

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION
3 BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY
4 SPRING ROADS, ON THURSDAY, MAY 26, 2011 AT 9:00 A.M., NOTICE
5 HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH MAY 2,
6 2011 AND MAY 9, 2011.

7
Members Present: Robert Witte, Acting Chairman
Lindsay U. Bruce
James W. Nunnally
R. A. Wright

Member(s) Absent: Helen E. Harris, Chairman

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner

8
9 Mr. Witte - Good morning. Welcome to the May 26, 2011
10 meeting of the Board of Zoning Appeals for Henrico County. Would you please
11 stand and recite the **Pledge of Allegiance**.

12
13 Good morning, Mr. Blankinship, would you tell us the rules for this meeting
14 please?

15
16 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
17 ladies and gentlemen, the rules for this meeting are as follows. Acting as
18 secretary, I will announce each case. And as I'm speaking, the applicant should
19 come down to the podium. We'll then ask everyone who intends to speak on that
20 case to stand and be sworn in. Then the applicant will speak. And then anyone
21 else who wishes to speak will be given the opportunity. After everyone has had
22 an opportunity to speak, the applicant and only the applicant will have an
23 opportunity for rebuttal. After the Board has heard all the evidence and asked
24 any questions they have, they will take the matter under advisement and go on
25 to the next case. They will render all of their decisions at the end of the meeting.
26 If you wish to hear their decision on a specific case, you can either stay to the
27 end of the meeting, or you can check the Planning Department website this
28 afternoon—we usually get it updated within about half an hour of the end of the
29 meeting—or you can call the Planning Department this afternoon.

30
31 This meeting is being recorded, so we'll ask everyone who speaks to speak
32 directly into the microphone on the podium, state your name, and please spell
33 your last name so we get it correctly in the record.
34

35 And finally, out in the foyer there is a binder containing the staff report for each
36 case, including the conditions that have been recommended by the staff. It's very
37 important that the applicants be familiar with those conditions.

38

39 There are only four members of the Board present this morning; Mrs. Harris is
40 not able to be with us. There is a provision in State law that in order to approve
41 either a variance or a use permit there have to be three affirmative votes. So if
42 you would like to defer your case to be heard by a full five-member Board, you
43 have that privilege; just let us know.

44

45 We do not have any requests for deferrals or withdrawals that I'm aware of so
46 the first case is CUP20011-00007. Mr. Chairman, let me call your attention to the
47 handout that I just passed out today. It has some red printing on it.

48

49 **CUP2011-00007 COUNTY OF HENRICO** requests a conditional use
50 permit pursuant to Section 24-116(c)(3) of the County Code to operate a solid
51 waste transfer station at 10620 Fords Country Lane (Parcel 753-772-2123),
52 zoned A-1, Agricultural District (Three Chopt). (UP-007-11).

53

54 Mr. Witte - Anyone who would like to speak to this case please
55 stand and be sworn in.

56

57 Mr. Blankinship - Please raise your right hand. Do you swear the
58 testimony you're about to give is the truth and nothing but the truth so help you
59 God?

60

61 Mr. Yob - I do. Members of the Board, Mr. Blankinship, Mr.
62 O'Kelly, my name is Steve Yob—that's spelled Y-o-b. I'm the division director of
63 solid waste and recycling for the County of Henrico.

64

65 What we're asking for today is essentially a solid waste transfer station to allow
66 us to continue our operations as we have conducted at this location since 1960.
67 That would be a three-sided building with a roof that is approximately 18,000
68 square feet. All of that is discussed in great detail in the staff report so I won't
69 repeat all of that.

70

71 We do have one suggested change to the conditions and that would be under
72 the hours of operation. Presently the commercial landfill is operated from 7:30 to
73 3 p.m. Monday through Saturday. We do, however, operate the public use area.
74 We have special cleanups throughout the County that we do on Saturday and
75 Sunday and other services to our residents of the County of Henrico that are not
76 associated with commercial landfill traffic. The landfill has historically
77 accommodated those uses on Saturday and Sunday, and I'm requesting that the
78 hours of operation be modified—as I've handed out to you all—to accommodate
79 those uses on Saturday and Sunday. While we don't intend to operate on the
80 four holidays mentioned, it does occur to me that we have had in the County

81 several FEMA disasters—hurricanes and tropical storms—which required that
82 we operate to take care of citizens who had damage. So if approved by the
83 Director of Public Utilities, I would like the privilege of operating on those specific
84 holidays should a disaster or some other unusual occurrence arise.

85

86 Beyond that, gentlemen, I would be available for any questions.

87

88 Mr. Wright - Tell us a little bit about what this operation is. I'm
89 thoroughly familiar with that landfill; I've been there many, many times. This will
90 be located as you enter the landfill?

91

92 Mr. Yob - Yes sir.

93

94 Mr. Wright - It's where the public comes in now, in that area, I take
95 it.

96

97 Mr. Yob - Right. You're familiar, Mr. Wright, with the area where
98 we collect and grind our brush.

99

100 Mr. Wright - Yes.

101

102 Mr. Yob - That is the area we're looking at.

103

104 Mr. Wright - It will be there where you collect all the brush.

105

106 Mr. Yob - Yes sir. That operation will have to be relocated to
107 part of the closed landfill. We will continue to offer that service of free yard waste
108 grinding mulch to our customers, but it would be in that area. This would be a
109 three-sided steel building with concrete walls on the lower part. There is a tunnel
110 that goes underneath and the larger trucks that we consolidate the waste into
111 would come through that tunnel. We would load them and they would be able to
112 carry a full 20-ton load to a landfill. The County will have no landfill when
113 Springfield Landfill closes, so we will be relying on commercial landfills that will
114 be some distance from where we're collecting our trash.

115

116 Mr. Wright - Would that operation continue after the landfill is
117 closed?

118

119 Mr. Yob - Yes sir.

120

121 Mr. Wright - It would.

122

123 Mr. Yob - Yes, because we'll have the need to go to a distant
124 landfill really forever. We don't envision another landfill in the County of Henrico,
125 so we'll be relying on commercial facilities. Presently we have one operating in
126 Eastern Henrico that's operated by Republic Waste Industries, the Old Dominion

127 Sanitary landfill that we have a contract with. When that contract is up, we may
128 be going to the other large commercial mega landfills, if you will, in Charles City
129 County or King and Queen County or Brunswick or one of those.

130
131 Mr. Wright - Is there any noise that would emanate from this
132 operation?

133
134 Mr. Yob - No more than what we currently have coming from
135 the landfill. We'll have a loader. We currently operate such a loader to take care
136 of the brush and the yard waste at the landfill, so we would have a similar
137 machine running at this site. If anything the noise should be less because we
138 won't have the bulldozers and heavy equipment operating in the back of the
139 landfill.

140
141 Mr. Wright - What type of material will be handled in this facility?

142
143 Mr. Yob - The same things we handle presently, primarily
144 residential and small contractor-type debris from home renovations and
145 remodeling. So we will have drywall, wood, trash, and yard waste. And then we,
146 of course, do all the—

147
148 Mr. Wright - Garbage?

149
150 Mr. Yob - Garbage, yes sir.

151
152 Mr. Wright - So all this would go in and be compacted. Therefore it
153 would reduce the effect on disposing of it.

154
155 Mr. Yob - It would limit the amount of truck traffic that we would
156 have driving around because we will be consolidating the smaller vehicles into
157 much larger vehicles. So we would have less trips using the roads of the County
158 and State.

159
160 Mr. Wright - It wouldn't have any more effect than what you're
161 doing now, basically.

162
163 Mr. Yob - No more and it should really be less.

164
165 Mr. Nunnally - Do you have any idea how many trucks will be going
166 out of there each day?

167
168 Mr. Yob - We're presently doing between 300 and 500 tons of
169 trash in the landfill a day. When we consolidate that into larger trucks it would be
170 approximately twenty tons. So that would be about fifteen to twenty-five tractor-
171 trailers per day leaving the facility.

172

173 Mr. Nunnally - And you said you all have been operating this for how
174 long?
175
176 Mr. Yob - Nineteen sixty, sir.
177
178 Mr. Nunnally - I don't believe we've ever had any complaints have
179 we, Mr. Blankinship.
180
181 Mr. Blankinship - Nothing that would come before the Board. I'm sure
182 Steve's heard one or two complaints.
183
184 Mr. Yob - I've had a couple. Periodically we have to do
185 something to the landfill that might disrupt the trash, like when we put in our
186 methane gas wells. You can image digging through old garbage to put those
187 collection wells in. It's not pleasant, but those are brief and I've had very few
188 complaints. I had a couple complaints about birds over in Innsbrook. We got
189 some permits to take care of the birds if we need to and the birds seemed to
190 settle down after that.
191
192 Mr. Nunnally - Thank you.
193
194 Mr. Witte - I have a couple of questions. Amended condition
195 number eight calls for those four holidays. Is there a need in the event of a
196 disaster to extend the hours?
197
198 Mr. Yob - That's a good point, Mr. Chairman. There could be.
199 We would hope not to do that. Under Hurricane Isabel when we had a pretty
200 large debris event, we were operating basically during daylight hours. If we had a
201 bad one like that it's possible we could have extended hours.
202
203 Mr. Witte - The brush recycling area where you're going to locate
204 this building, do you have another area available for the recycling?
205
206 Mr. Yob - Yes. We would use some of the closed landfill cap.
207
208 Mr. Witte - So that still will be available.
209
210 Mr. Yob - Oh yes. We divert about 20,000 tons of brush per
211 year from going to the landfill, so that's a very good recycling operation. We give
212 away everything that we produce.
213
214 Mr. Witte - That was my concern, that we'd lose that.
215
216 Mr. Yob - No, we're going to keep that. There really is no
217 incentive for us to haul that stuff to a distant landfill and pay a lot of money to get
218 rid of it when we can grind it on site and our residents can use it.

