

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, MAY 24, 2007, AT 9:00 A.M., NOTICE HAVING**
5 **BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH MAY 3, 2007 AND**
6 **MAY 10, 2007.**

7
Members Present: James W. Nunnally, Chairman
Richard Kirkland CBZA, Vice-Chairman
Elizabeth G. Dwyer
Helen E. Harris
R. A. Wright

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
Ann B. Cleary, Recording Secretary

8
9
10 Mr. Nunnally - Good morning, ladies and gentlemen. We welcome
11 you to our May 24, 2007 meeting of the Board of Zoning Appeals of Henrico
12 County. Will you please stand and join us in the **Pledge of Allegiance to the**
13 **Flag of Our Country**. Thank you. Mr. Blankinship, will you read the rules for the
14 meeting, please?
15

16 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
17 ladies and gentleman. The rules for this meeting are as follows. As Secretary, I
18 will announce each case and while I'm speaking, the applicant should come
19 down to the podium. We will then ask everyone who intends to speak on that
20 case to stand and be sworn in. The applicant will be given an opportunity to
21 speak and then anyone else who wishes to speak will be given the opportunity.
22 After everyone has spoken, the applicant and only the applicant will have an
23 opportunity for rebuttal. After hearing all of the evidence and asking questions,
24 the Board will take the matter under advisement and they will render all of their
25 decisions at the end of the meeting. If you wish to know their decision on a
26 specific case, you can either stay until the end of the meeting or you can check
27 the Planning Department website this afternoon—we try to get it updated within
28 about half an hour of the end of the meeting—or you can call the Planning
29 Department this afternoon. This meeting is being tape recorded, so we'll ask
30 everyone who speaks to speak directly into the microphone on the podium, state
31 your name, and please spell your last name for us. Finally, out in the foyer, there
32 is a binder containing the staff report for each case, including the suggested
33 conditions.
34

35 Mr. Chairman, we do not have any requests for deferral or withdrawal this
36 morning.

82 Mr. Nunnally - Mr. Pearsall, will you stand closer to that mike? I
83 don't know whether it's the mike or me; I'm getting old, you know.

84
85 Mr. Pearsall - My apologies. Aren't we all, sir. The other point we'd
86 like to make clear is that the staff report seemed to indicate that the County was
87 unaware of or had little or limited information on the type of dwelling or the
88 structure that was going to be created on the parcel. We would take exception to
89 that finding in the report simply because Mr. Jones and Mrs. Jones have made
90 significant efforts with the County in order to get the approval for the building
91 permit to create the dwelling on the lot. In fact, they probably made a dozen or
92 so trips to the County. For the various permitting and application processes, they
93 had to do a site study with an engineer to locate a perk site. There were actually
94 two sites purposed initially for the construction of the dwelling. This site, this lot
95 was eventually chosen. The perk sites were sought. It took several drillings to
96 get a site that would finally perk. They do, in fact, have approval for the well; they
97 have approval from the County for the septic system. They've submitted plans to
98 the County for the actual improvement on the property, including a platted
99 survey, a location for the improvement, the house, and the type of structure and
100 so forth. In fact, this is the last step in the permitting process for the Jones'
101 because they were completely unaware that they were required to have the 50-
102 foot public road frontage when they were going through the process all along.
103 Eventually, this hurdle was placed in front of them and that's why they're before
104 the Board today to ask for the variance.

105
106 Mr. Blankinship - So they had submitted building plans? Those are not
107 in our file.

108
109 Mr. Pearsall- Yes sir, Mr. Blankinship. They were significantly down
110 the road in the process of getting this home constructed. When submitting the
111 application, the Building Inspections Department indicated to them, "Well, we've
112 got a rejection because of the 50-foot road frontage." That's why we're before the
113 Board today with the application. Of course, that's an important distinction in the
114 cases that the Board relies upon when they make their decision, because, of
115 course, in Cherrystone, where you had a situation where you had an un-buildable
116 lot and the variance is subsequently sought to build on these lots. It was a
117 commercial developer who knew going into the purchase of the lots that he
118 wasn't going to be able to build these lots and knew that a variance was going to
119 be required. In this case, we have a family subdivision with the express intent of
120 building a single-family home. There's no profit motive associated with it. It's
121 simply a family seeking to build a home on parcels where only other family
122 members currently reside. Again, with no profit associated with it. The most
123 important distinction is that the Jones' went into this ignorant of what was going
124 to ultimately be required of them as far as the public road frontage requirement
125 that the Code presents. Obviously, ignorance is not going to excuse them from
126 any requirement, but it does make an important distinction from the Cherrystone

127 case where there wasn't any ignorance, there was an understanding going into it
128 that a variance was necessary in order to develop the parcels.

129
130 Lastly, we have had a chance to review the objections that have been filed in
131 letter form with the report. Their candor certainly is refreshing, but there's really
132 nothing in there that is a legitimate objection. It seems simply to state that the
133 commercial value of the parcels that they hope either to ultimately one day inherit
134 or ultimately one day acquire to develop will be somewhat diminished.

135
136 We'd be happy to take any questions the Board might have at this time.

137
138 Ms. Dwyer - Mr. Pearsall, I have a few questions. First of all, I
139 think that the importance of the Cherrystone case is not—That case didn't turn on
140 whether a person had a commercial interest or profit motive. It turned on the
141 question of when did the zoning ordinance take affect in relation to the
142 establishment of the lots. In this case, as I understand it, this lot was established
143 in 2006. Our zoning ordinance has required road frontage for lots since 1960. So
144 clearly, this lot was established long after the County's law that requires road
145 frontage. I think under Cherrystone, what that means is that we look not only to
146 this lot, but the parcel from which this lot was taken. When we look at that entire
147 parcel under Cherrystone, then the Cochran case applies. Under Cochran, we
148 have to look to determine whether there's any reasonable beneficial use to the
149 property. How would you respond to those cases?

150
151 Mr. Pearsall - Cochran, I guess, first and foremost being maybe the
152 primary hurdle is that the property has to have some reasonable use and the
153 zoning can't be confiscatory in nature. Obviously, they have created this lot that
154 has the dimensions and the location that it has where it is. But this lot as created
155 really doesn't have any other value other than as a residential building lot.

156
157 Ms. Dwyer - But under Cherrystone, we don't just look at this lot,
158 we look at this parcel and the parcel from which it was created. What parcel was
159 that?

160
161 Mr. Pearsall - The greater parcel?

162
163 Ms. Dwyer - Yes.

164
165 Mr. Pearsall - Well, this is the Jones family property and I don't
166 know what its geneses is other than I know that it's been family property for
167 many, many years. Over 100 years, according to Mr. Jones.

168
169 Ms. Dwyer - Yes.

170
171 Mr. Pearsall - So this has been simply a family subdivision under the
172 exception provided in the Code for subdivisions.

173
174 Ms. Dwyer - Right. The larger parcel, it would be fair to say, has
175 great value for future development for, say, a subdivision, for example, because
176 there are subdivisions all around. This is prime property in great demand in this
177 area of the County.
178
179 Mr. Blankinship - It also has frontage on Springfield Road.
180
181 Ms. Dwyer - The larger parcel does, yes.
182
183 Mr. Pearsall - There's potential for that, yes ma'am.
184
185 Ms. Dwyer - Okay. My second question relates to the part of our
186 Code which states that this Board has to make a finding that the issue here is not
187 recurring in nature. In fact, this Board every month reviews cases in which
188 people seek to have variances for lots that have no road frontage. So, it is, in
189 fact, a recurring issue. So, we cannot make that finding in this case. Did you
190 want to respond to that?
191
192 Mr. Pearsall - That's true, obviously. There is no response other
193 than this is a situation where they were ignorant of that requirement going in.
194 Now, ignorance is not an excuse for not knowing better, but—Right. I think what
195 Mr. Jones was telling me and what I intended to convey earlier on was this was a
196 part—The donor of this parcel has been with the Jones' actively seeking the
197 County's participation all along, so it's been a cooperative effort with the two. I
198 think there was maybe just—I don't want to say ignorance. The Jones', I don't
199 think—I don't think anyone realized that they didn't have the public road frontage
200 that they were going to need to get the final permit issued, so they've been going
201 down this path all along with the understanding that as long as they cooperated
202 fully with everything the County was going to require them to do, they would
203 ultimately get the permit. What they find themselves up against now is this final
204 requirement to get the road frontage and it's going to be an impossibility absent
205 either a variance from the County or a dedication of Jones Road from Springfield
206 Road to its terminus. Whether or not that's possible, we don't yet know. This is
207 sort of the last step in a long process for them to be able to build their home. The
208 feeling is that the County's been their partner in this program and their ignorance
209 of the problem and not being made aware of it early on would justify their being
210 here before the Board requesting the variance from the County.
211
212 Ms. Dwyer - My final question is have you seen the letter from
213 Godsey and Son, Incorporated, that's been filed in this case?
214
215 Mr. Pearsall - I have.
216
217 Ms. Dwyer - While I'm not suggesting at all that a person who
218 might want to purchase this property has standing to say, "Don't grant the

219 variance because I might want it,” that’s not the issue. To me, this letter raises
220 the issue of—And it goes to the point of why we even have a zoning ordinance to
221 begin with. The reason we have a zoning ordinance that requires things like road
222 frontage is so that we don’t create other landlocked parcels, so that we don’t
223 have a patchwork, hodgepodge pattern of development. It is so that there is an
224 orderly development where people who live in houses have access to water and
225 sewer and roadways, and that public safety vehicles can get to their homes, and
226 so that land is developed in such a way that you don’t have odd pieces that are
227 either landlocked or rendered un-developable. This, to me, is a prime example of
228 creating that kind of situation. This is the reason we have a zoning ordinance so
229 that we don’t have lots like this that are isolated, that are sort of plopped in the
230 middle of a larger developable piece of property and cutting off other potential
231 development that would be orderly and would be in compliance with the zoning
232 ordinance.

233

234 Mr. Pearsall - Point very well taken. I think the Jones’ would tell you
235 that not every parcel of land that can be developed should be developed. I think
236 there is probably some suggestion, and maybe even some dissention amongst
237 family members as to what the future of this parcel ought to be. The fact that the
238 house is going where the house is does probably make one acre actually feel like
239 a lot more acreage because of the fact that it won’t ever be developed around
240 there for those reasons. We’re not suggesting that that’s not part of their ultimate
241 scheme is to preserve some of the pastoral setting that this larger parcel the
242 Jones family owns provides for them.

243

244 Ms. Dwyer - So, there’s a reason why this parcel is located where
245 it is because it would, in fact, prevent other development.

246

247 Mr. Pearsall - Not on purpose. The way it ended up is they looked
248 at two potential sites. There are two Jones’ who live on Jones Road currently.
249 One is Mr. Jones’ father and the other one is Mr. Jones’ aunt.

250

251 Ms. Dwyer - I would like to stop you there, because I really don’t
252 want to get into the middle of a family dispute. That’s not what we’re here to do.
253 That’s not what we’re about, and that’s one of the reasons why I think it’s
254 important for us to stick with the zoning ordinance so that we don’t find ourselves
255 in the crossfire of family disputes or disputes between landowners.

256

257 Mr. Pearsall - I was digressing. The short answer is that was the lot
258 that worked, because it would perk. That’s where they were able to find a
259 suitable building site.

260

261 Ms. Harris - I have some questions, too, Attorney Pearsall.

262

263 Mr. Pearsall - Yes ma’am.

264

265 Ms. Harris - The letter that we just saw from Francis O. Jones
266 mentioned her grandson. Who is the grandson? Is it Lewis or—
267
268 Mr. Pearsall - Yes ma'am.
269
270 Ms. Harris - This is your grandmother. Okay. Has anyone else in
271 the family built a home on the family estate? Has the land been contracted to
272 any, or parceled off to any other family member before Lewis' transaction?
273
274 Mr. Jones - Yes. My father, Henry Clay Jones, who also lives
275 there, and my Aunt Rita Shelton.
276
277 Ms. Dwyer - Could you identify yourself, please, just for the
278 record?
279
280 Mr. Jones - I'm Lewis Jones.
281
282 Ms. Harris - We saw in the report that there are contentions that
283 the property will be landlocked. Can you address that?
284
285 Mr. Pearsall - I don't think the property [unintelligible]. I think it was
286 a dedicated right-of-way that—
287
288 Ms. Harris - You want to speak through the mike?
289
290 Mr. Pearsall - Sorry, ma'am. My apologies of doing it again. I don't
291 think the property is landlocked. I think there's a dedicated right-of-way, which is
292 Jones Road, the prior roadway to access to our parcel, the one acre that we
293 would like the variance to develop.
294
295 Ms. Harris - So you feel that concern is unfounded?
296
297 Mr. Pearsall - Yes ma'am.
298
299 Ms. Harris - Okay. The dedication of Jones Road to have it used
300 as a public road, why not go along with that? What's the problem there?
301
302 Mr. Pearsall - We candidly haven't explored that possibility. This is
303 where the application process has led us thus far. It's something worth
304 exploring, certainly.
305
306 Ms. Harris - Thank you.
307
308 Mr. Wright - I just have one question, Mr. Pearsall. For the record,
309 I think you alluded to it. I want to make sure this is in the record. This is a family
310 subdivision, the property?

311
312 Mr. Pearsall - Yes sir, that is correct.
313
314 Mr. Wright - Which establishes a valid legal lot?
315
316 Mr. Pearsall - Yes sir, absolutely.
317
318 Mr Wright - Except for the road frontage.
319
320 Mr. Pearsall - Yes sir.
321
322 Ms. Harris - This has been done before in Henrico County in the
323 family because he did say that another family relative or other family relatives did
324 develop their parcels.
325
326 Mr. Pearsall - Yes ma'am. I know Mr. Jones, Henry Clay Jones and
327 Rita Jones, who is a paternal aunt, both live on Jones Road, but I don't know
328 where Mr. Jones acquired his parcel. Lewis may know.
329
330 Mr. Jones - Yes. His is further down the road at 4910.
331
332 Mr. Pearsall - When?
333
334 Mr. Jones - Oh, when? 1974.
335
336 Mr. Nunnally - Any other questions from the staff?
337
338 Mr. Wright - Have you read the suggested conditions?
339
340 Mr. Pearsall - Yes sir, we have.
341
342 Mr. Wright - Are they acceptable to you?
343
344 Mr. Pearsall - Yes sir.
345
346 Mr. Nunnally - Any other questions from the Board? I think we have
347 opposition. Do we? Would you please have a seat and then we'll call you back
348 to rebut in just a few minutes. Thank you. You've been sworn in, haven't you?
349
350 Mr. Shelton - Yes.
351
352 Ms. Shelton - Yes.
353
354 Mr. Nunnally - State your name, please.
355
356 Ms. Shelton - Rita Jones Shelton.

