriever who suffers from cancer. After this dog passes away, they would
87 like to replace it and keep five dogs as pets.

88
89 The applicants have been working exclusively with dalmatian breeders over the last three
90 years providing specialty training for dogs that are deaf in one year prior to placing these

91 dogs in permanent homes. In this instance, the applicants wish to keep their two foster
92 dogs as permanent pets instead of placing them in homes.

93
94 The applicants do not board or breed the dogs and have not received any compensation
95 for their training efforts. All the dogs reside in the dwelling, and the property has a large
96 rear yard for exercise, training, and play. The rear yard is approximately one-acre in area
97 and is enclosed by an invisible fence. The dogs are fitted with electronic collars that help
98 keep them on site.

99
100 The property is zoned A-1 and is designated Rural Residential on the 2026 Future Land
101 Use Map. A One-Family Dwelling is a principal permitted use in this district, and the
102 keeping of up to three pets is customary and incidental to a dwelling. The keeping of
103 more than three animals as pets requires the approval of CUP.

104
105 Although the subject property is in an agricultural district, the neighborhood consists of
106 one-family residences of lots of one to three acres in size. The property also backs onto
107 another residential development zoned R-2C.

108
109 The closest homes are on either side of the applicant's property, 80 to 90 feet distant.
110 The keeping of more than three dogs can potentially have a detrimental impact on
111 adjacent and neighboring properties, especially when involving highly active dogs. In this
112 case, the applicant has a large lot with abundant space for their dogs.

113
114 The neighboring homes are amply spaced apart, and the dogs will be kept primarily
115 indoors, except when playing, training, or exercising. There are no exterior kennels, the
116 rear yard is well kept, and there have been no complaints filed against the applicants with
117 the county. As long as the applicants maintain the dogs and their property in its current
118 condition, staff does not anticipate any significant detrimental impacts.

119
120 In conclusion, although having five dogs could potentially have detrimental impacts on
121 nearby property, the subject lot is 1 1/2 acres in area, and the adjacent homes are amply
122 spaced apart.

123
124 Furthermore, the dogs will permanently reside in the dwelling, limiting their impact on the
125 neighbors, there are no exterior kennels or dog runs, and the applicants appear to keep
126 the property in good order.

127
128 Additionally, staff has drafted conditions of approval to help mitigate any detrimental
129 impacts. Thus, based on the facts of the case, staff recommends approval subject to
130 conditions. Staff has received two letters of support from the applicant's neighbors at
131 12206 Country Hills Terrace.

132
133 This concludes my presentation. I'll be happy to answer any questions you may have.

134
135 Mr. Green - Thank you. Are there any questions from the Board? We will
136 now hear from the applicant.

137
138 Lisa Blankinship - The applicant is now unmuted.
139
140 Mr. Loftis - Good morning, Mr. Chairman, good morning, Board
141 members. Thank you for the time and the consideration of the conditional use permit.
142 These became members of our family. More than likely we actually probably wouldn't
143 replace it when our old retriever passes away.
144
145 We wanted to make sure that we try to do the right thing and applied for the permit. I
146 think our neighbors, we've spoken with all of them, and they are supportive of it. The
147 dogs are only outside, as stated in the case, for playtime and training. We walk them, if
148 the weather allows it, a mile to two miles per day for each dog. So, yeah, we appreciate
149 the consideration if you'll approve our application.
150
151 Mr. Green - Are there any questions for the applicant from Board
152 members?
153
154 Mr. Johnson - Mr. Chair.
155
156 Mr. Green - Yes, sir.
157
158 Mr. Johnson - In the staff report you said that they had five dogs and they
159 was going to -- if one passed then they were going to replace it.
160
161 Mr. Madrigal - They currently have five animals. One of them is golden
162 retriever who's not doing good. It has cancer and, you know, it'll be passing away in the
163 near future. So what they would like to do is replace that animal with another dalmatian
164 for keeping a total of five dogs. Two of them happen to be foster dogs, though, so those
165 dogs, instead of being placed in homes, they're just going to keep them as pets. So it's
166 going to be a total of five dogs on the property.
167
168 Mr. Johnson - Okay.
169
170 Mr. Green - Are there any other questions from the Board? Does anyone
171 else wish to speak in support of this request? Is there anyone to speak in opposition of
172 this request? Hearing none, the public hearing is now closed, and a motion would be in
173 order.
174
175 Since that's the Three Chopt District, I would recommend we approve the conditional use
176 permit subject to the conditions recommended by staff. Their property is almost an acre
177 and a half in area. The dogs are indoor most of the time, and even when they come
178 outside, they are long way from neighbors. Most importantly, two of the neighbors closest
179 to the house have written to say they support the applicant -- application, and no one has
180 expressed any opposition. As long as the applicant follows the recommended conditions,
181 I do not think the dogs will be detrimental to the neighborhood, so I think we should
182 approve it.

183
184 Is there a second?