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Mr. Witte - Any other questions?

Mr. Blankinship - Steve, if you could talk about the traffic circulation a little. And Paul, if you could put up the plan. That was the one thing that I think staff was interested to make sure that there wouldn't be any conflicts between these large trucks and the residential customers bringing in their waste.

Mr. Yob - Yes sir. As you can see on the green line, we have a new truck entrance we're showing there to keep the trucks from coming in the same entrance as the public would. So they can come in that entrance. It would be solely for trucks that were carrying trash away from this facility. They would go around the back side, the north end of the closed landfill. There is trailer storage on top of one of the closed landfill areas. In the event the commercial landfill we contract with is closed on Saturday afternoon or Sunday, we still want to accommodate our public residents and we may have to store full trailers of waste—that would be covered—on that lot until Monday morning when the commercial landfill would open. That's a contingency. We'd rather not do that obviously. In any case, continuing past the trailer storage area you see a loop around the building so that those trucks can go right into the bottom of the building, be loaded and come back out. Right there where the cursor is showing they can come back out. They can then head back to the trailer storage area and be stored. Or they can leave the site if the commercial landfill is open.

You can see the blue lines for trucks going across the scale and then the red line is for the residential customers. That blue line, these are the residential garbage trucks and the small haulers that might be using this facility. Basically the same traffic we currently have today. And the red line is residential traffic again as it exists today. So those are not being changed.

Mr. Witte - Anyone else have any questions? Thank you.

Mr. Yob - Thank you, gentlemen.

Mr. Witte - Anybody wish to speak in opposition? Okay, call the next case, please.

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

Mr. Wright - I move that we approve this application on the grounds that it will not adversely affect the health, safety, and welfare of persons in the neighborhood. It won't unreasonably impair adequate light or air nor increase congestion in the street. It won't impair the character of the district and I think it's in accordance with the general purpose and objectives of the Code.

265

266 Mr. Nunnally - Second.

267

268 Mr. Witte - Motion by Mr. Wright, seconded by Mr. Nunnally to
269 approve this. That's right we do have an amendment here.

270

271 Mr. Blankinship - Number eight that was passed out.

272

273 Mr. Witte - Okay. It needs to be amended with number eight that
274 allows for open hours on the four holidays—January 1st, July 1st, Thanksgiving
275 Day, and December 25th in the event of a disaster. All in favor say aye. All
276 opposed say no. The ayes have it; the motion passes.

277

278 After an advertised public hearing and on a motion by Mr. Wright, seconded by
279 Mr. Nunnally, the Board **approved** application **CUP2011-00007, COUNTY OF**
280 **HENRICO's** request for a conditional use permit pursuant to Section 24-
281 116(c)(3) of the County Code to operate a solid waste transfer station at 10620
282 Fords Country Lane (Parcel 753-772-2123), zoned A-1, Agricultural District
283 (Three Chopt). (UP-007-11) The Board approved the use permit subject to the
284 following conditions:

285

286 1. This use permit applies only to the construction of a solid waste transfer
287 station with appurtenant truck entrance and internal trailer parking lot. All other
288 applicable regulations of the County Code shall remain in force.

289

290 2. Only the improvements shown on the site plan and building design filed with
291 the application or as modified by the conditions of approval, may be constructed
292 pursuant to this approval. Any additional improvements shall comply with the
293 applicable regulations of the County Code. Any substantial changes or additions
294 to the design or location of the improvements will require a new use permit.

295

296 3. The applicant shall submit detailed site construction plans for administrative
297 review and approval by all applicable County agencies.

298

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

303

304 5. The applicant shall present a complete grading, drainage, and erosion control
305 plan prepared by a Professional Engineer certified in the state of Virginia to the
306 Department of Public Works for approval. This plan must include the necessary
307 floodplain information if applicable.

308

309 6. Due to the on-site presence of wetlands, the applicant shall obtain all
310 necessary permits, approvals and clearances from the United States Army Corps

311 of Engineers and the Virginia Department of Environmental Quality prior to the
312 commencement of any land disturbing activities.

313

314 7. Prior to the operation of the transfer station, the applicant shall secure all
315 necessary permits from the US Environmental Protection Agency and the
316 Virginia Department of Environmental Quality.

317

318 8. [AMENDED] Hours of operation for the transfer station shall be limited to the
319 same hours of operation as the County Landfill. Commercial operations may
320 take place from 7:30 am until 3:00 pm. Sunday operations shall be limited to
321 noncommercial activity at the public use area, residential refuse collection,
322 County operated recycling activities, and special cleanup events No operations
323 of any kind are to be conducted at the site on January 1, July 4, Thanksgiving
324 Day, or December 25, except in case of emergency.

325

326 9. The applicant shall maintain the property so that noise, odors and debris are
327 controlled.

328

329 10. Noise from the transfer station shall not exceed 65 decibels at the corners of
330 the landfill property near Opaca Lane to the north or near the Summerberry and
331 Winterberry subdivisions to the south.

332

333 11. The new truck access driveway on Fords Country Lane shall be constructed
334 as per County standards and shall be landscaped on either side with low
335 maintenance shrubs and plant material.

336

337 12. A maximum 20 square foot sign indicating tractor-trailer entrance only shall
338 be installed at the new access driveway on Fords Country Lane.

339

340 13. All on-site landscaping shall be maintained in a healthy condition at all times.
341 Dead plant materials shall be removed within a reasonable time and replaced
342 during the normal planting season.

343

344 14. Fire lanes shall be marked and maintained in accordance with the Fire
345 Prevention Code in effect.

346

347 15. Prior to the issuance of a building permit, the applicant shall provide
348 information to the Department of Public Works that the Virginia Department of
349 Transportation has reviewed the current scope of work shown on the plans and
350 has obtained the necessary clearances and permits regarding the proposed
351 project.

352

353

354 Affirmative: Bruce, Nunnally, Witte, Wright 4

355 Negative: 0

356 Absent: Harris 1

357

358 [At this point, the transcript continues with the public hearing on the next
359 case.]

360

361 **VAR2011-00002 DEON AND JESSICA LOGAN** request a variance
362 from Section 24-9 of the County Code to build a one-family dwelling at 6988
363 Messer Road (Parcel 807-698-9733 (part)), zoned R-2A, One-family Residence
364 District (Varina). The public street frontage requirement is not met. The
365 applicants have 0 feet public street frontage where the Code requires 50 feet
366 public street frontage. The applicants request a variance of 50 feet public street
367 frontage. (A-002-11)

368

369 Mr. Witte - Would you state your names?

370

371 Ms. Logan - Jessica.

372

373 Mr. Witte - Spell your last name please.

374

375 Mr. Logan - L-o-g-a-n.

376

377 Mr. Blankinship - Does anyone else intend to speak to this case?
378 Would you raise your right hands please? Do you swear the testimony you're
379 about to give is the truth and nothing but the truth so help you God?

380

381 Ms. Logan - We're coming to request a variance because we don't
382 have road frontage for the property at 6988 Messer.

383

384 Mr. Wright - Would you identify yourself for the record. I didn't
385 catch your names.

386

387 Ms. Logan - Jessica.

388

389 Mr. Wright - Jessica. Okay. Logan?

390

391 Ms. Logan - Yes.

392

393 Mr. Wright - What is the size of the lot?

394

395 Ms. Logan - One and a half acres.

396

397 Mr. Wright - How would you access the lot?

398

399 Mr. Logan - You turn off of—

400

401 Mr. Wright - Would you identify yourself please?

402

403 Mr. Logan - Deon Logan. You'll turn right here off of Messer Road
404 and cross the paved lot right here. The house is going to be on the opposite
405 side; it's right here where the cursor is located.

406
407 Mr. Wright - That is a private drive? What legal right will you have
408 to use that driveway? Yes sir. Would you get over to the microphone so we can
409 hear you please, sir? This is being recorded.

410
411 Mr. Fields - Okay. My name is Clarence Fields—F-i-e-l-d-s. I own
412 this property and I'm giving it to them to build a house. Actually half of this private
413 drive is the driveway to the property. Half of it is Varina High School's driving
414 range (driver education). The other side is not paved; it's sixteen feet I think. So
415 the eight feet is part of the school. They shouldn't have paved it. This is where I
416 built on a piece of it back—right here is where I live.

417
418 Mr. Wright - You access that house by this private driveway?

419
420 Mr. Fields - Yes. There is another house right here. No one lives
421 in it; it belongs to my sister. I own this property and this, which is three acres, but
422 I don't own this little piece right in here. We had a problem with the County
423 saying that we're using their driveway. But this is where I was born at. Before
424 this was paved it was a dirt road. That's what we've been using.

425
426 Mr. Wright - Was the County school in there at that time?

427
428 Mr. Fields - No.

429
430 Mr. Wright - So you were there before the school.

431
432 Mr. Fields - Right.

433
434 Mr. Wright - And you've been using this driveway since.

435
436 Mr. Fields - No. The driveway actually went around. But after they
437 surveyed it they said this was the driveway to the property. The only difference in
438 the property now is most of the old folks have moved out. In this area there used
439 to be houses. There used to be a house here and a house back in here. Most
440 used a driveway that comes down this way. But they said this is the right-of-way
441 to the property. The eight feet I was telling you about, this hasn't been paved.
442 I've asked the County why they don't paint some diagonal lines so it will be a
443 driveway. I've been having problems with them blocking the driveway. They
444 think it is County property. Actually, it should be the right-of-way to this property.