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Mr. Nunnally - All right.

Ms. Shelton - Chairman Nunnally, members of the Board, other dignitaries and guests, my name is Rita Jones Shelton. With me this morning is my husband, Barry, and our oldest son, Barry the third. They stand with me today not only for moral support, but to physically support me because I have a debilitating permanent disability and I ask that the Board will please bear with me. My husband and I have owned the property at 4848 Jones Road for more than 40 years, which makes us the oldest property owners on Jones Road, a fact that we're very proud of. However, I humbly stand before you this morning to ask that the variance for Lewis and Nirja Jones, who acquired the lot at 4851 Jones Road on December the 14th, 2006 not be approved. The reasons for our request are as follows.

First, this illegal lot is not justified and has been created in violation of the law simply for personal gain. The hardship of now asking for a variance is simply self-imposed since Lewis and Nirja presently own a home and live at 4706 Waddy Lane in Louisa, Virginia. We believe this is merely a means to maximize profit from the property for one grandchild when there are 12 living grandchildren.

Second, I know that this is simply a tactic to block the front of our property. Allowing this variance will completely block our property on both sides, the back, and now the front, which will affect the overall use of the property as a whole. This lot that has been personally and illegally created is outside the zoning ordinance and will prevent any future developer from ever having access to our property from a state-maintained road. We know that this will negatively affect the beneficial uses of the property as a whole, and will economically be damaging to our property, which will undoubtedly diminish the marketability of all the property on Jones Road in the future.

Third, I would like to share also that after receiving the hearing notice for today, I discovered that on the same day the illegal lot was created, that a Deed of Easement with a 50-foot right-of-way for ingress and egress was gifted to the owners who reside at 4910 Jones Road. This easement is between the homes of 4900 and 4910, and the deed specifically notes that our property is totally excluded. I ask you, what other illegal lots or acts are planned on Jones Road and how many variances will be requested of the Board in the future?

I am willing to purchase this acre from Lewis and Nirja for the price that they paid my mother. You may be assured that this lot will remain a part of the overall property and a variance will not ever be requested. This illegal lot was created on Jones Road in violation of the law, was not deeded in front of Lewis' father's home, nor his grandmother's home. I ask you, why was it created in front of our home and property?

403 I thank you for your time this morning, but most of all, for your vote of “no” to this
404 variance. May God be with you.
405
406 Mr. Nunnally - Ms. Jones, when did they purchase this land from
407 your mother?
408
409 Ms. Shelton - In December. December 14, 2006.
410
411 Mr. Nunnally - 2006.
412
413 Ms. Shelton - Yes.
414
415 Mr. Wright - Ms. Jones, how much land do you own?
416
417 Ms. Shelton - I own 3.4 acres on Jones Road.
418
419 Mr. Wright - Where is that located? I’m trying—
420
421 Ms. Shelton - It’s the lot right across from the—4848 Jones Road.
422
423 Mr. Wright - From whom did you purchase your property?
424
425 Ms. Shelton - My grandmother, Daisy Jones.
426
427 Mr. Wright - How is your lot legal if theirs is illegal? You don’t
428 have any road frontage.
429
430 Ms. Shelton - In 1967, we acquired the land, but in 1968 when we
431 were building a home or wanted to build a home on the land, we asked for a
432 variance.
433
434 Mr. Wright - So, you got a variance just like they’re asking for.
435
436 Ms. Shelton - Right.
437
438 Mr. Wright - So how could theirs be illegal and yours be legal?
439
440 Ms. Shelton - Because theirs is directly in front of my property,
441 which will block my property from ever having access to a state-maintained road.
442
443 Mr. Wright - All right. Aren’t you located on Jones Drive?
444
445 Ms. Shelton - Jones Road.
446
447 Mr. Wright - Jones Road. Okay.
448

449 Ms. Shelton - It's a private road right now.
450
451 Mr. Wright - They would be located on Jones Road, just as you
452 would. I don't understand how this would block your access or something, or a
453 public road into that property. I don't understand that.
454
455 Ms. Shelton - Okay. On the right side of me, my brother owns six
456 acres. Behind me and to the left of me, my mother owns that property. Now, my
457 property goes to Jones Road, but if you grant the variance for Lewis, they have
458 put that one acre right in front of where my home is that would lead to Springfield
459 Road.
460
461 Mr. Wright - I don't understand that. Jones Road could be made
462 into a public road. That's in our notes. If that's made into a public road, there
463 would be no reason for them to be here because they would have 50-foot
464 frontage on that road.
465
466 Ms. Shelton - Okay, but it's not a state road. I don't know if
467 anyone—
468
469 Mr. Wright - It could be, therefore it would not block your access to
470 a public road to get out to Springfield Road.
471
472 Ms. Shelton - Okay. If it was a public road, yes, but it's not a public
473 road.
474
475 Mr. Wright - I say it could be.
476
477 Ms. Shelton - It could be.
478
479 Mr. Kirkland - In our staff report, it reads that the applicant indicates
480 dedication of Jones Road is not acceptable to the other residents. Are you all in
481 opposition to making that a public road?
482
483 Ms. Shelton - No, I just have never known anyone from the Jones
484 family to want to make it a public road.
485
486 Mr. Kirkland - Okay.
487
488 Mr. Wright - I can't understand how you argue that this would
489 block your access to a public road when you have a road that could be a public
490 road running right in front of your property.
491
492 Ms. Dwyer - What is the status of Jones Road, do we know that?
493 Is it an easement? Is it reserved? Is there an agreement among family
494 members that this will be reserved?

495
496 Ms. Shelton - Well, it might be. It's stated that we will have the
497 right-of-way on Jones Road to get to our property and that's part of the deed.
498 But when you look at the overall piece of property, if a developer would purchase
499 the remainder of my mother's property on that side of the road, they would be
500 able to get to my property to develop it. But if this lot is granted to Lewis, it will
501 block any developer from ever reaching my property. Right now, it's a private
502 road and there's nothing that they can do with my property.
503
504 Mr. Blankinship - You're not saying that this variance would interfere
505 with your use of your current house, but that it would interfere with future
506 coordinated plans to develop the property in a rational way.
507
508 Ms. Shelton - Correct. Thank you, Mr. Blankinship.
509
510 Ms. Dwyer - Do we know how wide Jones Road is?
511
512 Ms. Shelton - Thirty feet.
513
514 Mr. Kirkland - Mr. Blankinship, is there a right-of-way deeded
515 through there? Do you know?
516
517 Mr. Blankinship - That's what Mrs. Dwyer was just asking.
518
519 Mr. Kirkland - It looks like a standard road. I drove down it.
520
521 Mr. Blankinship - It is a very well built and maintained private road.
522
523 Ms. Dwyer - A minimum public road would be 50 feet, so there's
524 not enough at this point.
525
526 Mr. Kirkland - When you say 30, do you mean 30 feet of pavement
527 or do you mean 30 feet from one wooded area to the wooden area across?
528
529 Ms. Shelton - Right. Thirty feet total.
530
531 Mr. Blankinship - Thirty feet of easement.
532
533 Ms. Shelton - Right, easement.
534
535 Mr. Blankinship - The easement is 30 feet.
536
537 Ms. Shelton - Correct.
538
539 Mr. Kirkland - So someone would have to dedicate 10, 20 feet on
540 one side or the other.

541
542 Ms. Shelton - Yes.
543
544 Mr. Blankinship - So that both property owners would have to be in
545 agreement if it were ever to be made a public road. If there continued to be
546 disagreement among the parties, either party could prevent the other from having
547 it dedicated.
548
549 Mr. Kirkland - Well, if we grant this variance—Let's say we grant it
550 and we literally would land-lock the road from ever being developed to 50-foot
551 [unintelligible].
552
553 Ms. Shelton – Exactly.
554
555 Mr. Kirkland - Unless it was in the variance that somebody coughed
556 up 20 feet.
557
558 Mr. Blankinship - It would be less likely than it is now that the property
559 would be developed in a planned, rational fashion. If the variance were granted,
560 it would be less likely that the property would be developed the way the County
561 would like to see it.
562
563 Mr. Kirkland - Was this lot part of the acreage for the subdivision?
564
565 Ms. Shelton - No.
566
567 Mr. Kirkland - It was separate?
568
569 Ms. Shelton - Separate.
570
571 Mr. Kirkland - It was split out separate.
572
573 Ms. Shelton - Yes. My sisters each received three acres. That six-
574 acre area was developed by the Godsey Property Company.
575
576 Mr. Kirkland - Okay.
577
578 Ms. Harris - So, Ms. Shelton, you have no plans to give maybe
579 one of your three acres to your son, Barry.
580
581 Ms. Shelton – I would have loved to have done that, Mrs. Harris;
582 however, when my daughter wanted to move after graduating from UVA in '96,
583 she wanted to build a house between my mother's home and my home, and my
584 mom said she could not divide the property. So, my daughter moved into an
585 apartment. Since then, none of the grandchildren have received land as gifts. I
586 love my mother very much. She's 86 years old and I know that she has not been

587 in the best of health. I would not appreciate any family member taking advantage
588 of my mother at this time.

589
590 Ms. Harris - Did you propose the purchase of that lot that Lewis—

591
592 Ms. Shelton - Yes.

593
594 Ms. Harris - —to your mom?

595
596 Ms. Shelton - No, I have not.

597
598 Ms. Harris - Her property is where? Is her property at 4900?

599
600 Ms. Shelton - 4900 Jones Road. She's to the left of our property.

601
602 Mr. Wright - Are there any other lots that have been created out of
603 this property?

604
605 Ms. Shelton - No.

606
607 Mr. Wright - Yours was the first one?

608
609 Ms. Shelton - Yes.

610
611 Mr. Wright - How long has your grandmother been there?

612
613 Ms. Shelton - My grandmother? My mother.

614
615 Mr. Wright - Your mother, excuse me.

616
617 Ms. Shelton - My mother, since 19—I don't know. About 60 years.
618 She's been married at least 60-some years. My dad passed in 1994, but she's
619 been on the property. The property belonged to my grandmother, Daisy Jones.
620 From Daisy Jones, the property went to my father, Henry Clay Jones, Sr. When
621 my dad passed in 1994, the property went to my mother. In my father's will, he
622 wanted the land divided one-fourth, which would be equally among four children.

623
624 Mr. Wright - Your mother's home has been there prior to 1960?

625
626 Ms. Shelton - No. My mother lived in my grandparent's home, but
627 my mother and father built a home in 1972.

628
629 Mr. Wright - How did they get access? How did they build that
630 since they didn't have access to a public road?

631
632 Ms. Shelton - I believe they came before the Board—

633
634 Mr. Wright - Oh, they got a variance—
635
636 Mr. Blankinship - The property taken as a whole does have public
637 street frontage. The property comes all the way out to Springfield Road, so taken
638 as a whole, the property has public street frontage. It's only the creation of the
639 one-acre lot back in the middle of the property that creates the need for a
640 variance.
641
642 Ms. Dwyer - On our aerial map, the house that's labeled as 1900
643 Jones Road, is that your mother's house?
644
645 Ms. Shelton - 4900?
646
647 Ms. Dwyer - I'm sorry, 4900.
648
649 Ms. Shelton - Yes, that's my mother's home.
650
651 Ms. Dwyer - Is that the 60 acres that was referenced in the staff
652 report?
653
654 Ms. Shelton - Yes.
655
656 Ms. Dwyer - This one acre is being carved out of the 60 acres that
657 includes your mother's home.
658
659 Ms. Shelton - Yes.
660
661 Mr. Wright - Mr. Blankinship, then how did they build a house if
662 they didn't build at the building line? Didn't they get a variance? That house was
663 built back several hundred feet off the road.
664
665 Mr. Blankinship - Right. The property would have to meet the lot width
666 requirement at the building line today. Now, at the time it was built, we may have
667 been measuring the lot width at the actual location of the house. As you're
668 aware, that's gone back and forth a little bit in the history of the Code. The
669 property taken as a whole is a buildable lot and has frontage on a public street.
670 Jones Road, I guess, would have just been viewed as a driveway at that time.
671
672 Ms. Harris - Mr. Blankinship, in the staff report #3, "Legislative
673 remedies potentially exist." Could you tell us what you have in mind here?
674
675 Mr. Blankinship - Well, as Mrs. Dwyer was mentioning in her earlier
676 remarks, and as you all know, it is one of the statutory requirements that you
677 have to make a finding that the circumstances that give rise to this application
678 are not of a general or recurring nature. The reason for that is if you are getting

679 the same requests month after month, then the Board shouldn't be granting
680 variances in each one of those cases. Theoretically, we should find a legislative
681 solution that would solve the problem that's leading to all those variances. We
682 prepared some materials for a work session that we have not yet held, but we
683 distributed to you some months ago, some materials on the subject of the public
684 street frontage requirement, ways to look at those requests, why they arise so
685 often. There is the potential that this issue could go back to the Board of
686 Supervisors and they could be asked to address specifically when a dwelling
687 should be allowed with no public street frontage, or to say having considered all
688 of the information available, the Board does not feel there should ever be a
689 dwelling on a lot that doesn't have public street frontage. There is the potential
690 for that decision to be made by the Board of Supervisors.

691
692 Ms. Harris - But we have no date as to when we're going to
693 discuss this with the Board.

694
695 Mr. Blankinship - No, and we certainly don't have any amendments
696 drafted and on the Board's schedule to be considered at this point. It's just a
697 potential.

698
699 Mr. Wright - Mr. Blankinship, I've been on this Board since 1972.

700
701 Mr. Blankinship - Yes sir.

702
703 Mr. Wright - We've been granting variance for public street
704 frontage since that time.

705
706 Mr. Blankinship - Yes sir.

707
708 Mr. Wright - The Board of Supervisors has been well aware of
709 that. As a matter of fact, we brought it to their attention prior to this, but the
710 Board didn't see fit to do anything about it, to take any corrective action, or to ask
711 the legislature to do it.

712
713 Mr. Blankinship - Yes sir.

714
715 Mr. Wright - It looks like to me that if the Board of Supervisors
716 didn't have any concern that this was of such a recurring nature that they should
717 take some action—That's been what, 30 years?