185
186 Mr. Bell - Second.

187
188 Mr. Green - It was moved and approved -- moved by myself, Terone
189 Green. Seconded by Mr. Bell. I would like to put it to a vote. All in favor. All opposed.
190 Motion passes.

191
192 On a motion by Mr. Green, seconded by Mr. Bell, the Board **approved** application
193 **CUP2021-00004 CHARLES AND ANGELA LOFTIS's** request for a conditional
194 use permit pursuant to Section 24-12(e) of the County Code to allow a private
195 noncommercial kennel at 12212 Country Hills Terrace (CROSS CREEK) (Parcel 737-
196 776-6991) zoned Agricultural District (A-1) (Three Chopt). The Board approved the
197 request subject to the following conditions:

198
199 1. This approval is only for the keeping of five dogs as pets by the property owner. The
200 approval is not for the boarding, breeding, or fostering of dogs at any time. All other
201 applicable regulations of the County Code remain in force.

202
203 2. The dogs must be kept indoors except for training, exercise, and play.

204
205 3. The applicant must maintain the property so that noise and odors are controlled.

206
207
208 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
209 **Negative:** 0
210 **Absent:** 0

211
212
213 Mr. Blankinship - Mr. Chair, the next case is conditional use permit 2021,
214 number 5, Earl S. Porter.

215
216 **CUP2021-00005 EARL S. PORTER** requests a conditional use permit pursuant
217 to Section 24-12(e) of the County Code to allow a noncommercial kennel at 131 Biloxi
218 Road (SHREVEPORT PARK) (Parcel 814-727-1300) zoned One-Family Residence
219 District (R-2) (Varina).

220
221 Mr. Blankinship - Would everyone who intends to speak to this case please
222 stand and be sworn in? Raise your right hand, please. Do you swear the testimony
223 you're about to give is the truth, the whole truth, and nothing but the truth, so help you
224 God?

225
226 Unknown Speaker - Yes, sir.



228 Mr. Blankinship - Thank you, you can be seated. And, Mr. Gidley, you may
229 begin.

230
231 Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chair,
232 members of the Board. The subject property is located just north of Nine Mile Road near
233 Fairfield Middle School. It contains roughly a quarter of an acre of lot area and also has
234 an existing one-family dwelling.

235
236 As you can see here, looking at the rear property line, the applicant has a dog pen along
237 the rear property line that is enclosed by a chain-link fence. Seven beagles are kept in
238 this enclosure. This is four pets over the three-pet limit allowed by the zoning ordinance.
239 As a result, the applicant has applied for a conditional use permit to allow them to keep
240 the seven beagles.

241
242 In evaluating this request with regard to the zoning ordinance and comprehensive plan,
243 the property is zoned R-2, One-Family Residence District, and is designated SR-2,
244 Suburban Residential, on the Land Use Plan.

245
246 A one-family dwelling is consistent with these designations. The zoning ordinance allows
247 three pets by right. Since they have seven a conditional use permit is required, as I noted.

248
249 As far as detrimental impact on surrounding property, the seven dogs are over the limit.
250 In addition, they are kept outdoors, which increases their potential impact. A quarter-acre
251 lot is arguably too small for seven beagles. There are three houses to the rear of the
252 subject property, and they are within 100 feet of the enclosure. That said, staff did not
253 notice any noise or odor issues during our visit and no complaints have been received
254 from neighbors.

255
256 Staff did notice extensive outdoor storage on the property, and we have recommended
257 to the applicant that he, you know, probably going to limit this somewhat in order to limit
258 the visual impact on other property.

259
260 In conclusion, the applicant owns a quarter-acre lot in the Shreveport Park Subdivision.
261 He has a fence and dog run along the rear of the property where seven Beagles are kept.
262 The dogs appear property cared for and no noise was observed during the site visit. Staff
263 has also not received any complaints from the neighbors. So, based upon technical
264 factors, staff is recommending approval.

265
266 That said, if neighbors come out during the meeting and speak out, we could change our
267 position, because seven beagles on a quarter-acre lot is, you know, extensive, and we
268 could see some issue arising out of that. But as of now, we have no complaints. So this
269 concludes my presentation, and if you have any questions, I'll be happy to answer those.

270
271 Mr. Blankinship - Mr. Chair, if I could interrupt. We did leave an email message
272 on your table for you this morning from one of the neighbors of this in favor of this

273 application supporting the application. And there was also one message in the packet in
274 supporting the application.

275
276 Mr. Green - Thank you. Are there any -- are there any questions of staff
277 by members of the Board? We'll now hear from the applicant. He's walking to the back
278 to address us.

279
280 Mr. Porter - Good morning everyone. My name is Earl Porter, last name
281 is spelled P-o-r-t-e-r. And my dad and family lives in Powhatan, where the dogs are
282 normally kept. Well, two years ago he came down with cancer and I have kids that has
283 taken the liking of hunting also. So, I'm just trying to keep our tradition going.