445
446 The old house was right here where I live. I tore that down about twenty-five
447 years ago and I built a new house. I had to come before this Board—just like
448 they're coming now—to get a variance. So it's nothing new. And Varina is full of

449 these places where I guess the old folks just sold their land—the frontage and
450 they're not worried about the back; they use that for farming. Most of it doesn't
451 have a right-of-way to it.

452
453 Mr. Wright - For this permit, if we approve this application, one of
454 the conditions is that you have to prove to the Planning Office you have legal
455 access to the property. That's why I was talking about this.

456
457 Mr. Fields - Okay. When you say legal access, what do I have to
458 show? I've been using the driveway for twenty-four years and I haven't had any
459 problem.

460
461 Mr. Wright - Do you own the land on which this driveway is—

462
463 Mr. Fields - No. When the County surveyed, half of it is on my
464 property and half of it is off. That's where you get the right-of-way.

465
466 Mr. Wright - Is that eight feet?

467
468 Mr. Fields - Right. Part of the eight feet is from the County and
469 part is from the man on the front, which is Mr. Haggin's land. The eight feet is
470 part of mine and part of somebody else's. That's how you get the private
471 driveway. That's the access to the property.

472
473 Mr. Wright - How long has that road been there? You say you
474 used another road.

475
476 Mr. Fields - Right. That road has been there ever since I
477 remember and that was where I was born. And I'm sixty-five, so.

478
479 Mr. Wright - I mean the road you're using now, that's been there.

480
481 Mr. Fields - Right.

482
483 Mr. Wright - What is the situation with the County. Mr.
484 Blankinship?

485
486 Mr. Blankinship - Well I know there have been some meetings and
487 some discussions between the School Board, the County Attorney's Office, and
488 the Real Property Division. Those three have not yet come to a complete
489 understanding of the situation. They've done some of the deed research. They
490 have seen that there is some old easement language in some old deeds. It's
491 already been deferred once and I just didn't feel comfortable telling the
492 applicants that we were going to keep deferring it because we hadn't completed
493 our homework. We have put in the standard conditions, as you mentioned, that if

494 this is approved they still would have to show that they have a deeded easement
495 or some legal access to the property.
496
497 Mr. Wright - But we could approve it and you could work that out.
498
499 Mr. Blankinship - Conditional, yes sir.
500
501 Mr. Fields - When you say a deed or easement.
502
503 Mr. Blankinship - Normally what you would have is a deed from the
504 County to you giving you the County's permission to cross that property to reach
505 your home.
506
507 Mr. Fields - Right.
508
509 Mr. Blankinship - You don't have that here because, as you said, you
510 were there before the County was.
511
512 Mr. Fields - Right. The lawyer we have, James Chisholm, was
513 supposed to fax all that to the Planning Department.
514
515 Mr. Blankinship - And he has done that. Mr. Chisholm has sent his
516 information over.
517
518 Mr. Fields - Right. Well he said that's all we can do.
519
520 Mr. Blankinship - Yes, exactly. That's why I didn't feel comfortable
521 deferring you again because you've done what we asked of you. On the
522 County's side we just haven't had an opportunity to complete our review of it.
523
524 Mr. Fields - I don't see why the County can't grant us, as we were
525 living back there before the school and the road was even paved.
526
527 Mr. Blankinship - That may very well be the way this ends up.
528
529 Mr. Fields - Okay.
530
531 Mr. Blankinship - It takes time for government to do anything.
532
533 Mr. Wright - Where is the school?
534
535 Mr. Fields - Do you see those little buildings to your right?
536
537 Mr. Blankinship - Excuse me, sir. Would you go to the aerial
538 photograph, Paul?
539

540 Mr. Fields - Okay, right there. That's right.
541
542 Mr. Wright - That's the school across the road?
543
544 Mr. Blankinship - Yes. The school is across the road. The parking lot
545 that they cross is where they do driver training.
546
547 Mr. Wright - Oh, that's it right there. Okay. That's what I was
548 confused about. I didn't see any school. I didn't see how the school could have
549 anything to do with this.
550
551 Mr. Fields - As you look at this map, you see from here, come
552 down here.
553
554 Mr. Wright - Right.
555
556 Mr. Fields - Okay. You see a little opening in here? That's the
557 eight feet that hasn't been paved. The other eight feet is what the County paved,
558 which they shouldn't have done years ago—from my point of view; I might be
559 wrong. This is where the house in question is going to be built.
560
561 Mr. Wright - We can go ahead and consider the case. If it's
562 approved, it's a matter of you all just working it out with the County. You've done
563 all you can do, so it's up to them to work with you to get it done.
564
565 Mr. Fields - Okay.
566
567 Mr. Witte - Anyone else like to speak to the case?
568
569 Mr. Blankinship - I'd just like to have clarified that you own about a six-
570 acre tract here?
571
572 Mr. Fields - Yes.
573
574 Mr. Blankinship - Out of which you're giving them an acre and a half.
575
576 Mr. Fields - Right.
577
578 Mr. Blankinship - Do you have any plans for the other four and a half
579 acres at this time?
580
581 Mr. Fields - Well, you know I hate to just let it sit there and pay
582 taxes on it. That's why I gave part of that to them because every year I have to
583 keep paying taxes on it and I have to do something with it. When I first
584 purchased this land, I thought I was going to pay it off and use it as garden
585 space, but that's a little too much for me. I only have two children. And my

586 daughter, she's going to get this land. I guess it will just lie open until I can find
587 something to do with it or what they find to do with it. But I don't have any plans
588 to do anything with it other than let them build a house.

589
590 Mr. Blankinship - Our concern, Mr. Chairman, is with the language in
591 the Cochran opinion about the property taken as a whole, if we look at the six
592 acres as the property taken as a whole, then this house would give them
593 reasonable use of that six acres. But that would mean the other four and a half
594 acres is going to have a much more difficult case if they come in to get a
595 variance for another dwelling.

596
597 Mr. Wright - That's another case. We'll deal with that at the time.

598
599 Mr. Blankinship - Right, right. I just want it to be on the record that we
600 have had that conversation.

601
602 Mr. Blankinship - It looks to me like the school bought this property in
603 1976.

604
605 Mr. Fields - Bought the driving range property?

606
607 Mr. Blankinship - Yes sir.

608
609 Mr. Fields - Okay. Well I don't know when the school bought it.
610 That school across the street was built in about 1962, right?

611
612 Mr. Blankinship - I don't know when the school was built.

613
614 Mr. Fields - They must have purchased the driving range after
615 that.

616
617 Mr. Blankinship - Yes sir.

618
619 Mr. Fields - Then they should have known that right-of-way was
620 there in 1976. That right-of-way might have been there in 1976.

621
622 Mr. Blankinship - It must have been if your house was already there.

623
624 Mr. Fields - Right.

625
626 Mr. Wright - It had to get there somehow or another.

627
628 Mr. Fields - Right. I don't want to be fenced in.

629
630 Mr. Witte - Any other questions? Anybody else to speak on this
631 case? Okay, thank you.

632

633 **[After the conclusion of the public hearings, the Board discussed the case**
634 **and made its decision. This portion of the transcript is included here for**
635 **convenience of reference.]**

636

637 Mr. Wright - I move we approve this application for a variance on
638 the grounds that a granting of this variance will alleviate a clear and
639 demonstrable hardship as distinguished from a special privilege and that if we do
640 not grant this variance the property cannot be used. Insofar as this case is
641 concerned, it complies with the Cochran Decision.

642

643 Mr. Nunnally - Second.

644

645 Mr. Witte - We have a motion by Mr. Wright, seconded by Mr.
646 Nunnally to approve this. All in favor say aye. All opposed say no. The ayes
647 have it; the motion passes.

648

649 After an advertised public hearing and on a motion by Mr. Wright, seconded by
650 Mr. Nunnally, the Board **approved** application VAR2011-**00002, DEON AND**
651 **JESSICA LOGAN's** request for a variance from Section 24-9 of the County
652 Code to build a one-family dwelling at 6988 Messer Road (Parcel 807-698-9733
653 (part)), zoned R-2A, One-family Residence District (Varina). The public street
654 frontage requirement is not met. The Board approved the variance subject to the
655 following conditions:

656

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

660

661 2. Only the improvements shown on the plot plan filed with the application may
662 be constructed pursuant to this approval. Any additional improvements shall
663 comply with the applicable regulations of the County Code. Any substantial
664 changes or additions to the design or location of the improvements will require a
665 new variance.

666

667 3. Approval of this request does not imply that a building permit will be issued.
668 Building permit approval is contingent on Health Department requirements,
669 including, but not limited to, soil evaluation for a septic drainfield and reserve
670 area, and approval of a well location.

671

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

676

677 5. At the time of building permit application the owner shall demonstrate that the
678 parcel created by this division has been conveyed to members of the immediate
679 family, and the subdivision ordinance has not been circumvented. Ownership of
680 the parcel shall remain in the immediate family for a minimum of five years.

681
682 6. The applicant shall present proof with the building permit application that a
683 legal access to the property has been obtained.

684
685 7. The owners of the property, and their heirs or assigns, shall accept
686 responsibility for maintaining access to the property until such a time as the
687 access is improved to County standards and accepted into the County road
688 system for maintenance.

689
690 8. The applicant shall obtain any required permits from the Corps of Engineers
691 and the Virginia Department of Environmental Quality in the event wetlands are
692 present on the property.

693
694
695 Affirmative: Bruce, Nunnally, Witte, Wright 4
696 Negative: 0
697 Absent: Harris 1
698

699
700 **[At this point, the transcript continues with the public hearing on the next**
701 **case.]**

702
703 **CUP2011-00011 DRIVE TIME CAR SALES COMPANY** requests a
704 temporary conditional use permit pursuant to Section 24-116(c)(1) of the County
705 Code to allow a temporary sales trailer at 3300 Mechanicsville Turnpike
706 (Brentwood) (Parcel 801-733-5333), zoned B-3, Business District and R-4, One-
707 family Residence District (Fairfield). (UP-011-11)

708
709 Mr. Witte - State you name please.