718
719 Mr. Blankinship - Yes sir, 35.

720
721 Mr. Nunnally - Any other questions from the Board or staff?

722
723 Ms. Harris - Yeah, one quick question for Ms. Shelton. This is my
724 last question, I promise.

725
726 Ms. Shelton - That's okay.
727
728 Ms. Harris - You have not sat down with your family in a family
729 meeting and tried to resolve this without our having to make a decision for you?
730
731 Ms. Shelton - I must say, I feel awful about that. However, last July,
732 July of 2006, Lewis went to my mother and he requested property between my
733 home and her home. My mom said she had promised me that property and she
734 asked me if I would handle it for her, which I did. She said she did not want to
735 hurt Lewis' feelings, but she was not going to divide the property nor give it to
736 one grandchild over 12. I wrote a letter to my brother—
737
738 Ms. Harris - Excuse me, I don't want to cut you off. So, the
739 answer is no.
740
741 Ms. Shelton - No.
742
743 Ms. Harris - Okay. Thank you, that's all I wanted to know.
744
745 Ms. Shelton - No, we have not because I was not aware that Mom
746 had done this until I received the public notice.
747
748 Mr. Nunnally - Okay, thank you so much.
749
750 Ms. Shelton - Thank you very much.
751
752 Mr. Nunnally - Mr. Pearsall, you have a short rebuttal.
753
754 Mr. Pearsall - Very briefly, sir, Mr. Jones would like to comment.
755
756 Mr. Jones - One thing I'd like to make note of, the mention of the
757 road frontage that is on Springfield Road right now, it is wetlands. We had
758 someone from Henrico County come out. They've looked at it; they've examined
759 it. The 1-1/2 acres that Godsey is referring to is located in wetlands as well. I
760 would also like to say that as I was talking to my grandmother last night, before
761 we were preparing what we had to say today, I am a person that has deep
762 passion for history, in particular the history of my people. We have been on this
763 property for over 100 years and we take that very seriously. I have no intention of
764 turning this into profit. I want to build a single-family dwelling for me and my wife.
765 I have discussed this with my grandmother. My grandmother understands and
766 this is her desire to have this as well.
767
768 Mr. Nunnally - Thank you very much. That concludes the case. We'll
769 let you know later on today. Thank you for coming. Do we have a motion on
770 this?

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Ms. Dwyer - I move that A-014-07, Lewis and Nirja Jones, be denied. I'll state my reasons now or after a second?

Mr. Kirkland - I'll second it.

Ms. Dwyer - My reasoning for that is that this is a parcel that was created out of a 60-acre parcel. If you look at the 60-acre parcel, I think it's clear that that parcel has reasonable and beneficial uses to it. The reason I would look at the 60 acres rather than the 1 acre is that under Cherrystone, this lot was created after the requirement was imposed in the ordinance for road frontage. As I read Cherrystone and Cochran together, it is our obligation to look at the 60-acre parcel to determine whether there is reasonable and beneficial use to the property, which there is because currently there is a home on the property that's being used. There is also substantial future benefit to the use of this property as a subdivision, as this area is in great demand and surrounded by subdivisions.

The second reason for denial is that this is a situation that is recurring in nature. Under our ordinance 24-116(b)(3), this Board has to make a finding that this is not a recurring situation in order for us to grant a variance. We cannot do that in this case. That's the second reason.

Thirdly, under paragraph B of 24-116, there are three rationales stated as bases for a variance and none of those have been cited in this case, and none of them apply, I think, to a situation where there is a lack of road frontage. So, I don't think that the applicant in this case has established a legal or factual basis for the variance.

Furthermore, I think it's important to note that the reason we have a zoning ordinance is to prevent the haphazard piecemeal development of little islands of properties that will prevent the orderly and future development of property as a whole. I think this is a very good example of that. We have a one-acre parcel sort of plopped in the middle of a 60-acre parcel and I think it substantially interferes with the future orderly development of this property in accordance with our zoning ordinance.

Secondly, there is a way to permit this development and that is if Jones Road were made a public street. The applicant has indicated they have not even explored the possibility of doing that and I think it's incumbent upon them to do so to justify this particular lot development. Let me see if I had any other reason.

Self-imposed hardship. The lot was created in violation of the zoning ordinance. I think it's inappropriate for someone who creates their own hardship to come in and say, "You need to grant me a variance because I have a hardship."

816 The existing private road is only a 30-foot easement, according to the testimony,
817 and we would need a 50-foot easement in order to eventually even preserve this
818 right-of-way for a future public road. It's true that one variance has been granted
819 on the parcels in this general area, but that was at least 40 years ago and just
820 because a single variance has been granted, many things have changed since
821 then and I don't think that justifies or substantiates this request.

822
823 Ms. Harris - I have a comment, too.

824
825 Mr. Nunnally - All right. Ms. Harris.

826
827 Ms. Harris - I have a comment because I feel that this motion
828 would unreasonably restrict the use of a lot. The Code of Virginia, Section 15.2-
829 2309 states that, "A variance may be granted if it will not be contrary to the public
830 interest when owing to a special condition a literal enforcement of the provisions
831 will result in unnecessary hardship provided that the spirit of the ordinance shall
832 be observed and substantial justice done." I'm concerned about the justice
833 issue. It's been over 30 years and it's been considered a family division by the
834 County of Henrico by the Jones family. Another home was built there and now
835 we're going to deny this to another family member because of some feelings,
836 some unpleasant feelings in the family. I feel that this is a family division that we
837 don't need to unreasonably restrict the use of this lot. Until the Board of
838 Supervisors gives us authority to go against what has already been done, I think
839 when it comes to family divisions, we need to stay on course.

840
841 Ms. Dwyer - If I may respond, Ms. Harris? The section that you
842 read is in our County Code also. I think our County Code basically repeats the
843 State law that you quoted in 24-116. That's basically the introductory paragraph
844 to the section that spells out what is just something that has to be determined
845 when we balance the existing ordinance and why that ordinance exists with an
846 individual desire. In this case, the individual has not brought their case under
847 any of the specific bases for claiming a variance that is specified in the Code
848 section that you cited. So, basically, what I'm trying to say is that the law sets out
849 what we can do and the parameters within which we can do it. It says justice
850 means, if you can show any of these three situations exist, that we justify a
851 variance, and they have not done that. Also, I think the authority that's been
852 given to us is authority that is very limited and limits our ability to grant a variance
853 in this case.

854
855 Ms. Harris - I don't think any code, Ms. Dwyer, in Virginia or the
856 County can define what justice is, so I beg the question and we take a vote.

857
858 Mr. Nunnally - Anyone else have anything to say about it?

859
860 Mr. Wright - Yeah, I'd like to comment. I disagree, Ms. Dwyer, that
861 this is a Cherrystone situation. I studied Cherrystone this past month very

862 carefully and I think Cherrystone was very limited to the ordinance or the statute
863 that was in effect on the date of the ordinance, as stated in the statute. Our 50-
864 foot road frontage at 24-9, that ordinance says nothing about being in effect at
865 the date of the ordinance. However, once we get past Cherrystone or Cochran,
866 we do have the threshold questions in the statute. Although I know the Supreme
867 Court has said that this Board is to be a relief valve to try to give assistance to
868 people, to property owners when we can, it did set forth very clearly these
869 exceptions. I haven't heard anything in the presentation of case that would
870 indicate that we've satisfied these exceptions, especially the exceptional
871 narrowness, shallowness, size or shape. This is a one-acre property, so that
872 doesn't have any effect on it. I think you have to satisfy that in order for this
873 variance to be granted. Therefore, I would go with the vote to deny.

874
875 Mr. Nunnally - All right. We have a motion by Ms. Dwyer, seconded
876 by Mr. Kirkland that it be denied. All in favor say aye. All opposed say no. It's
877 been denied 3 to 2.

878
879 Affirmative: Dwyer, Kirkland, Wright 3
880 Negative: Harris, Nunnally 2
881 Absent: 0

882
883 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by
884 Mr. Kirkland, the Board **denied** application **A-014-07**, Lewis and Nirja Jones'
885 request for a variance from Section 24-9 to build a one-family dwelling at 4851
886 Jones Road (Parcel 754-768-7947), zoned A-1, Agricultural District (Brookland).

887
888 Mr. Nunnally - Next case, Mr. Blankinship.

889
890 **A-015-07** **RICHARD CASTLEBERRY** requests a variance from
891 Section 24-9 to build a one-family dwelling at 5550 Charles City Road (Parcel
892 845-695-3957), zoned A-1, Agricultural District (Varina). The public street
893 frontage requirement is not met. The applicant has 0 feet public street frontage,
894 where the Code requires 50 feet public street frontage. The applicant requests a
895 variance of 50 feet public street frontage.

896
897 Mr. Nunnally - Is anyone else here interested in this case? If so, will
898 you please stand and raise your right hand and be sworn?

899
900 Mr. Blankinship - Raise your right hand please. Do you swear the
901 testimony you're about to give is the truth and nothing but the truth so help you
902 God?

903
904 Mr. Castleberry - Yes.

905
906 Mr. Nunnally - Please state your name for the record, sir, and tell us
907 what you're requesting.

908
909 Mr. Blankinship - Could you move over to the microphone, please, sir?
910
911 Mr. Smith - I'm Charles Smith from Engineering Design
912 Associates. I'm representing Mr. Castleberry in front of the Board this morning.
913
914 Mr. Nunnally - All right. Tell us what you're requesting, sir.
915
916 Mr. Smith - Mr. Castleberry bought a parcel on Charles City Road
917 that was created back in 1977, except it has no road frontage, and Mr.
918 Castleberry would like to build a house on that lot and make the lot buildable.
919 He's requesting a variance for the 50 feet public road frontage.
920
921 Ms. Dwyer - Mr. Smith, our staff report says this lot was created
922 out of a larger 51-acre parcel in 1997.
923
924 Mr. Smith - Yes.
925
926 Ms. Dwyer - You said '77?
927
928 Mr. Smith - I meant '97.
929
930 Ms. Dwyer - '97 is correct. Okay. So, at that time, the County's
931 ordinance requiring road frontage was in effect.
932
933 Mr. Smith - Yes. It's been maintained as a separate parcel on the
934 County's tax records since it was created. It's never been combined with any
935 other parcels.
936
937 Ms. Dwyer - Okay. The 51-acre parcel that it was created from in
938 1997, what other uses are now being put to that parcel, that 51-acre parcel?
939
940 Mr. Smith - I believe the rest of that 51 acres, most of that
941 property around here on the north and/or east is farmland.
942
943 Ms. Dwyer - It's being farmed?
944
945 Mr. Smith - Yes.
946
947 Ms. Dwyer - Is there a house on it?
948
949 Mr. Smith - I don't recall if there is or not. I don't believe.
950
951 Ms. Dwyer - You don't know? Looks like there's another house in
952 the vicinity. I don't know if that's part of the 51-acre parcel or not.
953

954 Mr. Nunnally - Do you know if there's another house on there, Mr.
955 Castleberry?
956
957 Mr. Castleberry - No. Where are we talking?
958
959 Ms. Dwyer - I'm talking about the 51 acres from which this lot was
960 created.
961
962 Mr. Smith - There's a building there, but I don't believe that is a
963 house. It looks like more of a shed or a barn.
964
965 Ms. Dwyer - So, that house to the left is not part of the 51-acre
966 parcel?
967
968 Mr. Smith - This house right here?
969
970 Ms. Dwyer - No, to the left.
971
972 Mr. Smith - No, that house is not. That's a separate parcel that
973 also has no road frontage.
974
975 Ms. Dwyer - So, this was created out of 51 acres that's being used
976 as farmland.
977
978 Mr. Smith - Yes.
979
980 Ms. Dwyer - Okay. Thank you.
981
982 Mr. Nunnally - Are you planning on building a house for yourself on
983 there, Mr. Castleberry?
984
985 Mr. Castleberry - Not for myself, but a two-story house.
986
987 Mr. Smith - He's planning on building a house for profit.
988
989 Mr. Nunnally - I beg your pardon?
990
991 Mr. Smith - He's planning on building a house and selling the lot.
992
993 Mr. Nunnally - Have you made a deal on this yet, or is it subject to
994 you getting a variance to build a house on it?
995
996 Mr. Smith - No. Mr. Castleberry already owns the lot. It's not a
997 contract. He already owns the property in question.
998

999 Mr. Wright - Mr. Blankinship, was this a legal lot when it was
1000 created, this two-acre lot?
1001
1002 Mr. Blankinship - I didn't do the research on this one. I think Mr. Gidley
1003 did. Can you answer that?
1004
1005 Mr. Gidley - [Off mike.] When it was created, it did not have public
1006 road frontage.
1007
1008 Mr. Wright - I know that, but otherwise, other than that.
1009
1010 Mr. Gidley - [Off mike.] [Unintelligible.]
1011
1012 Mr. Wright - You can't have the subdivision without having the
1013 subdivision approved.
1014
1015 Mr. Blankinship - You can for one lot.
1016
1017 Mr. Wright - For one lot.
1018
1019 Mr. Blankinship - You can cut one lot off without any County review and
1020 approval.
1021
1022 Mr. Wright - This is the first lot that's been cut off, taken out of that.
1023
1024 Mr. Blankinship - Is that correct?
1025
1026 Mr. Gidley - [Off mike.] I believe so. Mr. Attorney, the Peaco's
1027 who sold this parcel also own the property in front of it, and that has enough lot
1028 width, does it not? Why didn't they just sell that with the property and grant the
1029 road frontage at the same time?
1030
1031 Mr. Smith - I really can't answer.
1032
1033 Mr. Blankinship - The Peaco's aren't here, so they can't really—
1034
1035 Ms. Harris - How far is this property from the airport?
1036
1037 Mr. Smith - From the airport? It's quite a ways.
1038
1039 Ms. Harris - Quite a ways. Okay.
1040
1041 Mr. Smith - I can't tell you exactly, but I think it's—
1042
1043 Ms. Harris - That's okay. As long as it's a good distance. I was
1044 looking at the map that we have. It said something about the airport.