284
285 I've had these dogs in my house for about two years. Last year with all the COVID stuff
286 going on, the dogs have always been registered in my house. I've gotten rabies license,
287 county licenses and everything, but they were kept in Powhatan. Well due to my dad with
288 the cancer, he can't take care of them. So, I brought them to my house.

289
290 Last year the COVID stuff come along and I applied for a permit. I didn't know it was an
291 actual date that I had to have my stuff in, so I missed the date, so that's why I'm here this
292 year trying to get the kennel license.

293
294 I have neighbors all around me. No one to my knowledge has complained about anything.
295 I actually have two neighbors that have written in with approval of me having the dogs.
296 That it's no issues. The only time they know I have dogs is when I back in in the evening
297 after work, they're glad to see me. They bark then. I go then and I feed them, talk with
298 them, and it's no issues. I'm just trying to keep our tradition going. If my dad hadn't had
299 this bout with cancer, I wouldn't even have them at my house. But being that he did, and
300 he is not able to take care of them. I'm just trying to continue along with my kids. Thank
301 you, sir.

302
303 Mr. Green - Are there any questions of the applicant from members of the
304 Board?

305
306 Mr. Johnson - How often do you use them for hunting?

307
308 Mr. Porter - Yes, sir.

309
310 Mr. Johnson - How often do you go out?

311
312 Mr. Porter - Well, we're an outdoor family, as you see. You got boats in
313 the pictures and things like that. So, I try to keep my kids involved in the outdoors, so we
314 do it all. For these dogs, I started hunting them the second week of January and I hunt
315 them all the way through the end of February. And, you know, the reason that is, is
316 because I'm in a deer club, and my deer club doesn't allow me to rabbit hunt during the
317 deer season. We do deer hunt, but once the deer season is over with, we go rabbit
318 hunting.

319
320 Mr. Johnson - Also, I noted that you had sheds that also had boats. Also,
321 other materials in your back yard there as well.
322
323 Mr. Porter - Yes, correct.
324
325 Mr. Johnson - And I note it's been mentioned about doing something with
326 some of the things out back there.
327
328 Mr. Porter - Yeah. Well, I have two boats in my back yard. I have ATVs
329 in my back yard.
330
331 Mr. Johnson - Yes. I know --
332
333 Mr. Porter - I keep utility trailers in my back yard. And I also have some
334 hunting blinds that I have made for us to hunt out of. And, if you don't mind, I would like
335 to present a picture so that everyone can see what I'm speaking of. And, actually, they're
336 made out of water totes. And it's, you know, something that we do as a family. It's a good
337 family project. And we put it out in the woods to hunt out of.
338
339 So I do have two of those right now in my back yard. One is complete. One is in the
340 process of being completed. So, I'm going to say probably in September we will be
341 placing those in the woods, so they will be removed from my back yard.
342
343 And far as the shed goes, one shed holds my motorcycle and working tools and the shed
344 behind that one held all my lawn equipment, weed eaters, chain saws, lawnmowers, et
345 cetera.
346
347 Mr. Johnson - Okay. That is one of the issues that came up as well. Also,
348 the regulations that we have that a homeowner have only three. I would sense that you
349 had said today about your father and all. I would recommend that via attrition, if anything
350 happens to them, you don't replace them and get down to three. That's my
351 recommendation.
352
353 Because I went out and looked at your property and looked at what was in the back and
354 all this as well. You can straighten it up a little bit, if you don't mind.
355
356 Mr. Porter - Okay.
357
358 Mr. Johnson - Okay?
359
360 Mr. Porter - Yes, sir.
361
362 Mr. Green - Are there any other questions coming from members of the
363 Board? Is there anyone else who would like to speak in favor of this?
364

365 Mr. Blankinship - There's no one on Webex for this application.
366
367 Mr. Green - Okay. So that means that there's no one to speak in
368 opposition, either. Correct?
369
370 Mr. Blankinship - That's correct.
371
372 Mr. Green - Yes, sir.
373
374 Mr. Porter - He stated that two of my neighbors written in letters. Could I
375 have the Board view those letters that were written in? One of them was an email letter
376 to send in a packet, and I'm not for sure if the other one made it in time.
377
378 Mr. Blankinship - It did. It's on the table before them.
379
380 Mr. Porter - Okay. They have a copy. Appreciate it.
381
382 Mr. Green - Yes. We have those.
383
384 Mr. Porter - Okay.
385
386 Mr. Green - If we have no other questions, and no other concerns or
387 comments, the hearing is now closed, and a motion would be in order. What is the
388 motion?
389
390 Mr. Johnson - Mr. Chair, I move that we approve the conditional use permit
391 subject to the conditions recommended by the staff. And we will normally do not approve
392 that many dogs on such as a small lot. But in this case, there have been no complaints.
393 And Mr. Porter takes good care of the dogs and they do not bother the neighbors. And
394 that's one of -- and as long as the applicant follows the recommended conditions, I do
395 think that the kennel would not be detrimental to the neighbors, so that I think that we
396 should approve this and recommend it is resolved through attrition as well.
397
398 Mr. Green - There's a motion by Mr. Johnson. Do I hear a second?
399
400 Mr. Pollard - Second.
401
402 Mr. Green - There was a motion made by Mr. Johnson. Seconded by Mr.
403 Pollard. Is there any discussion? Hearing no discussion, all in favor of the motion say
404 aye. All opposed say nay. Motion passes.
405
406 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved** application
407 **CUP2021-00005 EARL S. PORTER's** request for a conditional use permit
408 pursuant to Section 24-12(e) of the County Code to allow a noncommercial kennel at 131
409 Biloxi Road (SHREVEPORT PARK) (Parcel 814-727-1300) zoned One-Family