710
711 Mr. Leipertz - Barrett Leipertz. L-e-i-p-e-r-t-z.

712
713 Mr. Blankinship - Anyone else intend to speak to this application?
714 Would your raise your right hand please, sir. Do you swear the testimony you're
715 about to give is the truth and nothing but the truth so help you God?
716

717 Mr. Leipertz - I do. Good morning members of the Board. I'm here
718 today to present a conditional use permit request for a temporary sales trailer at
719 3300 Mechanicsville Turnpike. The purpose of the trailer is so we can continue
720 sales at the location while we renovate the existing building. We envision the
721 temporary sales trailer being there no longer than approximately three months.
722 Then it will be removed.

723

724 Mr. Witte - Mr. Leipertz, have you read the conditions?

725

726 Mr. Leipertz - Yes sir.

727

728 Mr. Witte - You're in agreement with them?

729

730 Mr. Leipertz - The only one we were hoping to get adjusted was
731 number eight, the timing. If we could get that adjusted to November 30th. Due to
732 some of the delays in getting approvals the owners have had to slide back the
733 timeline.

734

735 Mr. Blankinship - So you're still within three months of when you start
736 construction but the start of construction—

737

738 Mr. Leipertz - Yes. I just don't know when we're going to start. We
739 filed the building permit but that's on hold pending—

740

741 Mr. Wright - So you want to change September 30th to November
742 30th?

743

744 Mr. Leipertz - Yes sir.

745

746 Mr. Nunnally - How long have they been in this location?

747

748 Mr. Leipertz - I believe five years. Drive Time has, yes sir.

749

750 Mr. Blankinship - So you're not with Drive Time.

751

752 Mr. Leipertz - No, I'm representing them. We actually renovated the
753 location. I believe it's been about four or five years that they've been there. And
754 the renovation that's taking place is interior only.

755

756 Mr. Blankinship - Do you know anything about the sign permits for the
757 billboards?

758

759 Mr. Leipertz - I do not. I need to do some research on it.

760

761 Mr. Blankinship - We had a couple questions about them, but if you're
762 not familiar with that.

763

764 Mr. Leipertz - Do you know exactly what those entail? Those are
765 new to me; I didn't file those.

766

767 Mr. Blankinship - They were permits to remove the billboards and
768 they've been removed. But the final inspections were never performed so the
769 permits are still open in our system.

770

771 Mr. Leipertz - Okay.

772

773 Mr. Blankinship - I think it's just a matter of having an inspector come
774 out to make sure everything was done safely, you know, the electrical
775 connections were capped off correctly and that sort of thing.

776

777 Mr. Leipertz - Okay. Well I will check with the owner on that and
778 make sure they're addressed.

779

780 Mr. Witte - Are you going to have to remark any of the fire lanes?

781

782 Mr. Leipertz - I believe so, yes sir. Once we set the trailer, we'll
783 probably have to paint some lines. I think you guys have requested handicapped
784 parking, so we will have to do some striping, yes sir.

785

786 Mr. Witte - Is the trailer going to be handicap accessible?

787

788 Mr. Leipertz - Yes sir. It comes with a prefabricated metal ramp and
789 skirt system, which we will install, both of those.

790

791 Mr. Blankinship - What kind of skirt system is it?

792

793 Mr. Leipertz - I believe it's just a metal lattice type skirt system.

794

795 Mr. Witte - Any other questions from the Board? Is there anyone
796 to speak in opposition?

797

798 Mr. Leipertz - Thank you.

799

800 **[After the conclusion of the public hearings, the Board discussed the case**
801 **and made its decision. This portion of the transcript is included here for**
802 **convenience of reference.]**

803

804 Mr. Witte - Do we have a motion?

805

806 Mr. Bruce - I move we approve the application.

807

808 Mr. Wright - Second. Is that the one they're going to change the
809 date?

810

811 Mr. Witte - Yes. They're going to change condition number eight.

812

813 Mr. Wright - To November 30th.
814
815 Mr. Witte - Any discussion?
816
817 Mr. Blankinship - Would someone care to state the reason for the
818 motion?
819
820 Mr. Bruce - It is a temporary structure to continue using this
821 operation. It does not affect the neighborhood in any significant way.
822
823 Mr. Witte - And is there a second?
824
825 Mr. Wright - I seconded it.
826
827 Mr. Witte - Motion by Mr. Bruce, seconded by Mr. Wright to
828 approve. All in favor say aye. All opposed say no. The ayes have it; the motion
829 passes.
830
831 After an advertised public hearing and on a motion by Mr. Bruce, seconded by
832 Mr. Wright, the Board **approved** application **CUP2011-00011, DRIVE TIME CAR**
833 **SALES COMPANY's** request for a temporary conditional use permit pursuant to
834 Section 24-116(c)(1) of the County Code to allow a temporary sales trailer at
835 3300 Mechanicsville Turnpike (Brentwood) (Parcel 801-733-5333), zoned B-3,
836 Business District and R-4, One-family Residence District (Fairfield). The Board
837 approved the temporary conditional use permit subject to the following
838 conditions:
839
840 1. This use permit applies only to the placement and use of a temporary 12' X
841 60' sales trailer. All other applicable regulations of the County Code shall remain
842 in force.
843
844 2. Only the improvements shown on the plot plan and building design filed with
845 the application or as modified by the conditions of approval may be constructed
846 pursuant to this approval. Any additional improvements shall comply with the
847 applicable regulations of the County Code. Any substantial changes or additions
848 to the design or location of the improvements will require a new use permit.
849
850 3. The applicant shall install a lattice foundation skirt around the trailer and
851 pedestrian access ramp/staircase in order to obscure the foundation/framing
852 system from sight.
853
854 4. Parking of customer or display vehicles shall only occur on designated parking
855 spaces. Parking of display vehicles in the landscaped public right-of-way shall be
856 prohibited.
857

858 5. Customer parking spaces shall be marked on the pavement surface with four-
859 inch wide painted lines. All on-site traffic lane lines shall be white in color with the
860 exception that those dividing traffic shall be yellow.

861
862 6. Fire lanes shall be marked and maintained in accordance with the Fire
863 Prevention Code in effect.

864
865 7. The applicant shall finalize and close the two outstanding sign (billboard)
866 demolition permits (SIG2010-00099 and SIG2011-00106) prior to calling for a
867 final building inspection on the interior office remodel permit (BLD2011-00670).

868
869 8. [AMENDED] The trailer shall be removed from the property within 30 days of
870 obtaining approval of a final building inspection for the interior office remodel
871 (BLD2011-00670) or by November 30, 2011, whichever comes first.

872
873
874 Affirmative: Bruce, Nunnally, Witte, Wright 4
875 Negative: 0
876 Absent: Harris 1

877
878
879 **[At this point, the transcript continues with the public hearing on the next**
880 **case.]**

881
882 **CUP2011-00012 SUSAN W. MILLS** requests a conditional use permit
883 pursuant to Section 24-12(e) of the County Code to allow a noncommercial
884 kennel at 9738 Laurel Pine Drive (Laurel Pines) (Parcel 771-760-0658), zoned
885 R-4, One-family Residence District (Brookland). (UP-012-11)

886
887 Mr. Blankinship - Everyone who intends to speak to this case stand and
888 be sworn in please. You don't all have to come down; just stand where you are.
889 And if you'd raise your right hand. Everyone who intends to speak please raise
890 your right hand. Do you swear the testimony you're about to give is the truth and
891 nothing but the truth so help you God?

892
893 Ms. Mills - I'm Susan Mills. M-i-l-l-s. Thank you for your
894 consideration of my application for a conditional use permit that will enable me to
895 provide care to more than three cats here in Henrico County. My name, as I said,
896 is Susan Mills. I've lived at my home in Laurel Pine for thirty-seven years. I've
897 been providing responsible care to the feral cats from my home for many years
898 without any complaints from other residents. I am providing care to seven
899 outdoor feral cats now. I also have three personal pet cats that live strictly
900 indoors and are not allowed outside at any time.

901
902 Through trap, neuter, and return, a program through which I humanly trap feral
903 cats and take them to the Richmond SPCA so they can be spayed or neutered,

904 vaccinated against rabies, and provided with routine veterinary care, I have
905 proactively limited the colony's growth and maintained the cats' health. I will
906 continue to do this in order to ensure the cats never present a health risk to my
907 neighbors or to other pets in the neighborhood. I keep veterinary records of all
908 feral cats to which I've provided care. Feral cats are fearful of humans and would
909 not approach or harm people. I maintain an attractive and tidy home and yard
910 area including the space in my fenced-in backyard where I feed the cats. I have
911 brought photos of my yard and house so that you can see the pride I take in
912 what I do

913
914 I know only of a single individual who is unfriendly towards the cats. Numerous
915 neighbors have told me that they like the cats and they do not want to see them
916 removed or harmed in any way. By providing care to these cats, I am able to
917 provide what they need to live on my property. It would break my heart to think
918 that these cats would be removed and killed. These cats are not socialized to
919 people since they have lived outdoors with no other owner their entire lives.
920 There have been two cats for which I have found homes because they were
921 actually quite social. One now lives inside with me and the other was adopted by
922 my daughter. The remaining cats are feral. I have invested a great deal of time
923 and effort to ensure that they are spayed or neutered and vaccinated against
924 rabies. I want desperately to protect them.