1045
1046 Mr. Wright - What sort of access do you have to this property?
1047
1048 Mr. Smith - There is already an existing 10-foot wide
1049 ingress/egress easement that goes from Charles City Road through the land at
1050 Redbird Farm, then back across to the Peaco's. But that access does not touch
1051 this parcel either. We're proposing a 50-foot easement from Charles City Road
1052 back to the parcel, which would also give the Peaco's another access to their
1053 residence, if they wanted to.
1054
1055 Mr. Wright - So, you're proposing the 50. Has that been done yet?
1056
1057 Mr. Smith - No. That's based on whether we get the variance or
1058 not. If we get the variance, that easement will be created.
1059
1060 Mr. Wright - That's one of the requirements in the proposed
1061 conditions here.
1062
1063 Mr. Smith - We have no disagreement with the conditions.
1064
1065 Ms. Harris - In the aerial photo, what is this area here that looks
1066 like it could be a paved area or where land has been extracted, topsoil has been
1067 extracted? What is that area there? It's near 5560.
1068
1069 Mr. Smith - Right in the front there? I believe that's a field.
1070
1071 Ms. Harris - We don't see foliage or shrubbery on it at all.
1072
1073 Mr. Smith - That whole area is an open field right there. I don't
1074 know what the square is, but that may have been different vegetation.
1075
1076 Mr. Blankinship - I believe these photos were shot in February, so there
1077 wouldn't be any growth in a plowed field.
1078
1079 Mr. Wright - Do you know what the 51 acres was used for before
1080 this acreage was taken out of it?
1081
1082 Mr. Smith - I'm not really sure, but it looks like it was all farmland
1083 to me. You can see the fields to the north.
1084
1085 Mr. Wright - Is it wooded, the 51 acres?
1086
1087 Mr. Smith - There's partial woods. I'm not really sure which
1088 parcel this piece came out of, the 51 acres. I didn't do that much research on it.
1089 This whole parcel is pretty well wooden. It's wooded to the east and wooded to
1090 the northwest of it, and wooded to the west.

1091
1092 Mr. Nunnally - I see on this plat here that you've got a proposed 50-
1093 foot right-of-way easement. Are you planning on building two houses there?
1094
1095 Mr. Smith - No. We did the 50-foot easement because we left 25
1096 feet to the back of this parcel that adjoins the Peaco parcel, and the other 25
1097 could be—We made it butt up against parcel ID 456952135 so in case they ever
1098 wanted to abandon the existing 10-foot ingress/egress, they could also use that
1099 easement to get into their property.
1100
1101 Mr. Nunnally - Any other questions from the Board or staff? Anyone
1102 in opposition to this request? Please come forward, sir. Will you have a seat
1103 there and then rebut, sir, later on.
1104
1105 Mr. Ukrop - Good morning. My name is Bobby Urkop and this is
1106 Scott Aronson, my son-in-law, and Jeff Ukrop, my son. We're a little confused.
1107 We only found out about this yesterday. The mail was sent, but the lady handling
1108 the mail, her husband had a heart issue and she had not been in the office to
1109 receive the mail. So, we never saw it until yesterday. After the last drawing, we
1110 are somewhat confused about who owns the property, because I thought we did.
1111
1112 Ms. Dwyer - That's a new one.
1113
1114 Mr. Ukrop - It's been in our family for a hundred years. We
1115 thought we were talking about—Was this property supposedly owned by the
1116 Peaco's?
1117
1118 Mr. Blankinship - They owned it from '97 until 2007.
1119
1120 Mr. Ukrop - This piece here.
1121
1122 Mr. Blankinship - The subject parcel, yes.
1123
1124 Mr. Ukrop - I'm looking at the 51 acres. It doesn't include that
1125 property. That's where part of our confusion is. We thought the issue was the
1126 easement that had been granted in 1965. I've never seen this drawing of this
1127 other easement that's been proposed. There was a 10-foot easement granted in
1128 1965 for the Peaco's on a two-acre parcel. We're not sure now. We thought we
1129 owned that land.
1130
1131 Ms. Dwyer - The land that they're proposing to build on?
1132
1133 Mr. Ukrop - This is news in the last 10 minutes. My dad passed
1134 away and—
1135
1136 Ms. Dwyer - What about the 51 acres, is that—

1137
1138 Mr. Ukrop - That's part of ours.
1139
1140 Ms. Dwyer - That's part of your parcel.
1141
1142 Mr. Ukrop - Yes.
1143
1144 Ms. Dwyer - The 51 acres we've been talking about is yours.
1145
1146 Mr. Ukrop - That's why I'm confused about this and I guess had
1147 we known more about it. I apologize for that.
1148
1149 Mr. Blankinship - This is dated 1990 and the Peaco's, apparently,
1150 acquired this subject property in '97.
1151
1152 Mr. Ukrop - From whom?
1153
1154 Mr. Blankinship - Now that I don't know. Is that deed in the file?
1155
1156 Mr. Ukrop - Pardon?
1157
1158 Mr. Blankinship - He's going to check the file and see what he finds.
1159
1160 Mr. Ukrop - I don't know. We're operating—
1161
1162 Mr. Blankinship - It is the same property. You're correct in that.
1163
1164 Mr. Ukrop - The issue I thought we were coming to discuss, that
1165 we thought that right behind the Peaco's house is where this was going to be
1166 built, property that we knew they own. We were concerned about this easement
1167 that was granted in '65, what might happen. When the Peaco's got it, that was
1168 like for their residence, not for additional houses or anything. That was for a two-
1169 acre parcel.
1170
1171 Mr. Blankinship - I can see why you'd be concerned.
1172
1173 Mr. Ukrop - What bothers me is that when my parents passed
1174 away, that property—Somebody had to buy it to pay the taxes.
1175
1176 Mr. Blankinship - Right.
1177
1178 Mr. Ukrop - I hope we didn't buy something that we didn't own.
1179
1180 Mr. Blankinship - Well, the effect of the easement is still definitely on
1181 the table this morning. They would be adding this dwelling to that easement. That
1182 easement would be serving this.

1183
1184 Mr. Wright - That's not what they're stating. That's not what
1185 they're stating, Mr. Blankinship. They said they propose a 50-foot easement from
1186 Charles City Road and they've got it on the plat.
1187
1188 Mr. Blankinship - Oh, I'm sorry.
1189
1190 Mr. Wright - That would have nothing to do with that other
1191 easement at all. He said he was going to abandon that other easement.
1192
1193 [Off mike] - We didn't say that either, sir.
1194
1195 Ms. Dwyer - Well, that's not on the record. Let's try to address
1196 ownership of this parcel first, if we can. If that's still confusing, I think we need to
1197 defer this case.
1198
1199 Mr. Kirkland - I think you're correct. Mrs. Dwyer, I would agree.
1200
1201 Mr. Blankinship - We have it shown in the real estate record that the
1202 property was conveyed to the Peaco's in '97, but we don't have a copy of that
1203 deed in front of us.
1204
1205 [Off mike] - I'm the surveyor of this parcel.
1206
1207 Mr. Nunnally - We need you to get up here. But they're not through
1208 yet.
1209
1210 Mr. Blankinship - Let me just ask, do you have a copy of the deed?
1211
1212 [Off mike] - [Unintelligible.]
1213
1214 Mr. Ukrop - I guess our concern is how are they going to get
1215 access to the property.
1216
1217 Ms. Dwyer - Will they have to use your easement at least in part to
1218 get to this property as it's drawn on the plat? Can we get the plat back up on the
1219 screen, please?
1220
1221 Mr. Blankinship - Paul, could you go to the plat, please?
1222
1223 Mr. Gidley - There's no plat on the slide.
1224
1225 Ms. Dwyer - Okay. I'm looking at a plat that shows—
1226
1227 Mr. Ukrop - As we look at access to the property, we hear that
1228 possibly the easement would be used to get access to the property. The original

1229 purpose of that easement when it was granted in 1965 was for access to a two-
1230 acre parcel. Sounds like what they're proposing is for it to no longer be just a
1231 two-acre parcel. So, that would be our concern.

1232

1233 Mr. Blankinship - I was mistaken in addressing that. The plat that I just
1234 passed to you with the staff report does show a new easement on the Peko
1235 property from Charles City Road to this house location. This lot would not be
1236 served by the existing easement. I got it right that time, Mr. Smith?

1237

1238 Mr. Wright - As far as that goes, if this were to be granted, we
1239 could put a condition in there that they could not use that easement to access the
1240 property.

1241

1242 Ms. Dwyer - It's just another one of the problems that we
1243 encounter when we allow these sorts of patchwork isolated islands of lots to be
1244 developed.

1245

1246 Ms. Harris - Do we know yet who owns the property?

1247

1248 Ms. Dwyer - Maybe the representative from Engineering Design
1249 Associates can shed some light on what he knows on this topic? I think unless
1250 we know this definitively, we can't move forward.

1251

1252 Mr. Smith - I didn't bring my survey file with me, but I am the
1253 surveyor of the plat that's in the variance application. I'm quite certain that Mr.
1254 Castleberry owns that parcel of land. We have deeds and records. If he didn't
1255 own that, I never would have shown it on the survey like that.

1256

1257 Ms. Dwyer - Right. But there could still be some misstep
1258 somewhere in the past.

1259

1260 Mr. Smith - The County has a sheet showing a deed book and
1261 page being conveyed to the Peaco's.

1262

1263 Ms. Dwyer - From whom?

1264

1265 Mr. Smith - From—

1266

1267 Mr. Blankinship - Yeah, it doesn't say from whom on the real estate
1268 record and I'm having trouble getting into the website where I can look that up.
1269 We'd have to run over to the records room and get a copy of that deed.

1270

1271 Ms. Dwyer - Do you think it's worth tabling this while we hear the
1272 next case or should we just defer this, Mr. Blankinship, so that we can get factual
1273 information? I think I'd like to defer it.

1274

1275 Mr. Blankinship - I'd need 10, 15 minutes.
1276
1277 Mr. Smith - I'd prefer to go get the deed, table it, and come back
1278 to the issue instead of deferring it.
1279
1280 Mr. Blankinship - If you want to just pass this over, Mr. Gidley can go
1281 find us a copy of that deed.
1282
1283 Ms. Dwyer - Even if we have the deed, I think there's still an issue
1284 outstanding because we have people here to claim that they own it, or possibly
1285 own it.
1286
1287 Mr. Kirkland - Mr. Chairman, I would like to make a motion that if
1288 there's no problem with Mr. Smith, that we defer this for 30 days so that the
1289 parties can work out the legalities of the land ownership rather than running to
1290 the Courthouse and then there be a dispute and this would carry on through the
1291 meeting. I think we need to iron this out before we come to the next hearing, if
1292 no one has any objections. Any problem with that, Mr. Smith?
1293
1294 Mr. Smith - I have no objection to that.
1295
1296 Mr. Kirkland - All right. I make a motion we defer this to the next
1297 meeting.
1298
1299 Ms. Dwyer - Second.
1300
1301 Mr. Nunnally - Do you have any objection, Mr. Ukrop?
1302
1303 Mr. Ukrop - We have not seen this plat. Based on this program
1304 we had, we vacated, is what I saw here.
1305
1306 Mr. Smith - No, no, no. We didn't say we were going to abandon
1307 the existing 10-foot easement.
1308
1309 Ms. Dwyer - We don't really need to get into this, I think, at this
1310 point.
1311
1312 Mr. Ukrop - This other thing has kind of thrown us a little bit for a
1313 loop.
1314
1315 Ms. Dwyer - But you're not opposed to us deferring the case for 30
1316 days.
1317
1318 Mr. Ukrop - No, that's fine.
1319

1320 Ms. Dwyer - That'll give everyone a change to figure out what's
1321 going on.

1322
1323 Mr. Kirkland - You all can get together in the next 30 days and talk
1324 to each other and work it out.

1325
1326 Mr. Ukrop - My concern is that we may have bought a piece of
1327 property that's no longer ours.

1328
1329 Mr. Kirkland - Then you can get your lawyer involved.

1330
1331 Ms. Dwyer - I second the motion to defer the case.

1332
1333 Mr. Nunnally - I have motion from Mr. Kirkland, seconded by Ms.
1334 Dwyer that it be deferred until next month. All in favor say aye. All opposed say
1335 no. It's been deferred until June.

1336
1337 Upon a motion by Mr. Kirkland, seconded by Ms. Dwyer, the Board **deferred**
1338 application **A-015-07**, Richard Castleberry's request for a variance from Section
1339 24-9 to build a one-family dwelling at 5550 Charles City Road (Parcel 845-695-
1340 3957), zoned A-1, Agricultural District (Varina).

1341
1342 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1343 Negative: 0
1344 Absent: 0

1345
1346 Ms. Dwyer - Mr. Chairman, I'm going to abstain from the next
1347 case, both from the discussion and the decision because I have made a public
1348 statement in favor of the County's purchase of the Tuckahoe Little League. Even
1349 though I don't have a legal conflict, I just want to make sure that all the residents
1350 of the County are assured without a doubt that the deliberations and the decision
1351 made by the body are fair and impartial.

1352
1353 Mr. Nunnally - Mr. Blankinship, would you call that case so
1354 everybody will know what she's talking about?

1355
1356 **UP-008-07 TUCKAHOE SPORTS, INC.**, requests a conditional
1357 use permit pursuant to Section 24-52(a) to operate an indoor recreation facility at
1358 2400 Little League Drive (Parcels 736-752-8691 and 737-753-1142), zoned A-1,
1359 Agricultural District (Tuckahoe).

1360
1361 Mr. Wright - Mr. Chairman, I must disqualify myself from this case
1362 also, since I'm on the Board of Tuckahoe Sports.

1363
1364 Mr. Nunnally - The people here on this case, you're going to have to
1365 depend on three of us. A few of them are gone. We have a quorum, so we're

1366 allowed to hear the case. Anyone interested in this case, please stand and be
1367 sworn.

1368
1369 Mr. Blankinship - Raise your right hand please. Do you swear the
1370 testimony you're about to give is the truth and nothing but the truth so help you
1371 God?

1372
1373 Mr. Theobald - I do.

1374
1375 Mr. Nunnally - All right, sir, please state your name for the record
1376 and tell us what you're requesting.

1377
1378 Mr. Theobald - Mr. Chairman, ladies and gentlemen, my name is Jim
1379 Theobald and I'm here today on behalf of Tuckahoe Sports, Inc. In as much as
1380 this is a joint application with the County of Henrico, Neil Luther, the assistant
1381 director of Recreation and Parks is here with me today to also ask for your
1382 favorable approval of this request. This is a request for a conditional use permit
1383 to allow an indoor training facility to support the education of County youth.
1384 Perhaps a little bit of history is in order with regard to the request. Tuckahoe Little
1385 League operates the Little League concession at Tuckahoe Little League Park
1386 and they are a not-for-profit 501(c)(3) organization that was formed in 1958.
1387 There are currently about 1700 participants, boys and girls ages 5 to 18, who
1388 participate in Tuckahoe Little League. Tuckahoe Sports, Inc., is also a not-for-
1389 profit 501(c)(3) organization that was founded in 1982. Until a week or so ago,
1390 they owned the entirety of the parcel before you.