410 Residence District (R-2) (Varina). The Board approved the request subject to the
411 following conditions:

412
413 1. This approval is only for the seven dogs owned by the applicant. This approval is not
414 for the boarding or breeding of dogs at any time. No new or replacement animals may be
415 added. When the number of animals is reduced by attrition to three, this conditional use
416 permit will expire.

417
418 2. The applicant must maintain the property so that noise and odors are controlled.
419

420

| | | |
|-------------------------|--|----------|
| 421 Affirmative: | Bell, Green, Johnson, Pollard, Reid | 5 |
| 422 Negative: | | 0 |
| 423 Absent: | | 0 |

424
425

426 Mr. Blankinship - I'd just like to say I've been looking forward to meeting a man
427 who has seven beagles and keeps them quiet. The next case, Mr. Chair.

428
429

429 Mr. Green - Okay.

430
431

431 Mr. Blankinship - Is conditional use permit 2021, number 6, Rachel Kurtz.

432
433 **CUP2021-00006** **RACHEL KURTZ** requests a conditional use permit pursuant
434 to Sections 24-95(i)(4) and 24-12(g) of the County Code to operate a family day home
435 with employees at 711 La Von Drive (LAKESIDE TERRACE) (Parcel 786-752-1218)
436 zoned One-Family Residence District (R-3) (Fairfield).

437

438 Mr. Blankinship - Is there anyone in the room who intends to speak to this case? Or
439 who would like to speak to this case? All right. I understand the applicant is on Webex.
440 So, Mr. Madrigal, you may begin.

441
442

442 Mr. Green - Before you start.

443
444

444 Mr. Blankinship - Yes, sir.

445
446

446 Mr. Green - You don't have to stay if you don't want to.

447
448

448 Mr. Porter - Thank you. I appreciate it.

449
450

450 Mr. Blankinship - Take care of the dogs. All right.

451
452

452 Mr. Madrigal - Mr. Chair, members of the Board, before you is a request to
453 allow a family day home with one outside employee and with a play area in the front yard.
454 This is a slight change from the original staff report sent to you last week. The subject
455 property is located just east of the intersection of Brook Road and Lakeside Avenue in

456 the Lakeside Terrace Subdivision, which was recorded in 1920.

457
458 The property is improved with a 1,200-square-foot home built in 1958. The applicant's
459 family has owned it since 1998. Mrs. Kurtz has operated a family day home on the
460 property since 2018 and is licensed as a large family day home for up to eight children.
461 During this time, her mother has helped with the business in caring for the children. Due
462 to Mrs. Kurtz's father's declining health, however, her mother is no longer able to share
463 in this responsibility. As a result, Ms. Kurtz would like to hire an outside employee to help
464 with the daycare.

465
466 While the zoning ordinance allows a family day home as an accessory use, a CUP is
467 required to have a nonresident or outside employee.

468
469 Additionally, the zoning ordinance allows accessory structures and uses only in the rear
470 yard, but a CUP may be approved to allow them in the front or side yards.

471
472 The property is zoned R-3 and is designated Suburban Residential 2 on the 2026 Future
473 Land Use Map. A one-family dwelling is consistent with both designations.

474
475 The family day home operates out of a recently converted garage, which the applicant
476 obtained a permit for. As part of the operation of the daycare, she has blocked off the
477 driveway and fenced in a portion of the front yard for use as designated play areas.

478
479 Mrs. Kurtz has indicated that she does not use the rear yard for a play area, because she
480 keeps a dog there. The location of the play area in the front yard poses safety concerns.
481 However, the state licensing inspector has approved the location and design of the play
482 area, which can be approved by way of a CUP.

483
484 All the neighbors who were notified of the family day home application were already aware
485 of the location of the play areas. Additionally, the materials that were provided online in
486 connection with the advertisement and notification for the application clearly indicated the
487 location of the play areas. For these reasons, staff believes the Board may approve the
488 employee request and the location of the play areas in the front yard on the same motion.