925
926 I know the overwhelming majority of my neighbors feel the same way and
927 support my efforts to secure this conditional use permit, as evidenced by the
928 signatures and the letters I've collected. I'm grateful for your consideration of my
929 application. Thank you for your time. I do have pictures of my yard if you want to
930 see them. And I do have papers that were signed by several of the neighbors
931 who had no objection to me caring for them.

932

933 Mr. Witte - Do we have any questions from the Board?

934

935 Mr. Bruce - It's my understanding, Secretary Blankinship, that if
936 you had more than three animals it would be considered a commercial
937 application instead of a non-commercial.

938

939 Mr. Blankinship - No sir. As long as it's not a business, as long as
940 you're not trying to turn a profit by either boarding or breeding animals it's a non-
941 commercial kennel. If you have three or fewer you don't need a use permit.
942 That's just accessory to the residence. But the Board of Supervisors has decided
943 that between three and four is where they draw the line, that if you have more
944 than three you have to have a conditional use permit.

945

946 Mr. Bruce - Thank you.

947

948 Mr. Witte - Is there anybody else to speak for this case?

949

950 Mr. Walker - Good morning. My name is Johnny Walker and I live
951 at 9736 Laurel Pine. I'm the neighbor of Ms. Mills. I have worked with her caring
952 for the cats. Approximately three years ago there was an incident in the
953 neighborhood where a young lady was attacked by a rabid cat. At that point she
954 and I got together and contacted the SPCA and that's where we came in contact
955 with the program about humanely catching the cats, taking them in to get fixed
956 and get their shots and all of that. The two of us agreed to do that to try to control
957 the population of the feral cats in the neighborhood.

958
959 I've been at 9736 for almost seventeen years. There have also been feral cats in
960 the neighborhood and there always will be. What we're trying to do is one, dispel
961 the myth that we're hoarding cats irresponsibly and just being irresponsible.
962 What we're doing is trying to assist the County in controlling the feral cat
963 population. Since we've started doing this—and this was all trumpeted by the
964 incident that happened with the rabid cat. At that point that's when we started
965 capturing the cats, taking them in to get shots and all the things that are required
966 to keep them safe. And it also protects the cats, the neighborhood, other pets
967 and everything else because once you get the cats neutered and spayed, they're
968 less likely to roam. They don't roam as much as they would. They're cats and
969 they're naturally in the wild so they're going to roam. This is a part of life, part of
970 nature just like birds are flying around. They're cats and they may do things that
971 may be annoying at times, but that's fine. I came out this morning and my car
972 was full of bird poop. You know, that's just how we live in harmony with nature.

973
974 The other thing that I'd like to mention is that the life of a feral cat is anything but
975 fun or happy or whatever. So all we're doing is trying to make whatever life they
976 have as happy and healthy as possible. If we're allowed to continue to do this, I
977 think it helps the County's efforts to control the population. And we've noticed
978 that the population is maintained. Between us doing what we're doing and nature
979 taking its natural course the population is maintained at what I consider a
980 reasonable level. We don't capture and hoard the cats in any way. We take them
981 in to get the necessary shots and such and return them back to what is for them
982 their natural habitat. It's the same as all the other animals that are there like
983 possums and raccoons, all the other animals that live in harmony with nature and
984 do their own thing. All we do is step in and give them some food if we can. If we
985 see one that's injured or hurt or whatever, we try to trap it and take it in to get it
986 fixed. If one is hurt beyond recovery, then we also act responsibly and take
987 them in to have them humanely dealt with.

988
989 We did go around as we wanted to see if everybody was aware of what we were
990 doing and what our intentions were. So we went around to all the neighbors and
991 overwhelming they supported and applauded what we were doing. They thanked
992 us for doing it. They all enjoyed seeing the cats around. And plus there are
993 several in the neighborhood who have their own personal cats and a lot of them
994 are indoor/outdoor cats. Hopefully this will help cut down the possibility of one of
995 those cats being mistakenly trapped and taken in and euthanized.

996

997 The question of why don't we take them and try to adopt them. Well, they're feral
998 cats. They're basically un-adoptable. I try to draw the parallel between human
999 beings and cats. We have a problem adopting homes and adoption agencies for
1000 people that need to be adopted that haven't been. So the likelihood of these cats
1001 being adopted is almost none. So all we're doing and all we're asking to be
1002 allowed to do is give whatever care we can to these cats so that they can live
1003 whatever lifespan they have as healthy and happy as possible.

1004

1005 Mr. Witte - Questions from the Board? Would anybody like to
1006 speak in favor of this? State you name please.

1007

1008 Ms. Kingry - Kamsen Kingry. That's K-a-m-s-e-n Kingry, K-i-n-g-r-
1009 y. Members of the Board, thank you for the opportunity to speak today on behalf
1010 of the application for a conditional use permit submitted by Susan Mills. I'm the
1011 chief operating officer of the Richmond SPCA and I speak to you today on behalf
1012 of my organization and our leadership, including our Board of Directors, lead by
1013 Chairman Allen King.

1014

1015 The Richmond SPCA supports trap, neuter, return efforts for the maintenance of
1016 feral cat colonies like the one responsibility being cared for by Ms. Mills. Through
1017 trap, neuter, return, Ms. Mills has seen to it that the feral cats have been spayed
1018 or neutered, vaccinated against rabies, and provided with routine veterinary care
1019 prior to her returning them to her yard—in our clinic. This process ensures that
1020 the cats are no longer able to reproduce, thereby preventing growth of the
1021 colony. It also ensures that the cats present no material health risks to the
1022 community because they are vaccinated against the rabies virus.

1023

1024 Just yesterday a front-page article in the *Washington Post* confirms that the
1025 District of Columbia has endorsed trap, neuter, return as the only acceptable way
1026 to manage feral cat colonies. This progressive view is shared by many other
1027 localities. I have with me today a copy of a recent article that appeared in the
1028 *Richmond Times-Dispatch* featuring successful efforts of trap, neuter, return, and
1029 I will leave that with you, along with some other general information about trap,
1030 neuter, return and feral cats.

1031

1032 The Greater Richmond community has demonstrated for years that it cares
1033 about feral cats and it does not want to see them removed or harmed in any way.
1034 I understand the overwhelming majority of Ms. Mills' neighbors are friendly
1035 toward the feral cats and have no interest in seeing them removed from the area.
1036 It is further my understanding that a majority of neighbors support Ms. Mills
1037 receiving the conditional use permit for which she's applied to you today. What is
1038 troubling to the Richmond SPCA is that if these cats were to be trapped and
1039 taken to Henrico Animal Control it is unlikely they would be able to be adopted,
1040 as Ms. Mills indicated. Therefore they would most likely lose their lives.

1041 Relocation of the cats to another property is not a viable option, particularly in
1042 this context.

1043

1044 As has been mentioned, Ms. Mills' provision of care to this feral cat colony does
1045 not adversely affect the health, safety, or welfare or her neighbors, not does it
1046 impair the character of the neighborhood, or reduce the value of houses or other
1047 property. She has provided exceptional care to this small colony and it would be
1048 our sincere hope that you permit that to continue. The Richmond SPCA supports
1049 fully her receipt of a conditional use permit and we hope very much that you will
1050 approve her application. Thank you so much for your consideration of her
1051 request.

1052

1053 Mr. Wright - Let me ask you a question. I've personally had
1054 experience with feral cats. You say in your presentation that there is nowhere
1055 else you can take these cats. I know I've read in the paper that we have other
1056 colonies around Henrico County. I take it a lot of those, however, are not being
1057 trapped or vaccinated or whatever and you have to do that to stop the production
1058 of cats.

1059

1060 Ms. Kingry - Feral cat colonies exist naturally in any environment.
1061 They're particularly noticeable in residential neighborhood areas, apartment
1062 communities, and businesses. That's why you oftentimes see colonies forming
1063 around restaurants, grocery stores, that kind of thing, because they have access
1064 to all that they need to survive—food, water, and shelter. So the suggestion that
1065 feral cat colonies would just simply disappear if you were to move the cats
1066 somewhere else is not accurate because unfortunately we all know there are a
1067 lot of people out there who aren't responsibly spaying and neutering their own
1068 animals or they might be abandoning them. That's where feral cat colonies start.

1069

1070 Now to your point, the Richmond SPCA actually performs roughly 2,000 free
1071 spay/neuter surgeries on feral cats every year. We also deliver vaccinations to
1072 those cats at no charge. And in addition to that we do provide boosters for the
1073 rabies vaccines so that the cats can be re-trapped and taken to our clinic for free
1074 rabies boosters when the time comes up. So we actually work with about 300
1075 feral cat caretakers throughout the community, many of which do live in Henrico
1076 County and do specifically provide care to feral cats in the County.

1077

1078 Mr. Wright - What happens if you stop feeding these cats? The
1079 way I understand this, she is not really keeping—she doesn't own these cats.

1080

1081 Ms. Kingry - She doesn't; they're feral cats. That's correct.

1082

1083 Mr. Wright - They're just running around. My wife is the same way.
1084 She was feeding the cats, too.

1085

1086 Ms. Kingry - And she's not alone; lots of people out there are
1087 feeding cats.

1088
1089 Mr. Wright - But they're wild. We had a few that came on our deck
1090 and every time you opened the door they were gone. I don't see how in the world
1091 you could ever have these cats adopted because they're wild. They have no
1092 sense of ownership or anything.

1093
1094 Ms. Kingry - To your point, exactly sir. That's why this is the best
1095 long-term solution, not just for the cats but also for the residents, for the County,
1096 for animal control because they can't be adopted. If they were to be trapped and
1097 taken to Henrico Animal Control they would likely lose their lives.

1098
1099 Mr. Wright - The second question I have is do you know what the
1100 County's policy is with respect to these cats?

1101
1102 Ms. Kingry - I guess you'd probably have to speak with Shawn
1103 Sears (Animal Control).