1391
1392 As you may know from the staff report, as well as newspaper accounts, the
1393 majority of the park was acquired by the County of Henrico as a public park
1394 available to all citizens of Henrico County. Tuckahoe Sports, Inc. retained this
1395 two-acre rectangular piece that has been known as the Wright parcel in the past.
1396 They also retained a little pad site for a cell tower that's within the park.

1397
1398 The proceeds from the sale of this park to Henrico County are being put to some
1399 significantly beneficial uses for all the citizens of our County. Every penny that
1400 was paid for this park has to be used in accordance with federal and state tax
1401 statutes because they are a tax-exempt entity. It's not like they're shareholders,
1402 etcetera, and it all has to be used to benefit the boys and girls who will participate
1403 in youth programs at Tuckahoe Sports Park.

1404
1405 It's being used in a number of ways to reduce league registration fees, to
1406 establish a scholarship program to allow for payment of registration fees, as well
1407 as purchase of equipment for those families who are not able to afford
1408 participation in the program. Importantly, this is also going to allow them to
1409 purchase three to five 15-passenger vans to provide an opportunity for better
1410 accessibility for citizens in different areas to use this training facility that is
1411 proposed on these two acres of land. It's also being used to construct a

1412 challenger field to accommodate physically and mentally challenged youth, which
1413 will hopefully get underway at the same time as this indoor training facility.

1414

1415 The indoor training facility, again, is not just open to the folks who participate in
1416 Tuckahoe Little League, but folks throughout the County. This is a really terrific
1417 idea to provide training in all areas of the sport from skill improvement, to adult
1418 coaching, to league administration, to umpiring, to first aide, to CPR uses. It's
1419 also designed for education to parents. If a mother or father isn't familiar with
1420 baseball but wants to participate and understand the rules a little better, perhaps
1421 help coach or be a coach, then this facility is used. The classroom space within it
1422 will be used to provide that level of education to the adult population as well.

1423

1424 The specifics of the training facility side, again, are the two acres tucked in the
1425 back. This location was chosen because it's adjacent to the existing large parking
1426 field. In our negotiations with the County over the last year, year and a half, we
1427 specifically negotiated the right to retain this facility and build the training center,
1428 but the idea was to use the existing infrastructure, the lighting that exists on the
1429 parking lot, the existing parking lot, so as not to have to take additional open
1430 space, which is being contemplated for additional park purposes subject to the
1431 master plan in process by Henrico County.

1432

1433 You will note that we have pulled the building back a hundred feet from the
1434 property line. The actual property line is County property. There is about a 27-
1435 foot strip of land behind this two-acre parcel that's retained by the County, so
1436 they wrap around us, if you will. We've pulled this building back a hundred feet
1437 from the property line with Retriever Ridge subdivision, and will landscape that
1438 area with landscaping that is significant in size from the planting. We may be
1439 required to just retain maybe a 20-foot drive aisle behind here for emergency
1440 access purposes.

1441

1442 All of our parking to the extent that we require additional handicapped or excess
1443 parking would be in the front of this facility, nothing on the sides or the rear, as
1444 far away from the neighbors as possible, as well as any air conditioning type
1445 units would be brought up front. All those details would be more appropriately
1446 addressed at the time of Plan of Development or other building permit requests.

1447

1448 We have sent out about 95 letters to adjacent property owners. We held a
1449 community meeting on May 7th with about 30 people in attendance. Far and
1450 away, the most significant issue, if you look at this insert, was this driveway.
1451 There was an easement reserved for the benefit of these two acres when it was
1452 used as a home—the home is still there, albeit in disrepair—that allowed access
1453 to this house. I think the property owner had sold the land to create this
1454 subdivision. There was some discussion initially as to whether we should use this
1455 for emergency purposes only. It was an issue with the neighbors and we don't
1456 need it. We checked with the County. We do not need it. In fact, we have agreed
1457 in your conditions so it reflects that this is going to be, basically, barricaded with

1458 landscaping, abandoned and not used, and planted over. We don't control the
1459 ownership of this little strip; that rests with the subdivision developer, so I don't I
1460 have the legal ability to tear up the asphalt that's there for the driveway. I would
1461 hope that perhaps that developer would work with the adjacent property owners,
1462 since there's no use for this little strip. We did assure people at that meeting,
1463 and will assure you and those in the audience, that we will not be using this in
1464 any way, shape, or form. It will be physically barricaded and planted with
1465 significant amounts of planting.

1466
1467 I believe that all of your jurisdictional requirements have been met for you to
1468 approve this conditional use permit. The adjacent uses are active, outdoor
1469 recreational areas in a County park. We have shielded the impacts through the
1470 siting of this facility to take advantage of the existing parking, field, and lighting,
1471 thus preserving additional green space. We have pulled the building a hundred
1472 feet off the property line, which would be much more significant spacing than
1473 would be allowed in terms of the construction of an additional home or two that
1474 would be permitted in that area. We've provided and will provide significant
1475 landscaping across the back to further mitigate the visual impact of the facility to
1476 the neighbors. We are closing the existing drive. The facility will not be injurious
1477 to the health, safety, or welfare of residents due to the function and design. In
1478 fact, this promotes some additional educational opportunities for County youth.

1479
1480 This is consistent with the surrounding uses as a park and I would suggest to you
1481 is less intrusive than the impact of additional ball fields would be on this piece, to
1482 adjacent neighborhoods, and significantly this use is consistent with the County's
1483 Land Use Plan for recreational purposes.

1484
1485 Conditions have been suggested by the staff in your staff report to further
1486 mitigate any impacts, with which such conditions we are in agreement.

1487
1488 The question before you this morning is really one of the appropriateness of use
1489 through the conditional use process, with further details as to actual construction,
1490 etcetera, being left to be pursued through the Plan of Development phase,
1491 permits, as well as the County's Master Plan for this site, which is about to be
1492 undertaken. We do have a petition signed by folks involved with Tuckahoe Little
1493 League and Tuckahoe Sports. We have over 1,000 signatures in support of this
1494 request, which I will give to Mr. Blankinship. We also have additional supporters
1495 here with us this morning in the audience to support our request. I also believe
1496 that Neil Luther, again the assistant director of Recreation and Parks, would like
1497 to say just a few words, as the County is a co-applicant in this request.

1498
1499 With that, I will be happy to answer any questions and I would respectfully ask
1500 that you approve this conditional use permit request.

1501
1502 Mr. Nunnally - Do you have someone else who wants to speak?
1503

1504 Mr. Luther - Thank you very much, Mr. Chairman. My name is
1505 Neil Luther. I'm the assistant director of Recreation and Parks. I won't belabor
1506 the point, but I will just add that the County had been working a long time with Mr.
1507 Theobald as a representative for Tuckahoe Sports, Incorporated, and obviously,
1508 the eventual sales contract reflected a lot of hard work on both parties. We are in
1509 support of this as both an interested party and a co-applicant. We feel that the
1510 benefit to youth in both training and athletic opportunities supports our mission,
1511 so we are in support of this use. We feel it's consistent with the surrounding use
1512 as a park. I would also point out that as part of the actual covenant that was
1513 recorded with the deed that this is part of the burden property so that the
1514 restrictions that apply to park use in general, as far as prohibitions against
1515 alcohol, for example, and gambling apply to this property. We were very
1516 concerned about making sure that the training center parcel, if, for some reason,
1517 it were ever to change ownership would still be consistent with the mission of
1518 supporting youth activities and youth sports. Thank you very much.
1519
1520 Ms. Harris - Excuse me. Could you spell your last name, please?
1521
1522 Mr. Luther - I'm sorry. It's L-u-t-h-e-r.
1523
1524 Ms. Harris - Thank you.
1525
1526 Mr. Nunnally - Anyone else wish to speak for the case? Is anyone
1527 here in opposition of the case?
1528
1529 Ms. Harris - I have some questions I want to ask.
1530
1531 Mr. Nunnally - Oh, I'm sorry.
1532
1533 Ms. Harris - The attorney, Mr. Theobald.
1534
1535 Mr. Theobald - Yes ma'am.
1536
1537 Ms. Harris - Okay. Where is the cell tower located?
1538
1539 Mr. Theobald - The cell tower is back in this area. You can't see it
1540 very clearly on here. By the concession stand. That was approved years ago by
1541 the Board.
1542
1543 Ms. Harris - The footage of that, that height?
1544
1545 Mr. Theobald - Oh, I think that tower was about 120 feet, if I'm not
1546 mistaken, 150 max.
1547

1548 Ms. Harris - Right. I noticed that in the report that parking will be
1549 located away from the neighborhood in front of the facility. Can you point that
1550 out?
1551
1552 Mr. Theobald - Yes ma'am. It's an existing parking field right here
1553 that serves the ball fields. Proposed parking is likely not needed, but the County
1554 asked us to provide some potential additional spaces in the event that it was
1555 required.
1556
1557 Ms. Harris - The lighting, the new lighting that is being proposed,
1558 is that in accordance with the lighting that is already existing there?
1559
1560 Mr. Theobald - Yes ma'am. Unless the County through the permitting
1561 process would require any security lighting along the sides, we have no need for
1562 any additional lighting other than what would serve this front entrance. There are
1563 no other entrances in this parking lot.
1564
1565 Ms. Harris - So, we don't have lighting in the rear of the building?
1566
1567 Mr. Theobald - We would not unless for some reason the police or
1568 fire department would require it. I don't think they would, and to the extent they
1569 do, they would allow us to reduce it to a security level at night. But I really don't
1570 know of any reason why there would need to be.
1571
1572 Ms. Harris - Do you have a blueprint of this facility?
1573
1574 Mr. Theobald - I do have some elevations showing the front of this
1575 facility, the rear with some planting schemes, as well as a side view. I will then
1576 give you another view.
1577
1578 Ms. Harris - What is the height of that building?
1579
1580 Mr. Theobald - It's restricted to no more than 45 feet in height, in
1581 accordance with the ordinance.
1582
1583 Ms. Harris - Do you accept the conditions that are here?
1584
1585 Mr. Theobald - Yes ma'am. We've been working with staff for some
1586 time and we do accept those conditions. You can see maybe a little better side
1587 view, Ms. Harris, on this drawing. This is a view looking down the rear, if you will,
1588 in terms of additional plantings, retention of existing trees, etcetera. This looks
1589 just like trees, but the idea is to visually—That's the point, exactly, to visually
1590 mitigate the impact from the neighbors, which I think is a better deal than another
1591 ball field over there probably.
1592
1593 Ms. Harris - Okay.

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Mr. Nunnally - Any other questions? Is anyone here in opposition to this request? Please come forward, please.

Mr. Webb - Good morning. My name is William Webb. I live at 11917 Bowerton Road. The back of my house connects with the easement that Henrico County owns. On the other side of the easement is where they want to put up this training facility. A couple of things, over the course of the last year, I've had countless conversations and lodged concerns with Tuckahoe Sports. Let me just back up for just a minute. Our house was built in 1991. We're one of the original houses there and we're on the other side of this driveway. It is a privately-owned driveway right now. It was put there strictly for the Wright family that owned the property behind us. They were landlocked and Gene Walden, who built our house, also put this easement, if you will, driveway so they can get out to Bowerton Road.

So, although we've been hearing from Tuckahoe Sports that this road is going to be closed, the reality is nobody can tell us how it's going to be closed. They continue to use this issue of landscaping. They continue to say they're going to put trees up. You and I know that it takes years to build a nice fortress, if you will, around this property to prevent vehicular traffic and/or foot traffic coming through the community. We've had numerous conversations with Planning and Development. We talked to Mike Kennedy with Henrico County. We understand that this driveway cannot be used for incoming and outgoing traffic, period. It's 80 feet in length and 20 feet wide. The intention of that driveway should go away, period. Unless we do something to prevent vehicle traffic and/or foot traffic—Our concerns as a resident is what's going to happen is people will be coming down Retriever Ridge Road and parking in front of Barrington Road and accessing this driveway towards the facility.

So, I guess what I'm trying to tell you is that is a major concern for me because I'm on one side of the driveway. My neighbor, who is here, is on the other side of the driveway. The response we continue to get from Tuckahoe Sports is that they don't want to use it. We learned that during the last meeting on May 7th. However, prior to that, their attorney sent a letter saying that the driveway would be used for fire and emergency. They have since retracted that statement during the May 7th meeting. That's a really, really big concern of ours. I don't know if you're familiar with the Ukrop's Shopping Center around that area where Max and Irma's Restaurant is. If you go there during activities, there is parking in that parking lot. People use that to park their cars and they just walk over toward the field there. This access road will become a major concern for our subdivision, either coming down Retriever Ridge or through Kingcrest, which is the subdivision that connects Retriever Ridge. Both of those subdivisions are connected. I'm very concerned about the driveway. It's a private driveway so we're at a very difficult road here.

1640 My wife and I, we've made several contacts with Gene Walden. We actually
1641 spoke to him about 90 days ago and asked if he would be willing to sell that to
1642 us. To his surprise, I guess, he implied that he forgot he owned it. We sent a
1643 copy of our plat over to him so he could recollect his memory and we made
1644 several contacts with him, leaving phone calls at his home, and he's failed to
1645 return our call. In the meantime, we understand he owns it, based on this
1646 informal meeting that we had on May 7th with Tuckahoe Sports outlining their
1647 whole project here.

1648
1649 So, I'm very concerned, like I said; I keep reiterating this. Unless something is
1650 done to remove this road completely because the original intention of this road is
1651 no longer needed, it is not a landmark issue any longer, it needs to go away. I'm
1652 not quite sure what we can do. Tuckahoe Sports originally said it would be used
1653 for fire and emergency, but again, they've retracted that statement based on the
1654 last meeting. They have no use for it; they don't want it. And I understand their
1655 position. But again, how does that happen? If we don't, what's going to happen
1656 is my house sits right there on Bowerton Road, that whole front of that road will
1657 become a parking lot for parents coming down Retriever Ridge Road to pick up
1658 their kids from behind my property, or there will be a tremendous amount of foot
1659 traffic through this driveway. Our property line goes right up to that driveway. We
1660 have concerns about kids; we concerns about families and pets and everything
1661 else coming through that driveway to gain access to the training facility.