489
490 In conclusion, the applicant has operated a family day home on the property for the last
491 four years. Her mother, who also lives on site, has assisted in the business, but is no
492 longer able to do so. As a result, the applicant is requesting a CUP to allow an outside
493 employee.

494
495 The applicant has submitted letters of support from neighbors indicating they do not
496 oppose the hiring of an outside employee. The play areas located on the driveway and
497 in the front yard can also be approved by way of CUP.

498
499 Based on the facts of the case, staff recommends approval of these requests subject to
500 conditions. Also, staff has received four emails on this request; three in support and one
501 in opposition, and you should have copies of those.

502
503 This concludes my presentation. I'll attempt to answer any questions you may have.
504
505 Mr. Green - How does the applicant know to come to us to ask for outside,
506 you know, outside assistance for an employee? Because couldn't they just decide to hire
507 somebody? Is there -- or is that in the regulations that they're aware of?
508
509 Mr. Madrigal - Well, I mean, that would be a change in the operation. They
510 have to notify the state, because there are requirements of the state. There has to be
511 background checks on the person that they're bringing in for safety purposes. So, you
512 know, when there is a significant change like that the state inspector would tell them to
513 come on in and, you know, notify us and obtain the necessary clearances and approvals.
514
515 Mr. Green - Okay. So the state notifies us.
516
517 Mr. Madrigal - Yes.
518
519 Mr. Green - Okay. That's how. I was curious.
520
521 Mr. Pollard - I didn't see a letter or email in opposition.
522
523 Mr. Madrigal - There was one that we had received that was in opposition.
524 There were four letters total that were received. Three were in support, and one was in
525 opposition. I don't have a copy of them here. I don't have the files.
526
527 Mr. Pollard - Do you remember what the opposition was? Or the reason
528 for the opposition?
529
530 Mr. Blankinship - I'm looking for it now. I don't see any opposition on this.
531
532 Mr. Reid - Yeah. There were eight letters of approval there.
533
534 Mr. Bell - That's true.
535
536 Mr. Reid - -- the information I have here on the table.
537
538 Mr. Blankinship - Yes that she submitted with the application.
539
540 Mr. Johnson - Yeah. That's the only one.
541
542 Mr. Blankinship - Those are all I see in the file at this time. It may be that there's
543 an email message floating around that hasn't been printed yet. I'm not aware of any.
544
545 Mr. Green - Are there any other questions from the Board to staff?
546
547 Mr. Johnson - Is the play area in the front and in the back?

548
 549 Mr. Madrigal - No, sir. It's just literally in the front yard.
 550
 551 Mr. Green - Just the front yard.
 552
 553 Mr. Madrigal As you see here, they have tables and play equipment in the
 554 driveway. And then in this area over here, that's the play area that's been designated in
 555 the front yard.
 556
 557 Mr. Johnson - Okay.
 558
 559 Mr. Madrigal - There's a blow up of the driveway. This is what you see from
 560 the street, so they put a tarp to block the view into the play area. And then this is looking
 561 at it towards the street. So that's the front area. That's what they used for the play area.
 562
 563 Mr. Johnson - Okay. Because I know I could only see the front yard when I
 564 went out, so I just wanted to make sure nothing was in the back.
 565
 566 Mr. Madrigal - Yeah. That's what you would see from the street.
 567
 568 Mr. Johnson - Okay. And the other question for the person that they would
 569 plan to hire. Where would they be parking?
 570
 571 Mr. Madrigal - They would have to park on the street.
 572
 573 Mr. Johnson - On the street. Okay.
 574
 575 Mr. Green - Any other questions from the Board members? We'll now
 576 hear from the applicant.
 577
 578 Staff - Ms. Kurtz, you are now unmuted.
 579
 580 Ms. Kurtz - I just want to say thank you for hearing this case. My goal is
 581 to --
 582
 583 Mr. Green - I can't hear her.
 584
 585 Mr. Blankinship - Excuse me, Ms. Kurtz, we're unable to hear you. I don't know
 586 if our staff needs to turn up the microphone or you do.
 587
 588 Ms. Kurtz - Can you hear me okay now?
 589
 590 Mr. Blankinship - That's perfect. Thank you.
 591
 592 Ms. Kurtz - Okay. Thank you so much for hearing my case. I really
 593 appreciate it. I am just trying to create the safest possible environment for my kiddos. I'm

594 not sure what else to say. The reason it's in the front yard, my play equipment, is because
595 the back yard is set up for my father, who's in a wheelchair. We have ramps and
596 everything installed back there, so if we move things to the back it would impede his ability
597 to get around in the back yard.

598
599 And just my reason for asking for a conditional use license is to keep my things in the
600 front play yard and to be able to hire my assistant, as stated. I'd like to have a person to
601 be able to relieve my mother, so she can be more available for my father for doctor's
602 appointments and transport. I also want to make sure that I am in complete compliance
603 with both the county and licensing. So thank you very much for hearing my case. I really
604 appreciate it.