1104
1105 Mr. Wright - I know the County will come and trap the cats and
1106 take them away. If the County does it, I take it they'll be euthanized.

1107
1108 Ms. Kingry - Exactly. That's likely the outcome, sir.

1109
1110 Mr. Wright - That's the difference. Whether you want the County
1111 to come and take them and euthanize. They will do this.

1112
1113 Ms. Kingry - Well it would be our sincere hope that through the
1114 granting of a conditional use permit that would not be possible.

1115
1116 Mr. Wright - I've seen this actually done. If someone calls the
1117 County, they will come and trap the animal and take it away. I don't know what
1118 they do with it, but I assume they euthanize it. I don't think the County has any
1119 way to take care of feral cats. At least I don't know of any, do you?

1120
1121 Ms. Kingry - And then those cats end up in your County shelter
1122 and utilize your resources to go out for the purpose of trapping those cats to take
1123 them there. They do still have to hold them for a requisite stray period during
1124 which time you have to pay to feed those cats and clean those cats' cages and
1125 take care of them and then ultimately euthanize them. We endorse a human
1126 approach and a compassionate one that we believe the community also agrees
1127 with and cares deeply about, and that is trap, neuter, return. And as Ms. Mills
1128 and Johnny had stated, other than a single individual there have no complaints
1129 related to this colony.

1130

1131 Mr. Wright - Eventually if this program were enforced, they would
1132 disappear over a number of years.

1133

1134 Ms. Kingry - Naturally, yes. And again, if everybody spayed and
1135 neutered their own animals and didn't abandon them they also wouldn't exist.
1136 They're simply doing the responsible thing and taking care of cats that
1137 unfortunately have been put in this position.

1138

1139 Mr. Wright - Thank you.

1140

1141 Ms. Kingry - Thank you so much.

1142

1143 Mr. Witte - I have a question. You stated that relocation was not
1144 an option. Why is it not an option?

1145

1146 Ms. Kingry - One, it's incredibly expensive to do so. Two, it hardly
1147 ever works. If you take the cats out of their colony and you move them to another
1148 location, they're not simply going to stay at that location. There has to be a
1149 structure built that could house them, that could familiarize them with the area.
1150 They would have to be fed from that habitat on a regular basis. You also have to
1151 find the individual who has the property to assume care of that particular colony.
1152 And in addition to that there's something that is widely known in research as *the*
1153 *vacuum effect*. If you were to summarily take a colony of feral cats and remove it
1154 from the property, you're never guaranteed that other cats are not going to
1155 simply take their place. In fact, they are going to take their place. That's why feral
1156 cats have lived in this neighborhood as long as they have. Cats naturally exist.
1157 There's no leash law for cats in Henrico County. Owners may permit their cats
1158 indoor/outdoor access if they wish. Those outdoor cats, while they are supposed
1159 to be spayed and neutered may not necessarily be spayed or neutered. Folks
1160 might move out of an area and abandon their cat. So, naturally, feral cat colonies
1161 are always going to exist. And if the way we choose to manage that is to every
1162 time we see a feral cat, to trap it and take it to animal control, not only does it
1163 result in the cats losing their lives, it also doesn't solve the issue of the existence
1164 of feral cat colonies.

1165

1166 Mr. Bruce - But feral cats are actually natural hunters is my
1167 understanding. So if you relocate them, as long they had some degree of shelter,
1168 which they don't have in the wild anyway, and they have a water source, they
1169 would hunt to feed themselves.

1170

1171 Ms. Kingry - Residents aren't permitted to move wildlife. You can't
1172 trap a raccoon and drive it a few miles away from you house. You're not legally
1173 permitted to do that.

1174

1175 Mr. Bruce - Residents aren't, but the SPCA is.

1176

1177 Ms. Kingry - No, the Richmond SPCA actually doesn't do that. But
1178 no, residents may not do that. And part of the reason they cannot do that is if you
1179 take a raccoon out of its environment and move it somewhere else, even though,
1180 yes, it will naturally try to find food and things, you've removed it from the habitat
1181 that it's come to know. They know where to find food; they know how to take
1182 care of themselves. If you take them out of that environment and move them to a
1183 completely foreign land they have to learn it all over again. Oftentimes what
1184 happens when you do that—especially to feral cats—is they could potentially
1185 starve. It's not a good outcome. They're also not going to stay in that area;
1186 they're going to roam. And research has shown that cats relocated even several
1187 miles away do end up back where they started.

1188

1189 Mr. Wright - And you'd just be transferring them from one place to
1190 another place so somebody else would have that same problem.

1191

1192 Ms. Kingry - Exactly.

1193

1194 Mr. Wright - So that doesn't sound like a good idea.

1195

1196 Ms. Kingry - It's better just to maintain them compassionately
1197 where they are and naturally over time nature runs its course.

1198

1199 Mr. Witte - Any other questions?

1200

1201 Mr. Wright - Thank you very much for enlightening us.

1202

1203 Ms. Kingry - Thank you so much for the opportunity; I appreciate
1204 it. And I did bring this information if you have any interest in it.

1205

1206 Mr. Wright - Give Robin my regards.

1207

1208 Ms. Kingry - Thank you very much for the opportunity. She wishes
1209 she could have been here this morning.

1210

1211 Mr. Witte - Is there anybody else to speak in favor of this? Is
1212 there any opposition. Ms. Mills, you will be given an opportunity after the
1213 opposition speaks. Is there anybody who would like to speak in opposition?

1214

1215 Ms. Wingfield - Good morning. My name is Nadine (N-a-d-i-n-e)
1216 Wingfield (W-i-n-g-f-i-e-l-d). I reside at 9714 Laurel Pine Drive. Thank you very
1217 much for having me here today.

1218

1219 I sent a letter to Mr. Blankinship day before yesterday I believe. I didn't know if I
1220 would be able to be here. But since I am, if you will bear with me I would like to
1221 read what I sent him.

1222

1223 Mr. Blankinship, I was given your name by a neighbor of mine on
1224 Laurel Pine Drive in Henrico County. I, too, am strongly opposed to
1225 having a non-commercial kennel located in my neighborhood. We
1226 have had issues with roaming cats on Laurel Pine Drive for quite some
1227 time. Most recently, week before last, for two days I encountered a
1228 rather large feral cat in my backyard lying on one of the wooden
1229 walkway boards my husband had constructed. In addition to the cat
1230 being imposing in stature, I was concerned about its being able to
1231 roam into my property at will. Additionally, in 2009 a fellow neighbor
1232 was attacked by a cat. The cat was euthanized as it had rabies.

1233
1234 Allowing a non-commercial kennel in this neighborhood would show a
1235 disregard for the safety of the many young children who live or visit on
1236 the street. I fear that the owners will not contain and restrain the
1237 movement of these animals throughout the neighborhood, thus leading
1238 to a possible multiplying of the cat population. Even though I know that
1239 the applicant is going to neuter the cats of hers, there may be feral
1240 cats that come from other areas. I also feel that the requester should
1241 have exercised better communication within the neighborhood as to
1242 her intent. My inference in this case is that she did come to my home
1243 and talk to my husband and I was in the house. The way that she
1244 talked to him he was not under the impression that this was going to
1245 result in any kind of kennel being at her home. He signed the petition.
1246 It was only later when we got some more information and I asked him
1247 whether or not this young lady was the one that came by and he said
1248 that she was. But he did not understand the extent to which she was
1249 going when she asked for his signature on the petition.

1250
1251 Mr. Wright - Do you know what a kennel is?

1252
1253 Ms. Wingfield - Yes, I do.

1254
1255 Mr. Wright - You tell me what a kennel is.

1256
1257 Ms. Wingfield - My idea of a kennel is one where one takes their
1258 animals for shelter or housing while they're going away or something to that
1259 effect.

1260
1261 Mr. Wright - She's not going to do this. She doesn't own these
1262 cats any more than you own them.

1263
1264 Ms. Wingfield - Well when she says a non-commercial kennel—

1265
1266 Mr. Wright - The County had to put her in that position because
1267 they didn't think there was any other way. I'm going to bring out of this a legal
1268 point. She doesn't own these cats.

1269

1270 Ms. Wingfield - Well I understand that.

1271

1272 Mr. Wright - If she stops feeding these cats then they're going to
1273 come over to your house and look for food.

1274

1275 Ms. Wingfield - In that case I will call Henrico County and ask them to
1276 come and get them. Okay? I have that option as a citizen.

1277

1278 Mr. Wright - That's your prerogative.

1279

1280 Ms. Wingfield - That's right, that's true. And that's what I'll do.

1281

1282 Mr. Wright - She doesn't want them euthanized.

1283

1284 Ms. Wingfield - I can understand that. I also do not want the cats in
1285 my backyard. I don't want them to be there. Now if she can assure me that they
1286 are not going to be in my backyard, but she cannot.