1662
1663 Aside from that, I will tell you that I think it's a great idea. I think the training
1664 facility is a great idea; it's just in the wrong place. In light of the fact that there's
1665 67 acres here, somewhere along the 67 acres they could put this facility that
1666 would have less impact to the Retriever Ridge subdivision, Retriever Ridge East,
1667 and to the Kingcrest subdivision. I personally believe just swapping two acres
1668 with Henrico County and put it somewhere else, because I think it's a great idea.
1669 There's a great need for it. I'm not implying, that we don't need it, I'm just
1670 opposing that it's going to create a lot of problems for the homeowners in front of
1671 that facility, which there's five or six homes. What do we do after the fact if we
1672 have these countless cars parked and foot traffic, and one thing after another?
1673 Our hands are tied.

1674
1675 Aside from that, we keep hearing about lighting and air conditioning use. One
1676 thing I want to make perfectly clear, and we learned this, it's a 30,000-square-
1677 foot building, 45 feet high. That's a big building. Although they're proposing to
1678 bring it back 100 feet, it would still obviously be heard, as we do hear some of the
1679 activity now. We're not opposing that; I think it's a great idea. But we're very
1680 concerned about the noise level of this 30,000-square-foot building, and 45 feet
1681 high. That's a big building. That's not just a 2500-square-foot home. Although
1682 they're sharing some concerns about that and they're proposing to do a lot of
1683 good ideas about that, I'm very concerned about that.

1684

1685 I'm the president of a restaurant company and I'm up fairly early in the morning,
1686 and I also go to bed fairly early at night and a lot of the residents do in that same
1687 area. I don't know what the time restraints are as far as the activity is concerned,
1688 but I've heard different things over the course of the last 90 days, 180 days. I
1689 don't know how late they can be back there. I don't know what the situation is as
1690 far as those things are concerned.

1691

1692 There's also some concern about the air conditioning units and I guess there's
1693 been some talk about moving them to the front of the building and completely
1694 insulating part of it and pushing a lot of it inside the ground, maybe a part of it.
1695 I'm not quite sure what the answer is there.

1696

1697 All I'm saying is, I'm not objecting to the idea of this, I'm just objecting to the
1698 location. I think it's clearly a major concern for those subdivisions for the
1699 increased traffic and foot traffic coming through there. One thing I do want to
1700 mention to you is my wife. She's not here, obviously, today, but we've had
1701 several conversations with Mike Kennedy. Apparently, Retriever Ridge cannot
1702 support, engineering wise, [unintelligible] for additional traffic and that's a major
1703 concern if we don't address that access or any access point. After the facilities
1704 building, five years down the road they decide they want to come down a little
1705 further down into Kings Crest. There's an area there. We understand in talking
1706 with Planning that those roads weren't engineered for additional or heavy
1707 additional traffic. We've got all these concerns we've got to talk about and I'm just
1708 going to end it here and see if you have any questions for me and then turn it
1709 over to the people behind me.

1710

1711 Mr. Blankinship - I'd just like to clarify that what you see on the screen
1712 right now is the most current plan and that's not even a week old, I don't believe.
1713 It's more current than what Mr. Theobald had in his own presentation. Mr.
1714 Theobald provided this to us within the past week. Based on our ongoing
1715 discussions with fire and rescue, fire has given up on the idea of having that as a
1716 fire lane. They said they don't need it as long as they have a fire lane going
1717 around the building. So, we asked them to revise the plan showing that drive
1718 completely removed and replaced with landscaping. Now, the portion that is on
1719 Mr. Walton—

1720

1721 Mr. Webb - It's Walden.

1722

1723 Mr. Blankinship - The portion on his property you'll have to work out
1724 with him, how to get rid of. Tuckahoe Sports does not control that; the County
1725 does not control that. At the worst, it would go up to that property line and then
1726 end, as you see here. They're going to tear up what's there and replace it with
1727 landscaping. Now you're right, that landscaping is not going to grow overnight. It
1728 will take a period of time for the landscaping to become established, but that's
1729 just part of life. There won't be any vehicle traffic for sure, and once the

1730 landscaping is established, there won't be any foot traffic. There are other ways
1731 to discourage foot traffic with fences and signs and so forth.

1732

1733 Mr. Webb - I'm a little bit lost, Mr. Blankinship. When you say it's
1734 going to be—That driveway comes back 80 feet and there's about 20 feet that
1735 the County owns. When you say it's going to be torn up, what does that mean?
1736 Right now, you can take a car through there. Obviously, it was a driveway for the
1737 previous owner. Anybody can drive back there. So, what you're saying to me in
1738 the development of this project, even though the driveway's there, there's no way
1739 that a vehicle can access that—

1740

1741 Mr. Blankinship - It will remove the asphalt. They will break it up, dig it
1742 up, and haul it out, and plant in its place.

1743

1744 Mr. Kirkland - The land that is owned by Tuckahoe Sports, they will
1745 dig it up. The land that's between your home and your neighbor, that's private so
1746 therefore you need to talk to your developer or whoever's in there to purchase
1747 that.

1748

1749 Mr. Webb - Okay.

1750

1751 Mr. Kirkland - Tuckahoe Sports can touch it; Henrico County can't
1752 touch it.

1753

1754 Mr. Webb - Right.

1755

1756 Mr. Blankinship - But from the property line onto this property it will be
1757 gone.

1758

1759 Mr. Webb - That was, frankly, one of the concerns that I've had.
1760 I've been talking Michael Toole; he's the executive director. I suggested six
1761 months ago when talking with him, that we do curbing or we put a fence up of
1762 some sort until we get to the idea of who owns this driveway and how can we get
1763 rid of it.

1764

1765 Mr. Blankinship - That has been a moving target on our side. We were
1766 trying to keep it as an emergency access. Just in general terms, we like to have
1767 emergency access wherever we can.

1768

1769 Mr. Webb - Right.

1770

1771 Mr. Blankinship - But in this case, we've given up on that, in deference
1772 to the homeowners.

1773

1774 Mr. Kirkland - Also in our report here in just seeing one of the
1775 conditions, and it's condition 7, is to eliminate that access. That will go with the
1776 permit, if it is approved. The hours of operation are also listed there, too.
1777

1778 Mr. Blankinship - 8 a.m. to 10:30 p.m. would be the legal constraint on
1779 them. Now, they can close earlier than that, but 10:30 would be the latest that
1780 they would be allowed if this permit is approved as drafted.
1781

1782 Mr. Webb - We brought this up as an option in the informal
1783 meeting on May 7th with Tuckahoe Sports—Why not move it? What's the
1784 objection to moving it to another part of those 67 acres where it has less impact
1785 to the residents? We were never given an answer to that. Like I said, we all, I
1786 think—And I'm not going to speak for the people behind me; I'm going to speak
1787 for myself. I think it's a great idea, but I think it's in the wrong place. I'm just very
1788 concerned about the impact that those subdivisions are going to have and be
1789 affected by this whole facility. I want that as a matter of record. I just hope that
1790 you will consider that in your decision and think about maybe moving this into
1791 another part of these 67 acres.
1792

1793 Mr. Nunnally - All right, thank you, Mr. Webb.
1794

1795 Ms. Harris - I have a question. What's your last name, again,
1796 please?
1797

1798 Mr. Webb - I'm sorry, W-e-b-b.
1799

1800 Ms. Harris - Webb, okay.
1801

1802 Mr. Webb - Yes.
1803

1804 Ms. Harris - Mr. Webb, how long have you been a resident of this
1805 area?
1806

1807 Mr. Webb - Since 1991.
1808

1809 Ms. Harris - Okay.
1810

1811 Mr. Webb - We were one of the first houses that was built right
1812 there on Bowerton Road.
1813

1814 Ms. Harris - So, you were aware of the complex there when you
1815 purchased your house.
1816

1817 Mr. Webb - I'm sorry, what complex?
1818

1819 Ms. Harris - You were aware that that was a sports complex when
1820 you purchased your house.
1821
1822 Mr. Webb - No ma'am. When I purchased the house, there was
1823 house that was behind us. It's called the Wright family. They lived in that house
1824 for a while.
1825
1826 Ms. Harris - That was 60-some acres around you and you were
1827 not aware.
1828
1829 Mr. Webb - Oh, I'm sorry. When you said that, I thought you were
1830 referring to this training facility. Yeah, absolutely.
1831
1832 Ms. Harris - Okay.
1833
1834 Mr. Webb - I did not know about this training facility until just
1835 recently. The two acres that Tuckahoe Sports wants to retain, and obviously still
1836 has the ownership, was a two-acre parcel that housed a house, a residence. Of
1837 course, parks and all around it, and the Little League and all that, yeah, of course
1838 we were aware of it, yes.
1839
1840 Ms. Harris - Is this the picture up here, the street we've been
1841 talking about? Can you put that up so we can see, please?
1842
1843 Mr. Blankinship - That's from the Tuckahoe property looking out. You
1844 want to go to the entrance photo? That's from the street looking in. Is that your
1845 house?
1846
1847 Mr. Webb - That's my house.
1848
1849 Ms. Harris - Okay. We understand from the condition that if this
1850 were approved, that this street would be closed.
1851
1852 Mr. Blankinship - What you're looking at right now would exist. Would
1853 you go back to Photo Drive, Paul? The grass or gravel portion of that would be
1854 removed. I'm not sure exactly where the property line is relative to the end of the
1855 asphalt. In the box? Okay. It would cut off right there, then, at that box. The
1856 asphalt where the cursor is right now would be removed and all of this gravel.
1857
1858 Mr. Webb - I believe on the other side of that box is the 20 feet of
1859 easement.
1860
1861 Mr. Blankinship - Go back to the other entrance.
1862
1863 Mr. Webb - Okay. That's a better picture.
1864

1865 Mr. Blankinship - That portion belongs to Mr. Walden, not to the County
1866 and not to Tuckahoe.
1867
1868 Mr. Webb - Correct. That goes back 80 feet roughly.
1869
1870 Ms. Harris - What are Mr. Walden's plans?
1871
1872 Mr. Blankinship - He didn't even know he owned it, apparently.
1873
1874 Ms. Harris - Okay.
1875
1876 Mr. Webb - That's a million-dollar question. I wish he would
1877 return our phone calls. Thank you for having me and I appreciate the opportunity
1878 to speak in front of you.
1879
1880 Ms. Connolly - Good morning. I'm Patty Connolly. I'm on this side of
1881 the driveway. First of all, none of the neighbors have anything against this
1882 facility. It's a wonderful thing. The problem is, think if you lived in this house or
1883 this house, and if you flip to that second picture that you were just showing, the
1884 backside of this driveway. The facility is going to be right where that little hand
1885 was. That's where they're planning on putting that facility, a 30,000-square-foot,
1886 45 feet, which if my math is correct is four stories, right there in those bushes. I
1887 asked at the last meeting—Mr. Theobald just slipped a little while ago and made
1888 the comment about the access road being emergency. That's been cleared up.
1889
1890 The other problem, I asked him—and he was very honest with me. I said, “Why
1891 are you using this 2-1/2 acres?” His answer to me was, “Because it's already
1892 cleared.” There's no reason why they couldn't go a little further in. If you look at
1893 the property, there's a huge amount. How long does it take to clear trees? That's
1894 not a good answer, “because it's already cleared.” That's my thing. If you look at
1895 what you're saying about Mr. Walden, he hasn't returned phone calls. The
1896 County doesn't own it, he owns it; we don't own it. If you'll flip back one more
1897 time to the front of the driveway. That's the house that's there now. Realistically,
1898 if you look at this, would you not, if you have little children, walk down that
1899 driveway to go to that facility that's only a hundred feet back versus drive all the
1900 way around to either Tuckahoe Drive or the new facility that they're planning on
1901 building to get to the facility? The foot traffic, we have some now to the ball field.
1902 Personally, I'd rather put a ball field back there. I love hearing the kids play ball
1903 at night or during the day. It's not as intrusive as a 30,000-square-foot building.
1904 My main thing is blocking it off. There's got to be a way. We keep hearing, “We
1905 may do a fence, we may do this, we may do that.” How long does it take a tree
1906 to grow? Are the landscapers going to be able to put trees and bushes in large
1907 enough to discourage the foot traffic? Is the back of that building completely
1908 blank? Are there no windows? How is the back of that facility going to be built so
1909 that four-stories high people are not hanging in your windows, basically. It is
1910 completely blank on that back? That's the front, isn't it.

1911
1912 Mr. Blankinship - So, there are some windows.
1913
1914 Ms. Connolly - Yeah. And if it's over two stories—I have a single-
1915 story rancher. The Webb's have a two-story building. If nothing else, if they're
1916 determined to put it there, can they make sure it's not more than two stories?
1917 How large of a tree is going to be able to keep people from looking in your
1918 windows? Like I said, the facility is an excellent idea. I just don't see why they
1919 can't go further back into the woods close to the driveway, the way that rolls.
1920 They could go back a little bit further. The fact that it's cleared is not a good
1921 reason to put a facility right behind the houses. You're talking about a nature trail
1922 in a park? You could run that nature trail in the park all the way back and then
1923 put the facility in. That's my only complaint. I would like to know as far as the
1924 building, what they're going to do to keep our privacy and, as far as the
1925 driveway's concerned, if they're going to do a fence. They keep flip-flopping a
1926 little bit on that. If you come out to the subdivision and think of yourselves in
1927 those houses—We were told it was wetlands behind my house and it wasn't
1928 going to be developed. But behind the Webb's house, there was a private
1929 residence and we never thought that we were going to have a four-story building
1930 behind it. That's my thoughts, why could they just not move it in a little bit versus
1931 using the convenience of, "it's already cleared."
1932
1933 Mr. Nunnally - Thank you, Ms. Connolly.
1934
1935 Ms. Harris - Do you have a lot of foot traffic now?
1936
1937 Ms. Connolly - Parents and children, well they try—Tuckahoe tried to
1938 discourage it by putting a mound of dirt back in the woods, and that just brought
1939 skateboarders in. Because it's a driveway, they go back. They've made a little
1940 footpath back to the ball field. During the summer, 10, 15 people a day maybe.
1941 And that's to get back to the ball field, which is further back than this is. I can't
1942 imagine. Like I said, they skateboard back there now. The "No Trespassing"
1943 signs haven't done anything. They still walk back and walk over the mound of
1944 dirt and go on to the ball fields. With this facility being right in the back yard—
1945 Like I said, how long does it take to plant a tree? How large of a tree can you
1946 plant? I suggested holly bushes, but they just kind laughed at me. That's our
1947 main issue, this being right behind our houses. Any other questions?
1948
1949 Mr. Nunnally - Thank you ma'am.
1950
1951 Ms. Connolly - Thank you.
1952
1953 Mr. Nunnally - Next.
1954
1955 Ms. Estep - My name Paulette Estep. I'm a resident of Retriever's
1956 Ridge. I live at 2526 Retriever's Ridge Road, about a half a block away from the

1957 area that is in question. I'm not opposed to an indoor training facility. Again, I'm
1958 with the other neighbors; I think it's a wonderful idea. I object to the location and
1959 the invasiveness of this facility, its impact on the community, especially the three
1960 houses directly behind it. I think it's unfair to those residents to erect a four-story
1961 building right behind their homes. It will take, basically, decades for the plantings
1962 to fill in to cover probably only a portion of the building; 45 feet is very tall. I have
1963 three different measurements for the size of this building. I've heard 30,000
1964 square feet, I've heard 25, and I've heard 50. There seems to some variables.
1965 There's also a variable on security lighting and lighting at the back of the building.
1966 We're told it may not be necessary; we have no guarantees. Lighting is very
1967 invasive.