605
606 Mr. Green - Are there any other questions of the applicant from the Board
607 members? Do we have anyone else to speak in support of this application? Do we have
608 any opposition to this application? Hearing none --

609
610 Ms. Blankinship - There is no one else on Webex.

611
612 Mr. Green - Hearing none, the public hearing is now closed, and a motion
613 would be in order. What is the pleasure of the Board?

614
615 Mr. Pollard - I move that we approve the conditional use permit subject to
616 the two conditions recommended by the staff. The applicant has been operating with her
617 mother's assistance and their service is very much appreciated in the community. The
618 neighbors have no problem with the traffic or with the play area in the front and side yards.
619 The state inspector has also reviewed and approved the location and design of the play
620 area. As long as the applicant follows the recommended conditions, I do not think the
621 family day home will be detrimental to the neighbors, so I think we should approve it as
622 requested by the applicant.

623
624 Mr. Johnson - I second.

625
626 Mr. Reid - Second.

627
628 Mr. Green - The motion was made by Mr. Pollard and seconded by Mr.
629 Johnson. Is there any discussion? Hearing none, all in favor of the application say aye.
630 All opposed, nay. The motion is approved.

631
632 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **approved** application
633 **CUP2021-00006** **RACHEL KURTZ's** request for a conditional use permit
634 pursuant to Sections 24-95(i)(4) and 24-12(g) of the County Code to operate a family day
635 home with employees at 711 La Von Drive (LAKESIDE TERRACE) (Parcel 786-752-
636 1218) zoned One-Family Residence District (R-3) (Fairfield). The Board approved the
637 request subject to the following conditions:

638
639

| | | | |
|-----|---------------------|--|----------|
| 640 | Affirmative: | Bell, Green, Johnson, Pollard, Reid | 5 |
| 641 | Negative: | | 0 |
| 642 | Absent: | | 0 |

643
644

645 Mr. Blankinship - All right. That completes the conditional use permit portion of
646 our agenda. There is one variance on this morning's agenda. That's variance 2021,
647 number 6, Hilton M. Rubin.

648

649 **VAR2021-00006** **HILTON M. RUBIN** requests a variance from Section 24-9 of
650 the County Code to build a one-family dwelling at 3042 Marlee Farm (LAKEVIEW) (Parcel
651 773-776-8561) zoned Agricultural District (A-1) (Brookland). The public street frontage
652 requirement is not met. The applicant proposes 0 feet public street frontage, where the
653 Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet
654 public street frontage.

655

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

659

660 Mr. Gidley - Thank you, Mr. Secretary. Good morning, again, members of
661 the Board. Before I start, I would note condition number 6 that was in the staff report
662 initially was removed. It had been recommended by Public Works to pave the first 75 feet
663 coming off of Old Washington. But the applicant does not own that property, so he's not
664 really able to comply with that, so it was removed.

665

666 Mr. Green - Okay.

667

668 Mr. Gidley - So, to start, this is a request to build a one-family dwelling on
669 property that lacks public street frontage. The property was originally part of a 13-acre
670 family farm that had 350 feet of street frontage along Old Washington Highway. That
671 frontage was eventually utilized by the creation of two building lots along the street.

672

673 In 1996 the remainder of the farm, which at this time lacked public street frontage, was
674 divided up into five lots through a family subdivision. A single variance was approved to
675 allow dwellings to be built on four of these lots, each of which lacks public street frontage.
676 Two homes were subsequently built, one in 1997, the other the following year in 1998.
677 As part of their construction, a private drive was constructed to provide access to Old
678 Washington. And you see part of the road right here. Or part of the private drive. And
679 you see it's in pretty good shape, actually.

680

681 The owners of all the lots joined a road maintenance agreement at this time, which was
682 recorded as part of their deeds. The subject property is one of the remaining lots for
683 which a variance was approved in 1996. However, because the variance was not acted
684 upon within a year of approval, the approval for this lot expired. As a result, a new
685 variance is necessary.

686
687 In evaluating this request, the subject property was created following a variance approval
688 and a subsequent family division. While the lot complies with lot width and lot area
689 requirements, it does not meet the public street frontage requirement. Absent of variance
690 it may not be built on. As a result, there is no reasonable beneficial use of the property
691 and, because of that, the threshold test for a variance would appear to be met.

692
693 As noted in your staff report, all five of the subtests are met. Number two, dealing with
694 substantial detrimental impact.

695
696 The proposed home would be consistent with the residential use of the other lots along
697 this private road. A new home would add some wear and tear to the private drive. But,
698 as I said, there is an existing road maintenance agreement which would mitigate this
699 impact.

700
701 As a result, staff does not anticipate any substantial detrimental impact from the home
702 that's approved.