1287

1288 Mr. Wright - She cannot do that.

1289

1290 Ms. Wingfield - I know; I understand.

1291

1292 Mr. Wright - She has no control over these animals.

1293

1294 Ms. Wingfield - I understand that. And so therefore I have a right to
1295 ask that I not have to encounter them.

1296

1297 Mr. Wright - Well I would suggest you call the County when you
1298 see one and ask them—

1299

1300 Ms. Wingfield - I will do that in the future.

1301

1302 Mr. Wright - They'll come over and put a trap in your yard. I know
1303 people who have done that.

1304

1305 Ms. Wingfield - I understand that, sir.

1306

1307 Mr. Wright - They'll take that cat away.

1308

1309 Ms. Wingfield - I understand that.

1310

1311 Mr. Wright - This is technically not a kennel. That's what I'm trying
1312 to say.

1313

1314 Ms. Wingfield - Well it may technically not be one; however, on this—

1315
1316 Mr. Blankinship - That's what the application is.
1317
1318 Ms. Wingfield - That's what the application says, sir. And that's what
1319 I'm going by. Okay?
1320
1321 Mr. Wright - It's misleading.
1322
1323 Mr. Blankinship - It's not at all your typical kennel situation. The Zoning
1324 Ordinance uses the term *kennel* for any place where four or more pets are kept.
1325
1326 Ms. Wingfield - Okay.
1327
1328 Mr. Blankinship - So it often gets—
1329
1330 Ms. Wingfield - Well she's keeping it in the sense that she will feed it,
1331 right? So she'll keep it to feed and then let it—let them back out. Right?
1332
1333 Mr. Wright - Feeds the birds, too.
1334
1335 Ms. Wingfield - I feed birds, too.
1336
1337 Mr. Wright - Are you a kennel?
1338
1339 Ms. Wingfield - I feed birds, too. I'm not considered a—I just put a
1340 birdfeeder out there. I am hoping—well, that's all I have to say.
1341
1342 Mr. Wright - I'm not trying to be—
1343
1344 Ms. Wingfield - No, but I think that you've already decided what your
1345 position is.
1346
1347 Mr. Wright - You have a right to call the County.
1348
1349 Ms. Wingfield - I do, but I don't think that you are letting me express
1350 my opinion without imposing your opinion. Thank you very much.
1351
1352 Mr. Witte - Excuse me. Ms. Wingfield?
1353
1354 Ms. Wingfield - Yes.
1355
1356 Mr. Witte - I have a question. In the event that Ms. Mill stops
1357 feeding these animals are you concerned that they will then migrate to your
1358 property and maybe your birdfeeder or your neighbor's property?
1359

1360 Ms. Wingfield - I'm concerned about them roaming anywhere. How
1361 long has she been feeding them? All thirty-seven years?

1362
1363 Voice - [Off microphone; inaudible.]
1364

1365 Ms. Wingfield - Yes, but we're still having the problem; with all of the
1366 cats that we're seeing in the neighborhood.

1367
1368 Mr. Witte - Excuse me.
1369

1370 Voice - [Off microphone; inaudible.]
1371

1372 Ms. Wingfield - Well, you know.
1373

1374 Mr. Witte - If you would direct your questions to us, please.
1375 Okay. So you are concerned that these cats if they're not being fed will come to
1376 your property to eat.
1377

1378 Ms. Wingfield - I'm concerned about the cats. Or I would even be
1379 concerned about dogs that roam the neighborhood. Now the fact that Henrico
1380 does not have a leash law for cats is maybe something that needs to be
1381 addressed. I do believe that perhaps they should have. It's not just a cat; it's a
1382 dog or any animal that someone has in their possession. They should provide for
1383 the—they should be able to keep hold of that animal and it should not be
1384 roaming all through the neighborhood and one not know whether or not the
1385 animal has gotten its rabies shots or anything else. We should not have to
1386 wonder about that whether it be a cat or a dog or whatever. So I would be
1387 concerned with any roaming animal in my neighborhood.
1388

1389 Mr. Witte - Thank you. Anybody else to speak in opposition?
1390 Please state your name and spell your last name.
1391

1392 Ms. Gilchrist - Good morning. My name is Jeanna Gilchrist—G-i-l-c-
1393 h-r-i-s-t. First let me say that I'm an animal lover. I've owned two cats in my
1394 lifetime and I now own a dog. I am the person who was attacked by the rabid cat.
1395 I'm an animal lover but I believe that there is a certain responsibility that comes
1396 with being the caretaker of animals, especially when living in close proximity to
1397 other individuals. One does not get the right to place their own selfish needs over
1398 the safety and wellbeing of the neighborhood as a whole.
1399

1400 I live at 9733, diagonally across—if you'll look at the aerial view—from 9738.
1401 Nothing was ever said to me personally. I'm a civil neighbor. I never had any
1402 animosity towards the feeding of the cats. But my problem and issue with feeding
1403 these cats, perhaps that helped to contribute to the fact—I hear a lot about
1404 animals. Again, I'm an animal lover. But until you get attacked by a rabid cat,
1405 which attacked onto my hip—I was going to work that day. When you feed these

1406 feral cats, which are outside, it will attract other animals. That's why the cat that
1407 attacked me was attacked by possibly a raccoon. Wild animals are not just going
1408 to go up to cat food and say, "Oh I'm sorry, this is a feral cat's food." I beg to
1409 differ. If that had happened perhaps then I wouldn't have had to have thousands
1410 of dollars of hospital bills and a series of rabies shots. I have nothing against love
1411 for an animal, nothing against that at all.

1412
1413 But there is a social hierarchy that exists; humans come first. Again, I live at
1414 9733 and since I've lived there, on and off since I was 15—I am now 36 years
1415 old. There's a little bit of something being misconstrued here. The level of feral
1416 cats was not always like this. Sure, people have had cats in our neighborhood,
1417 pets that they owned. But the level of feral cats? No. Since the incident of being
1418 attacked by the rabid cat, from that day on, Ms. Mills' cats have continued to
1419 urinate in my yard, fight under my window at night, sit on top of my car, and hide
1420 underneath my car. Now imagine getting attacked by a rabid cat and having to
1421 go out to your car and have a cat—her cats—jump from underneath your car.
1422 Now I understand that these are feral cats and yes they're going to roam the
1423 neighborhood. But when they do it's at other people's expense, particularly
1424 people who—I'm the person who was attacked.

1425
1426 I do have an issue with saying this all came about—I have said nothing to
1427 anyone in the neighborhood, so I don't see how my name could be—or I could
1428 be implied in anything. Nothing. I've never gotten in one argument. I've never
1429 said one word. This is my first time speaking today. But I cannot continue to let
1430 this go on to this extent. I did not think it would get to this extent.

1431
1432 My yard I feel is no longer my own. How do you think that makes me feel?
1433 Whether the cats are vaccinated or not is obsolete to me. Of course I think they
1434 should be vaccinated, but the greater fact is that these feral cats roam the
1435 neighborhood. When animals are fed outside it opens the door for other strays.
1436 And even if it's in a fenced area we all know that wild animals can get in fenced
1437 areas. And possibly rabid wild animals such as raccoons and possums could
1438 possibly spread that disease. And even if we're not talking about rabies, the fact
1439 that the cats are not contained, the fact that they're roaming, the fact that they're
1440 fighting. If she stops feeding the cats, yes, maybe they will go somewhere else.
1441 But guess what? They're already doing that. Being fed, they're already creating a
1442 nuisance.

1443
1444 The way that the petition was presented I would question that, what was said
1445 when the petition was presented. I really have a problem with that. I have no
1446 problem with the neighbor, the person in general, but having been attacked by a
1447 rabid animal, it is like nothing you would ever believe. Nothing. And I totally get
1448 the humane thing about saving an animal's live, but what about my life? When
1449 you don't receive shots for rabies, guess what? That can be lethal. And I think
1450 my life is more valuable and I have a dog and owned two cats. But I think my life
1451 is more valuable than any cat or dog. Thank you.

1452

1453 Mr. Witte - Ms. Gilchrest.

1454

1455 Ms. Gilchrist - Yes.

1456

1457 Mr. Witte - You are aware that any animal, whether it's tame,
1458 wild, roams free, or is owned by a neighbor or a friend, if it causes you concern,
1459 causes damage to your property, or even comes on your property you can call
1460 Animal Control?

1461

1462 Ms. Gilchrist - Yes sir; thank you for making that point. I have done
1463 that at one point. And that's a last resort. I didn't want to do that. And sometimes,
1464 amazingly enough, the animals escape out of the cage. I've tried. And I'm just
1465 going to put it out there. I'm a minister and I don't like saying that. I have tried to
1466 just not have to take it to this point. I don't get any enjoyment out of this. But if
1467 someone in fact is going to trap the cats you have to let the law take over at that
1468 point.

1469

1470 Mr. Blankinship - I think that's really why we're here because there
1471 have been so many calls to Animal Control that Ms. Mills has been asked to stop
1472 doing this unless she gets—

1473

1474 Mr. Witte - Thank you.

1475

1476 Ms. Gilchrist - Thank you.

1477

1478 Mr. Witte - Anybody else to speak?

1479

1480 Ms. Jenkins - Good morning. My name is Charmaine Jenkins—J-e-
1481 n-k-i-n-s. I live at 9737 Laurel Pine Drive, directly across the street from Susan. I
1482 first would like to say thank you for hearing this case. I do want to clarify some
1483 information that has been misrepresented.

1484

1485 Prior to this "catgate," I had a cordial relationship with Susan and Johnny. I am
1486 the block captain for neighborhood watch so I have a relationship with what I
1487 would say is seventy-five to eighty percent of our neighbors. Prior to the rabid cat
1488 being caught, like I said, I had a cordial relationship. Actually, Susan's foyer is
1489 lined with tile I gave her, so this is not a hostile relationship outside of cats being
1490 represented as humans, unfortunately.

1491

1492 I moved into the neighborhood in 2003. We have not had a feral cat population.
1493 There have been cats owned by 9739 and 9735 that lived outside. We have not
1494 had a feral cat population. That is incorrect. I have had conversations with both
1495 Susan and Johnny who acknowledge that they have indoor cats that prior to that
1496 were outdoor cats but somebody had harmed them. I think Johnny's cat got shot
1497 by a BB so he brought it in. And Susan felt like the neighbor at 3739 wasn't

1498 taking care of the cat so she brought it in. So the premise that we've always had
1499 feral cats is incorrect. I am one of the neighbors that Henrico County requested
1500 to place a trap on my property to catch the cats. We were successful in catching
1501 three, maybe four, until Susan and Johnny—who acknowledge this—came onto
1502 my property and released the cats. And unfortunately Henrico County could not
1503 press charges because I didn't have a "No Trespassing" sign.