1968
1969 Also, [unintelligible], this building or a baseball field. Whose decisions are those?
1970 Is this a threat, if we don't accept this, we're going to be punished by someone
1971 erecting a baseball field that will be supposedly more invasive? I disagree with
1972 those. We would have the same privileges to object or approve a baseball field
1973 as well as this humungous building. Again, great idea, not a good location. Also,
1974 it's a strange thing to me that this is a privately-owned building. Is that correct?
1975 Will this be a privately-owned business?

1976
1977 Mr. Blankinship - It's a not-for-profit corporation.

1978
1979 Ms. Connolly - But it is privately owned in a public park. I don't think
1980 that's a very good idea as well. This is also opened up to the entirety of Henrico
1981 County, is that correct?

1982
1983 Mr. Blankinship - Yes ma'am.

1984
1985 Ms. Connolly - That's a tremendous amount of traffic on residential
1986 roads. This will not have an impact just on the neighbors of Retriever Ridge,
1987 Kings Crest, and Retriever Ridge East; this will also impact Copperas Creek as
1988 well, residents along Ridgefield Parkway. We really have no time guarantees on
1989 an access to the John Rolfe Parkway adjacent to the triangular piece of property
1990 adjacent to the Ukrop's Shopping Center. There are too many variables. This is
1991 not a large parcel of land and I really don't think it's designed to accommodate
1992 this facility.

1993
1994 I don't have any other points to say other than I would like to very quickly read a
1995 short response I received from Tuckahoe Little League to some of the concerns I
1996 voiced, to the community in an effort to make people aware of what it going on in
1997 their backyard.

1998
1999 "Finally, the real disappointment stems from the lack of support you, Paulette,
2000 provide this project, realizing your children appear to have enjoyed several years
2001 of playing baseball, softball at this park and probably will enjoy a few more since
2002 Christopher is only 12." Christopher is my youngest. "I believe his registration

2003 fee of \$145 for 2007 was paid by the Best Buy Scholarship,” which I appreciate.
2004 “I nominated him for this opportunity since I was aware of concerns you have had
2005 in the past with registration fees,” which means I’m a single parent and have in
2006 the past been financially challenged and requested assistance. “It’s
2007 disappointing to know this does not appear to be appreciated since you choose
2008 not to support this unique opportunity planned for the park.”

2009
2010 This isn’t true. Yes, my family has benefited from the Tuckahoe Little League.
2011 Yes, I am a single parent; I have been financially challenged. We have accepted
2012 scholarship funds in the past. We’ve also given of our time. I have volunteered. I
2013 have purchased Braves tickets. I have also paid registration fees. I’ve also put
2014 money in for other parents and other issues, being a team parent for many years.
2015 I think this is a very unfair use of leverage. Because I’ve accepted scholarship
2016 fees, I feel that I still retain my rights to freedom of speech. I do object to this
2017 building in our community. It is invasive. It is much too large for the area and it
2018 needs to be relocated. I’m wondering if Tuckahoe Sports, Incorporated has even
2019 examined the possibilities of relocating this facility to the former Winn Dixie
2020 grocery store shopping center, if it has not already been purchased or renovated.

2021
2022 I thank you for your time.

2023
2024 Mr. Nunnally - Thank you, ma’am.

2025
2026 Mr. Blankinship - Thank you, ma’am.

2027
2028 Ms. Paige - Good morning. I’m Mary Paige. I also live in
2029 Retriever’s Ridge. We already have a lovely view of the cell phone tower that’s
2030 in the middle of the facility that none of us knew about until it went up, and now
2031 we’re going to have a lovely view of a 45-foot-tall structure when everything
2032 around it is one and two-story. I’m concerned that its height is completely out of
2033 balance with what’s already in the surrounding area.

2034
2035 One of my questions is what would prevent Mr. Walden from selling the driveway
2036 that’s between the two homes to Tuckahoe Little League because they own the
2037 Wright property. They retained ownership of the Wright property, correct?

2038
2039 Mr. Blankinship - That’s what [unintelligible].

2040
2041 Ms. Paige - Who owns the land that was the Wright property?

2042
2043 Mr. Blankinship - Tuckahoe Sports, Inc.

2044
2045 Ms. Paige - Okay. So, Tuckahoe Sports, Inc. owns it. The house
2046 and the land that it sits on.

2047
2048 Mr. Nunnally - [Unintelligible.]

2049
2050 Ms. Paige - What if Mr. Walden decided to sell it to them? Now
2051 everyone's in a position of realizing they can't do anything about the driveway.
2052 So, we have an issue that they can plant everything they want and say there will
2053 be no access, but if Mr. Walden decides to get rid of that land and refuses to sell
2054 it to the two landowners on either side or one of the two landowners, he could
2055 turn around and donate it—and he's been known to do this—to donate the land
2056 to Tuckahoe Sports, Incorporated, who could then allow that to be an access.
2057 So, part of our thinking is correct, that there is a danger in that becoming an
2058 access.

2059
2060 Mr. Kirkland - Ma'am, if you'll look at the conditions, #7 prevents
2061 that. He could give the land, if he'd like, but they still cannot use it for access.
2062 Condition #7 locks it off.

2063
2064 Ms. Paige - Okay. I didn't have that information, but thank you.

2065
2066 Mr. Kirkland - Sure.

2067
2068 Ms. Paige - Assuming that John Rolfe ever gets built, we've been
2069 told in the past that there would be an access to the Little League field from that
2070 area, which I think would be fantastic. So, one of my questions is, if that's done, if
2071 another access is put into this complex, the fields that are in that corner would
2072 have to be moved anyway, so why not put the new complex over where there's
2073 real easy, convenient access, and allow the ball fields to be shifted over towards
2074 where the houses are, rather than this facility? I don't know if anyone's
2075 considered doing that either. The ball fields would have to be shifted if an access
2076 road is put in from the other direction.

2077
2078 I wasn't in favor of the County purchasing this land to begin with. I have a real
2079 concern with some of the expenses of the County. We can't seem to get our kids
2080 in our neighborhood to school on time, but we can buy the baseball field. This
2081 has been an ongoing problem that's getting worse and worse. My daughter has
2082 had eight different bus drivers this year. They couldn't guarantee that she'd ever
2083 get to school on time. We have parents in our neighborhood who are taking their
2084 kids to school in the morning to get them there on time. So, I'm concerned about
2085 our County having their priorities just a little skewed here.

2086
2087 I would really, really ask that if you're going to approve this, reduce it to a two-
2088 story building. At the very least, drop the height. If they can't deal with it at a two-
2089 story building, then perhaps moving it would be the best alternative.

2090
2091 Thank you.

2092
2093 Ms. Harris - You would prefer having the noise of a ball field rather
2094 than a training center?

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2140

Ms. Paige - You know, they said the heating and air conditioning systems are going to be on the side, so it's going to influence some house on one side or the other. It's not going to be in the front of the building; that doesn't look too terrific. That's part of it. Are we talking about majorly open space on the inside? That can be very noisy. We all know that the Little League plays games late, past the County park time. They always have and we've learned to live with it. Sometimes there's noise and lights on until 11:30 at night. Sometimes the noise is gone by 11:30, but the lights are still on at midnight. So, making this a County park, are you going to assure us that at 10:30 the activities are over, because they've never been able to do that before. Take your pick of noise of air conditioning in a building, baseball field. I think if the County owns it, it would be a different situation. If Tuckahoe Sports owns that parcel of land where they want to put the building, what can the County say to them? It's a private enterprise; it's a private business. Whether it's for profit or non-profit, it doesn't matter; it's still a private business. So no, I don't think it matters to me if they would put ball fields in there, especially if they put in the challenge field. I think that would be a great place for it. Thank you.

Mr. Nunnally - Thank you.

Mr. Kirkland - Thank you, ma'am.

Mr. Nunnally - All right, sir, you would like to have a small rebuttal, please, short rebuttal.

Mr. Theobald - Yes sir, just to address a few points. I think the statements that have been made about the drive are accurate. Can I get that photo of looking from Tuckahoe back out to the street? You're right, we don't control Mr. Walden. If we can obtain permission from Mr. Walden to rip up the rest of that drive, we would do it at our expense. But we would need Mr. Walden to allow us to do that. The landscaping that we put in here is not the 2- or 3-foot variety; this is 8 to 10 to 12 feet on planting. In terms of pedestrian access, putting a fence right across here isn't going to help unless you fenced the entire part. That will be up to the County of Henrico as part of their Master Plan, but I do know in all candor they have a philosophy of inviting people into their parks, not keeping people out of the parks. So, a little section of fence right there isn't going to help. I can assure you it will not be accessible to vehicles.

I just don't see the issue of traffic in this subdivision. The other entrances are where people will go. It's not going to provide additional traffic through these neighborhoods. As to the location, if it were to move, it's just going to move next to three other people's homes and more trees are going to have to get cut down. And more parking would have to be created. Again, this site was chosen so that you could use the existing parking, not take down additional trees to support this use. I really think it is clearly a better location.

2141
2142 With regard to the windows, those windows are opaque. There's no floor up
2143 there. This is designed so you can bat and hit and throw inside. It's not like
2144 anybody is standing and looking out, and you couldn't see out anyhow; those
2145 windows are totally opaque.
2146
2147 With regard to the access easement—if I can go to this aerial here. This is going
2148 down so you can't see it, but there is—
2149
2150 Mr. Blankinship - There is a slide, though.
2151
2152 Mr. Theobald - I can? Here we go. The idea is to come out down in
2153 the corner somewhere. Access to the shopping center, there have been
2154 discussions with the owners of the shopping center, the Wilton Companies. They
2155 are in support of an easement. Then the challenger field is designed to go in this
2156 area for the best access for the physically and mentally handicapped folks to
2157 access that challenger field.
2158
2159 I can't emphasize enough how this project is designed to be totally enclosed,
2160 totally indoors, no outdoor activity with all the parking, lighting, etcetera pulled as
2161 far away from that neighborhood as possible. It's screened with significant
2162 landscaping. You can see, the area we're talking about is already cleared, so
2163 this is the tree cover that's already there. You really can't see a lot of this house
2164 back here and we're adding to that. Okay? This facility is designed to be
2165 screened. This is a very important facility for the youth of all parts of the County.
2166 We're going to make sure kids from other parts of the County get there and
2167 access it and use it. I would also just keep in mind that we have been working
2168 with the County of Henrico for a year, year and a half in the planning of this. The
2169 County Parks and Rec, and others are in support of this request. Thank you so
2170 much.
2171
2172 Mr. Kirkland - Mr. Theobald, I have a question. Hours of operation.
2173 Is that seven days a week?
2174
2175 Mr. Theobald - There could be some programming along with the
2176 park seven days a week. It's likely not to be, but we're a long way from that. The
2177 County park will be operated, obviously, seven days a week.
2178
2179 Mr. Kirkland - Okay.
2180
2181 Mr. Theobald - They are limited to those hours and I do want to
2182 assure you that we religiously adhere to those hours. I've sat in those bleachers
2183 on number of nights and had the lights go out and games called.
2184
2185 Ms. Harris - We had said that the elevation was 45 feet, but it's an
2186 A-roof, so it's not completely 45 feet.

2187
2188 Mr. Theobald - It's measured to the mean. It's actually under 45 feet,
2189 but that's the County's limit.
2190
2191 Ms. Harris - So, it ranges from what? What footage, do you know?
2192
2193 Mr. Theobald - The building is designed to be 50, 30 to 50 at this
2194 point, is that right? Yeah. We haven't finished it, but we can't go over 50 in terms
2195 of the restrictions that we're negotiating with the County.
2196
2197 Mr. Blankinship - Do you know why the roof of the building is so tall?
2198 Why don't you build a two-story building?
2199
2200 Mr. Theobald - It's hard to hit a baseball in a two-story building. This
2201 is for pitching, batting practice, batting cages, etcetera, in addition to classrooms
2202 for the educational instruction.
2203
2204 Mr. Nunnally - Any other questions?
2205
2206 Mr. Theobald - Thank you so much.
2207
2208 Mr. Nunnally - Then that concludes the case. Thank you for coming,
2209 sir.
2210
2211 Mr. Blankinship - You want to vote on this one and then call them back
2212 in?
2213
2214 Mr. Nunnally - Yeah, I think so. Can I have a motion on UP-008-07,
2215 Tuckahoe Sports, Incorporated?
2216
2217 Mr. Kirkland - I move we approve it.
2218
2219 Ms. Harris - Second the motion.
2220
2221 Mr. Kirkland - The reason I move we approve it is that it will not
2222 affect the health, safety, or welfare. After all the work that the County and
2223 Tuckahoe Sports has put into this project, and by what I've seen in the
2224 landscaping plan, they've made good promises and more than promises.
2225 They've stated that they will try to screen this as much as possible for the
2226 adjoining neighborhood. I don't think it will impair the light or air or anything else.
2227 The only other thing is during the Plan of Development, I think the County will
2228 take particular look at this to make sure that the units and all the other stuff are
2229 planned properly. The public will have input at that time also, again, to make sure
2230 that their questions are answered. So, that's my reason.
2231

2232 Ms. Harris - Okay. My reason for seconding the motion is I think
2233 the concerns about noise were addressed when we talked about the buffer zone.
2234 As far as impacting the neighborhood, wherever we move to, we're going to
2235 affect somebody, but we can try to affect the least of the populace. I just think
2236 that the good far outweighs the negative impact. In fact, this is a state-of-the-art
2237 idea that is moving across the Country. I think opportunity does cost. That's my
2238 reason for seconding the motion.