703
704 In conclusion, the division of the property was authorized by a variance and a subsequent
705 family division. It meets the lot-area and lot-width requirements for a dwelling and is
706 served by a well-maintained private drive. Absent of variance there's no reasonable,
707 beneficial use of the property and it would have no substantial detrimental impact on
708 nearby property. As a result, staff can recommend approval of this request subject to the
709 conditions in your staff report.

710
711 This concludes my presentation and if you have any questions, I'll certainly be happy to
712 answer those. Thank you.

713
714 Mr. Green - Any questions from the Board? We'll now hear from the
715 applicant.

716
717 Mr. Rubin - ---where Paul is standing, but I don't know ---

718
719 Mr. Blankinship - Yeah. Go on to the back and just let us know when you want
720 to switch and Paul will change things.

721
722 Mr. Rubin - Good morning, everyone. My name is Hilton Rubin and I'm a
723 resident of Henrico County. And I've been building homes here for about 25 years. It's
724 been several years since I stood at the podium where Paul's standing, but with the help
725 of the Board back then we were able to preserve a significant historic home and improve
726 a neighborhood. Make all the neighbors happy. And we did that all with one variance.

727
728 My building company, which is just me, my wife, and my school-aged son, we primarily
729 build on in-fill lots. And those lots typically are very problematic to build upon. And, as a
730 result, for many years I've needed to work very closely with Public Works, Public Utilities,
731 and their related departments. And I've worked with every planner in this room. I

732 sincerely cherish the value of working relationships and the quality of the projects that
733 we've all created together. So I sincerely and seriously thank all of you for the help that
734 we've been able to provide for each other.

735
736 This variance is a request to waive the 50-foot public right-of-way requirement on the
737 property. The property is served by well-maintained common driveways Paul had
738 mentioned. And there's a nicely written and publicly recorded maintenance agreement
739 on the property driveway.

740
741 Regarding the details of this variance, I have a contract to purchase the property from
742 Lisa --. And, yeah, good. Paul's got the right picture up. Lisa's grandfather, Henry
743 Ferguson, created this family subdivision for his children and his grandchildren to inherit.

744
745 Lisa, who was named at the time Lisa Jones, being one of the grandchildren, she inherited
746 a building lot from her grandfather. And this is the property that we're discussing today.
747 The parcel marked with the star is Lisa's property.

748
749 As a child, she lived in the home at the front of the future family subdivision. Much closer
750 to Old Washington Highway. That house has since been destroyed and a new one was
751 built. For a while she lived in the house, in her mother's house, across the driveway to
752 the south of her building lot. And at the end of the driveway Lisa's aunt lives in that house.

753
754 Lisa has always planned to build on her land and her family had continuously maintained
755 and cleared the underbrush on the property and, at one point, started to clear a portion
756 for Lisa's future home.

757
758 Years ago Lisa's property had a variance in place to allow her to build just like the other
759 homes within the family subdivision. And, unfortunately, Lisa's life situation had not
760 afforded her the funds to build her home. She hired a realtor. Her realtor found me and
761 that's how we got here today.

762
763 I plan to build a really nice four-bedroom ranch home and sell it to someone who would
764 love living there.

765
766 Regarding the actual variance proposal, the proposed home and the property layout was
767 custom designed entirely by me. I drew the actual plans you'll be looking at. You will
768 notice that the home site is arranged for privacy from the neighbor's homes. No homes,
769 no porches, no decks face each other.

770
771 There are over 20 windows in the proposed structure, and they are sensitively placed for
772 the privacy between the future owners and their neighbors. I'm rather proud of the design,
773 and I think it would be an architectural asset to the community, and it would certainly
774 contribute to the property values of the area.

776 And I've included a picture from McKnight, his survey at the end of the presentation.
777 That's the exact layout of the property as it's proposed. Thank you very much for
778 considering this variance, and I'm here to answer any questions.

779
780 Mr. Green - Are there any questions from the Board of the applicant?

781
782 Mr. Bell - Real quickly your standards, so to speak, have you read the
783 case conditions that's attached to this?

784
785 Mr. Rubin - Excuse me. The conditions that are attached to it?

786
787 Mr. Bell - Yes. The conditions of approval.

788
789 Mr. Rubin - Yeah. The conditions of the approval are based on those
790 pieces of paper that are, I mean, it's a 20-page pamphlet here. Yes, sir.

791
792 Mr. Bell - And you agree with them?

793
794 Mr. Rubin - Yes. I do. The revised version that Ben placed on your desk
795 this morning.

796
797 Mr. Bell - Did you have anything to contribute, or were you working with
798 this piece of property, the owners, when they had the variance the last time?

799
800 Mr. Rubin - No, sir. As I said, Lisa recently hired a realtor, and the realtor
801 found me.

802
803 Mr. Bell - Thank you.

804
805 Mr. Rubin - Thank you.

806
807 Mr. Green - Are there any other questions from Board members? Is there
808 --

809
810 Mr. Johnson - I would just reiterate, the applicant must pave the driveway.

811
812 Mr. Blankinship - That was a mistake on my part, Mr. Johnson.