2239
2240 Mr. Nunnally - Motion made by Mr. Kirkland, seconded by Mrs.
2241 Harris that it be approved. All in favor say aye. All opposed say no. The motion
2242 carried; it's been approved.

2243
2244 Affirmative: Harris, Kirkland, Nunnally 3
2245 Negative: 0
2246 Absent: 0
2247 Abstain: Dwyer, Wright 2

2248
2249 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by
2250 Ms. Harris, the Board **approved** application **UP-008-07**, Tuckahoe Sports, Inc.'s
2251 request for a conditional use permit pursuant to Section 24-52(a) to operate an
2252 indoor recreation facility at 2400 Little League Drive (Parcels 736-752-8691 and
2253 737-753-1142), zoned A-1, Agricultural District (Tuckahoe).

2254
2255 Mr. Nunnally - All right, the minutes.

2256
2257 Ms. Harris - I have two corrections. I know, I know. Line 911—Oh
2258 my goodness, I don't know what page.

2259
2260 Ms. Dwyer - Twenty-one.

2261
2262 Mr. Branin - Inflicted it spelled i-n-f-l-i-c-t-e-d, instead of e-c,
2263 instead of f-l-e-c.

2264
2265 Mr. Blankinship - The spell checker won't catch that because "inflected"
2266 is a word.

2267
2268 Mr. Kirkland - That's a new word.

2269
2270 Ms. Harris - I know. And then on line 1645. I do complement the
2271 people who do minutes, who take minutes, because they are quite extensive. We
2272 have "had" where it should be, "on the one hand," h-a-n-d. And "had" is a word.

2273
2274 Mr. Wright - What is this now on here?

2275
2276 Ms. Harris - On line 1645, "use of the property taken as a whole
2277 on the one hand."

2278
2279 Mr. Wright - Hand, yeah.
2280
2281 Ms. Dwyer - I have two also. Page 23, line 1021. It should read,
2282 "what if I ask," instead of "what is." So, just a typo there. Then on page 28, line
2283 1254, "well," w-e-l-l, instead of "will," w-l-l-l. Again, all words.
2284
2285 Mr. Blankinship - How do we know you didn't say "will"?
2286
2287 Mr. Nunnally - All right, any other corrections? Can I have a motion
2288 on the minutes?
2289
2290 Mr. Wright - I move we approve.
2291
2292 Ms. Harris - I second.
2293
2294 Mr. Wright - As amended.
2295
2296 Mr. Nunnally - Motion made by Mr. Wright, seconded by Ms. Harris
2297 that it be approved as amended. All in favor say aye. All opposed say no. The
2298 motion is approved.
2299
2300 On a motion by Mr. Wright and seconded by Ms. Harris, the Board **approved** the
2301 corrected minutes of the **April 26, 2007** Henrico County Board of Zoning Appeals
2302 meeting.
2303
2304 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2305 Negative: 0
2306 Absent: 0
2307
2308 Ms. Dwyer - I have an announcement. Ms. Harris is too reserved
2309 to mention this, but she has received an honorary doctorate degree. Would you
2310 tell us about it?
2311
2312 Ms. Harris - It was conferred on me on May 7th from Richmond
2313 Virginia Seminary, the seminary where I've been doing some work as the director
2314 of Self-Study for Accreditation. I knew I was going to get it in March. They
2315 announced to the Board I would get it in March. I am grateful for having received
2316 it, and humbled by it because there are people who have earned degrees who I
2317 respect highly. I am thankful. Now we move on.
2318
2319 Mr. Wright - Mr. Chairman, before we adjourn there are two things.
2320 I have deep concern about these zero road frontage cases. As I said, I've been
2321 on this Board since 1972. When I came on this board, they were granted just out
2322 of course. I had concern then that if you read the ordinance strictly that we could

2323 find no grounds for variances to grant those things. That's before Cochran or
2324 Cherrystone or any of that stuff.

2325

2326 Mr. Blankinship - You mentioned it when I first came on.

2327

2328 Mr. Wright - Yeah. I think during this period of 30 years, which I
2329 will attain on August the 1st, we did ask the Supervisors on occasion to consider
2330 this and nothing was done. I think to be fair to the public, we need to address
2331 this. It seems that at every Board meeting now we have two or three of these
2332 things. If we are forced to take the position that we will, based on this statute and
2333 the ordinance, approve no more zero front lot cases—I think that this is
2334 something that we ought to impress the Supervisors to do something with or go
2335 to the legislature or do something. In view of the acreage that's available in
2336 Varina and in some of Brookland—it's fast disappearing in Tuckahoe, although
2337 there are some areas out there now—we've got so much undeveloped land in
2338 the County. When a family can, under the law, divide the property off—Now, you
2339 can do one lot, I understand, period. Family subdivisions are the things that
2340 really are coming before us. They have a legal right to subdivide it to three lots
2341 without having to get it approved by the County going through the subdivision
2342 process. Like this case, this was on a good road today. I just wanted to bring
2343 this up to see if we could maybe get the staff to talk to the Board of Supervisors
2344 or do something to bring this to light because it's going to create a hardship on a
2345 lot of people.

2346

2347 Mr. Blankinship - I think the timing for this is excellent right now
2348 because we have heard some conversations from upper management on this
2349 subject. I know it is being talked about with Board members.

2350

2351 Mr. Wright - There's no reason why the Supervisors couldn't
2352 consider maybe if there were a good road in to have an exception to it. This is
2353 done by County ordinance. This isn't a state statute.

2354

2355 Mr. Blankinship - Right.

2356

2357 Mr. Wright - An ordinance requires 50 feet. I think there are other
2358 counties that don't require this. I think this should be addressed because we're
2359 being put into a very difficult position if we carry out the letter of the law.

2360

2361 Mr. Blankinship - How would you like us to take that? You want to
2362 discuss that some?

2363

2364 Mr. Wright - It's not my prerogative, but I just bring this up, Mr.
2365 Chairman. It concerns me a great deal that people are not able to use their land.

2366

2367 Mr. Nunnally - Somebody should sit down and write—Ms. Dwyer or
2368 somebody, there are lawyers on the Board—the Supervisors and explain to them

2369 that if they don't hurry up and do something, we're going to lose a job. We won't
2370 have anything to vote on.
2371
2372 Ms. Harris - I think it would be unfair, I think, to the homeowner.
2373
2374 Mr. Wright - I can understand Ms. Dwyer's concern that
2375 hodgepodge type stuff might prevent some development, but that should all be
2376 involved in this. There are lots out there that you could approve that are not
2377 involved in such things. How far down the road are we going to protect it, for
2378 100, 150 years? People will be gone. I just think we need to do something.
2379
2380 Mr. Nunnally - Ms. Dwyer told me yesterday that she would be out of
2381 town next month, right?
2382
2383 Ms. Dwyer - Right.
2384
2385 Mr. Nunnally - If everybody's in agreement, would you be willing to
2386 put something down for the Supervisors?
2387
2388 Mr. Wright - I will draft a letter, but it would have to be for your
2389 signature, Mr. Chairman. I think we could run it by the Board members to see if
2390 they were in accord with it.
2391
2392 Mr. Nunnally - Is that okay with you?
2393
2394 Ms. Harris - Yes. You have our e-mail addresses. We could
2395 correspond that way.
2396
2397 Mr. Wright - Is that in our materials?
2398
2399 Mr. Blankinship - I don't think I have your e-mail addresses and I'd like
2400 to.
2401
2402 Ms. Dwyer - We'll hand them over to Ben.
2403
2404 Mr. Blankinship - Scott, how do you pronounce your last name again?
2405
2406 [Off mike] - Russ.
2407
2408 Mr. Blankinship - Russ. Scott Russ is interning with our office over the
2409 summer. He's a student at Virginia Tech studying planning and some other
2410 disciplines, I think. That's why there's a face you don't recognize sitting in the
2411 audience this morning.
2412
2413 Ms. Dwyer - Having fun?
2414

2415 [Off mike] - [Unintelligible.]
2416
2417 Mr. Blankinship - It was the Planning Commission yesterday morning.
2418
2419 Ms. Dwyer - It sounds like a Planning Commission meeting today.
2420
2421 Mr. Wright - Do we want to do e-mails?
2422
2423 Ms. Harris - Just to approve the letter. Since [unintelligible] not
2424 available next month, we could approve the letter, couldn't we? She has access
2425 to her e-mail.
2426
2427 Mr. Wright - When are you leaving?
2428
2429 Ms. Dwyer - June 17th.
2430
2431 Mr. Wright - The 17th? Oh, I'll do it before then.
2432
2433 Ms. Dwyer - The 17th through the 29th.
2434
2435 Ms. Harris - Then we could approve it via e-mail.
2436
2437 Mr. Nunnally - Well, I was going to make the announcement that Ms.
2438 Dwyer said that she wouldn't be here next meeting. Also, I want to say that Mr.
2439 Kirkland and I went to see the County manager about a month ago to ask for a
2440 raise.
2441
2442 Mr. Kirkland - Two months ago.
2443
2444 Mr. Nunnally - Two months ago to ask for a raise for this Board. Of
2445 course, we got a little hemming and hawing around. We were telling them what
2446 the Planning Commission made and they said, "I don't think they're making that."
2447 He went and looked it up and he said, "Yeah, you're right, they make that." But
2448 then you look in the paper and you see where the School Board is going up to
2449 18,000, I believe it is. I just don't think it's fair the way they're doing things and
2450 you all can correct me if I'm wrong. I got a notice from my supervisor and I think
2451 Rick heard from somebody.
2452
2453 Mr. Kirkland - Got some globals from some of them.
2454
2455 Mr. Nunnally - We got a \$50-a-month raise. Now, \$50 a month won't
2456 even pay for my gas to get out here. It's \$3-and-something a gallon for gas now.
2457
2458 Ms. Harris - Over \$3.
2459

2460 Mr. Nunnally - I know we're supposed to be doing a lot of things for
2461 the County gratis, but that's just not fair. Mr. Wright said he'd be here 30 years
2462 the 27th. I think you're a little wrong there, Mr. Wright. You're 35 years because
2463 I've been here 30-some.

2464

2465 Mr. Wright - I started in '72.

2466

2467 Mr. Nunnally - Well, it'll be 35 years.

2468

2469 Mr. Wright - Well, it's 35 isn't it?

2470

2471 Mr. Kirkland - It's that new math.

2472

2473 Mr. Nunnally - And I was a few years behind you, I think.

2474

2475 Mr. Wright - Thirty-five years. I lost five years somewhere.

2476

2477 Mr. Nunnally - I don't know why they just don't make it fair. They can
2478 throw money away and buy the Tuckahoe Little League park and they can—

2479

2480 Ms. Dwyer - That was a good thing.

2481

2482 Mr. Blankinship - And more landscaping—

2483

2484 Mr. Wright - That was a lot better thing than the other monies
2485 they've spent on some other projects.

2486

2487 Mr. Nunnally - They've given them telephones, right? Isn't that what
2488 they're giving the School Board, telephones and all that stuff? Well, I know a lot
2489 of you people on this Board don't need the money. That's not my case.

2490

2491 Ms. Harris - So, what do you propose we do?

2492

2493 Mr. Nunnally - Well, I propose you talk to your Supervisor just as I
2494 talked to mine, but it didn't do a heck of a lot of good.

2495

2496 Mr. Kirkland - I can't talk to mine.

2497

2498 Mr. Blankinship - You can talk.

2499

2500 Mr. Nunnally - You can talk, but he's probably [unintelligible].

2501

2502 Mr. Wright - Can I ask one more question before we conclude?
2503 We've stretched this thing out a lot longer than I thought.

2504

2505 Mr. Nunnally - Well, I know that. I thought we'd be out of here by 10.

2506
2507 Mr. Wright - Did a person come to you and ask you about
2508 enclosing a porch that we had granted a variance on years ago?
2509
2510 Mr. Blankinship - Yes. It's still on my desk.
2511
2512 Mr. Wright - Dave Kaechele referred him to me and I wouldn't talk
2513 to him. I told him I would talk to you and see. I'm not going to discuss it with him.
2514 It's just curious to me. We granted the variance. We would not grant that
2515 variance now under Cochran.
2516
2517 Mr. Blankinship - Right.
2518
2519 Mr. Wright - But we granted it. He doesn't want to enlarge the
2520 building, he just wants to put some windows and walls in it, I guess. Enclose a
2521 porch. Is that something that will require a variance?
2522
2523 Mr. Blankinship - I think we're going to find a way to resolve that. My
2524 initial reading of it is that, yes, the condition says this only applies to the plans
2525 that you submitted with the case. We do take a pretty hard line on that. When
2526 somebody shows you something in one of these meetings, if they want to change
2527 that—
2528
2529 Mr. Wright - I understand that.
2530
2531 Mr. Blankinship - —we have a big problem with that. Again, as you
2532 said, in this case, coming back to you is really not an option because today,
2533 you'd probably end up not granting the variance. I talked that over with Mr.
2534 O'Kelly and I think we're going to be able to resolve that in the property owner's
2535 favor. We don't want to go backward for sure.
2536
2537 Ms. Dwyer - Well, that wouldn't happen.
2538
2539 Mr. Wright - I'll just tell him to call you.
2540
2541 Mr. Blankinship - Is he still contacting you?
2542
2543 Mr. Wright - He called me once and I told him I couldn't talk to him
2544 about it. I won't discuss cases with people. I told him I would check to find out if
2545 anything had been done.
2546
2547 Mr. Nunnally - Can I have a motion that we adjourn?
2548
2549 Ms. Dwyer - So moved.
2550
2551 Mr. Kirkland - Second.

2552
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Mr. Nunnally - Motion by Ms. Dwyer, seconded by Mr. Kirkland we adjourn. All in favor say aye. All opposed say no. We're adjourned.

There being no further business, the Board adjourned until the **June 28, 2007** meeting at 9:00 a.m.

James W. Nunnally
Chairman

Benjamin Blankinship, AICP
Secretary