813
814 Mr. Johnson - Okay.

815
816 Mr. Blankinship - It was a recommendation by Public Works, and I included it in
817 the first draft of the conditions. But the applicant does not own the first 50 to 75 feet of
818 the driveway. It's on another person's property. So it'd really not be appropriate for us to
819 put in that condition. That's why you have revised conditions in front of you that have that
820 one deleted.

821

822 Mr. Johnson - Okay. Thank you. That answered my question. Thank you.

823
824 Mr. Green - Any additional questions for the applicant? Is there anyone
825 on Webex to support the -- this application?

826
827 Ms. Blankinship - There is no one on Webex.

828
829 Mr. Green - There's no one on Webex in support or against. Correct?

830
831 Ms. Blankinship - Correct.

832
833 Mr. Green - Okay. Public hearing is now closed and a motion would be in
834 order.

835
836 Mr. Bell - I move that we approve the variance subject to the five
837 conditions recommended by the staff. Not including condition number six. This farm was
838 divided among the family members in 1996. The variance was approved at that time. It
839 has been considered a buildable lot for 25 years. Without the variance there is no other
840 reasonable use for this property. There is already a road maintenance agreement on
841 record, which should mitigate the only detrimental impact. The other tests are met as
842 stated in the staff report. So I think we should approve the variance.

843
844 Mr. Green - There a second?

845
846 Mr. Reid - Second.

847
848 Mr. Green - Motion was made by Mr. Bell, seconded by Mr. Reid. Is there
849 any discussion? Hearing no further comments or questions, all in favor of say aye. All
850 opposed say nay. Motion was passed.

851
852 On a motion by Mr. Bell, seconded by Mr. Reid, the Board **approved** application
853 **VAR2021-00006 HILTON M. RUBIN's** request for a variance from Section 24-
854 9 of the County Code to build a one-family dwelling at 3042 Marlee Farm (LAKEVIEW)
855 (Parcel 773-776-8561) zoned Agricultural District (A-1) (Brookland). The Board approved
856 the request subject to the following conditions:

857
858 1. This variance applies only to the public street frontage requirement for one dwelling
859 only. All other applicable regulations of the County Code remain in force.

860
861 2. Only the improvements shown on the "Plot Plan Showing Proposed Improvements on
862 1.4064 Acres Situated North of Old Washington Highway Known as No. 3042 Marlee
863 Farm Lane" by McKnight & Associates PC, dated 2/21/2021, and the building design filed
864 with the application, may be constructed pursuant to this approval. Any additional
865 improvements must comply with the applicable regulations of the County Code. Any
866 substantial changes or additions to the design or location of the improvements will require
867 a new variance.

868
869 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must
870 obtain approval of an environmental compliance plan from the Department of Public
871 Works.

872
873 4. At the time of building permit application, the applicant must provide evidence of Health
874 Department approval of a private water supply and onsite sewage disposal system.

875
876 5. The applicant must obtain a building permit for the proposed dwelling by March 27,
877 2023, or this variance will expire. After that date, if the building permit is cancelled or
878 revoked due to failure to diligently pursue construction, this variance will expire at that
879 time.

880

881

882 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

883 **Negative:** 0

884 **Absent:** 0

885

886

887 Mr. Rubin - Thank you to the Board. Thank you to the staff.

888

889 Mr. Johnson - Thank you.

890

891 Mr. Green - This concludes our meeting.

892

893 Mr. Blankinship - We've got some minutes to approve.

894

895 Mr. Green - Everyone have a chance to look at the minutes? And is there
896 a motion to approve the minutes?

897

898 Mr. Bell - I make a motion to approve the minutes from February 25th.

899

900 Mr. Pollard - Second the motion.

901

902 Mr. Green - Motion was made seconded. All in favor say aye. All
903 opposed. Done. Is there any other business?

904

905 On a motion by Mr. Bell, seconded by Mr. Pollard, the Board **approved the minutes** of
906 the February 25, 2021 Board of Zoning Appeals meeting.

907

908

909 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

910 **Negative:** 0

911 **Absent:** 0

912

913

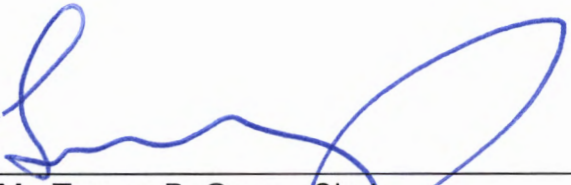
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Mr. Blankinship -

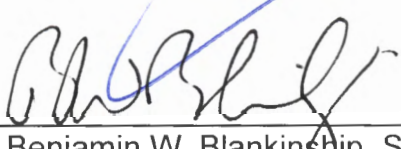
No, sir.

Mr. Green -

Meeting adjourned.



Mr. Terone B. Green, Chair



Mr. Benjamin W. Blankinship, Secretary