1504
1505 So this not only has created physical harm and fear in neighbors, it's also
1506 created a disrespect for each others' property. I've never entered either one of
1507 their properties. And actually when I communicate with them I'm typically
1508 standing in the street because I don't want it to be construed that I've
1509 trespassed. Johnny acknowledged to me and to the police that they did enter my
1510 property to release the cats Henrico was trying to capture. So that needs to be
1511 clarified.

1512
1513 As far as how these cats came about, I've been one of the very vocal residents
1514 of this opposition primarily because of the injuries that it has caused. Myself, as
1515 well as my daughter, have severe cat allergies. My daughter gets an allergy
1516 injection every week. Over the last two or three years it had to increase to every
1517 week. Prior that it was every two weeks. Come to find out the cats sleep on my
1518 porch, they sleep in our car; their cat dander is everywhere, therefore causing
1519 sickness to my household. I can't keep them off my property. I've tried mothballs,
1520 I've tried coffee grinds, I've tried lemon peels, and I have a sprinkler system. I
1521 can't keep them off of my property. I do have photographs of them freely
1522 roaming the neighborhood. They're not just on her property; they're everywhere.

1523
1524 These pictures were taken in the course of one day, just daylight. And at the end
1525 of the property at 9801, you see that's a very rural area where possums,
1526 raccoons, and other animals live. The cats go out there. And I appreciate that
1527 you may have them vaccinated for rabies, but we know rabies is not indefinite. It
1528 is what, a two- or three-period that they have to be vaccinated again. And say for
1529 example you did a vaccination in June 2011. Are you going to remember exactly
1530 three years, June 2013 that it needs to go back? And what are the chances of it
1531 coming in direct contact with a rabid animal in that time period? I think the
1532 neighborhood has been perceived as anti-cat and that's not the case. Or anti-
1533 animal or we want to euthanize these animals. These animals were not here.
1534 They were not here prior to 2009.

1535
1536 Now in the course of these three years my conversations with Animal Control,
1537 the lieutenant with Animal Control, non-emergency dispatch—they all
1538 communicated—well the lieutenant with Animal Control specifically told me he
1539 had to contact SPCA and request that they stop releasing animals to her. So that
1540 left me with the impression that these animals were adopted and brought into the
1541 neighborhood and then defined as feral cats. Prior to 2009 we did not have nine
1542 cats and that's what I understand she currently has. We did not have nine cats.

1543

1544 Additionally I wanted to clarify that—like I say, I'm not for having these animals
1545 euthanized but they are in harms way. On May 18th one of the cats was—I don't
1546 know if it was struck by a car, but it ended up dead at the corner of the property
1547 of our block. I had to call Animal Control to come remove the dead animal on
1548 April 29th. Another cat was found dead on Staples Mill, which we're not far from.
1549 So in an effort to feed and treat and, you know, oh we're doing the humane
1550 thing—no, you're putting them in harms way. They can get struck by a vehicle,
1551 which two of them clearly did. And I personally called Animal Control and
1552 requested they remove the carcasses. They can be harmed by irresponsible
1553 youth, as Johnny acknowledged; the one that he has in his house was. They can
1554 mistreated by other individuals, as Susan has acknowledged; one of the cats that
1555 she has she brought into her home because she felt like they weren't being
1556 taken care of. This is not a neighborhood that is conducive to feral cats.

1557

1558 In my opinion, these cats are not feral. They're her pets and when they cause
1559 damage she escapes on, "Oh, they're feral. That wasn't *my* rabid cat." You know,
1560 "That wasn't my cat that did the damage to your property." But when you try to
1561 catch them, she's comfortable and Johnny's comfortable in breaking the law by
1562 entering my property to release the cats. But then somehow they're feral, you
1563 can't harm them. So that is a serious misrepresentation. And like I said, prior to
1564 this I had a very cordial relationship with both individuals and I am adamantly,
1565 adamantly opposed to continuing to keep these cats.

1566

1567 The question was raised well what if she stops feeding them. That's not my
1568 concern. They need to be captured and removed. This is not the place for them.
1569 I also walked the neighborhood and spoke with neighbors. And I was told that
1570 the presentation of the petition was misrepresented. They were not under the
1571 impression she was keeping these animals. It was presented that, "I'm catching
1572 them and getting them fixed." Never referenced that they're coming back. So I do
1573 want to express that no, she didn't knock on my door because she knows I would
1574 have told her to move. I would not have signed it. And I think she did not knock
1575 on the door of 3739, who is opposed; 3735 is now vacant as they just moved;
1576 3740 is also vacant. So those three properties, who were the ones that had to be
1577 notified, they're vacant—outside of 3739. So I am the only one that actually
1578 received notice of it who is here. The others that are in support are in reference
1579 to communications that I presented.

1580

1581 Mr. Witte - Thank you.

1582

1583 Ms. Jenkins - Are there any questions?

1584

1585 Mr. Witte - Is there anybody else who would like to speak this
1586 issue? Excuse me. We're going to ask that you only speak to issues that haven't
1587 already been brought up and we'll try to keep it under two minutes since there
1588 are so many.

1589

1590 Mr. Atkinson - Yes sir. I'm Inspector Jeff Atkinson. I am the inspector
1591 charged with zoning enforcement in this particular area and the author of this
1592 particular notice. It's A-t-k-i-n-s-o-n.

1593
1594 Sir, I only wanted to clarify a couple of issues. I have listened and believe me, I
1595 have sat at the table with these folks and I am well aware of their passion and
1596 their belief in what they do. I don't dispute that.

1597
1598 The only issue I would like to raise is that as a matter of being able to enforce
1599 this particular ordinance, should it be approved, as the inspector in that area that
1600 I would like to see added to these conditions. The only point—and I don't mean
1601 to be argumentative—is the idea that she was asked or charged or given a
1602 notice of violation for being the owner of too many pets; she is not disputing her
1603 ownership. So this is not an issue of whether or not she is the owner of the cats.
1604 It is the County's position—and I have copies of State code here—that she is the
1605 owner of these cats.

1606
1607 The only other issue I would like to raise is the fact that we are well aware that
1608 she is not asking for an enclosure for these animals. She's asking to be allowed
1609 to maintain a feral cat colony in a residential district. By her application, sir, I
1610 would simply suggest that if the Board decides that they would like to grant this
1611 conditional use permit, as an additional condition the County would need to know
1612 what cats we're dealing with. So we would like pictures on file of these cats,
1613 including hers, so that should Animal Protection need to enforce their codes or
1614 we need to enforce a violation of this conditional use permit we would know
1615 whether or not we're dealing with these cats or whether or not we're dealing with
1616 new cats who have come in because they're being fed or because she's simply
1617 replaced the existing cat colony. I would only add that I can't speak for Animal
1618 Protection, but as a twelve-year veteran of that particular group I will tell you that
1619 it is very difficult to trap a wild or tame animal who is well fed. Very difficult to do.
1620 Thank you.

1621
1622 Mr. Wright - Can I ask you a question?

1623
1624 Mr. Atkinson - Yes sir.

1625
1626 Mr. Wright - Are these feral cats that we're talking about?

1627
1628 Mr. Atkinson - That is their statement, sir, yes sir.

1629
1630 Mr. Wright - You say these are feral cats.

1631
1632 Mr. Atkinson - That is their statement, sir.

1633
1634 Mr. Wright - I'm asking your opinion. You've been out and
1635 checked them out. Are these feral cats.

1636

1637 Mr. Atkinson - Sure, yes sir.

1638

1639 Mr. Witte - Could they be considered pets?

1640

1641 Mr. Atkinson - Sir, the reason I say that the County's position, my
1642 position is that she's the owner of the cats, is because under State Code,
1643 Chapter Three, she has rabies certificates for these cats. State Code requires
1644 that the rabies certificate that she's issued has the animal's owner's name and
1645 address on the certificate. She has the certificates with her name and address
1646 on there. That would say that she's testified to the fact that she's the owner.
1647 State Code also defines the owner as a person having a right of property, keeps
1648 or harbors, or has an animal in his or her care, or acts as custodian of the
1649 animal. Either of those two definitions would say that she is the owner and she
1650 has not disputed that ownership.

1651

1652 Mr. Witte - Can people own feral cats or are they wild animals?

1653

1654 Mr. Atkinson - She's trapped them, had them rabies vaccinated,
1655 cares for and feeds them. By definition under Code, yes sir it's my belief that
1656 she's the owner. If they're wild, sir, they belong to the State and therefore she
1657 should not be able to have a conditional use permit to possess something that
1658 belongs to the State.

1659

1660 Mr. Wright - That's my point. This is a very unique situation.

1661

1662 Mr. Blankinship - We may need to defer this.

1663

1664 Mr. Witte - Is there anybody else to speak in opposition? You'll
1665 have your chance.

1666

1667 Ms. Hulin - My name is Ethel Hulin. I live at 9733 Laurel Pine
1668 Drive. And it's spelled H-u-l-i-n. I'm just here to say that I do oppose the feral
1669 cats because they're making my home miserable. They sit on my steps; they get
1670 on my car and scratch the hood of my car. They're just a neighborhood
1671 nuisance.

1672

1673 Mr. Wright - I might want to say I agree with you. I don't like feral
1674 cats either on my property.

1675

1676 Mr. Witte - Thank you. Anyone else to speak in opposition?

1677

1678 Ms. Peed - My name is Shannon Peed—P-e-e-d. I live at the top
1679 of the street, 9707 Laurel Pine Drive. My only concern is if you change the
1680 jurisdiction then what happens when Mrs. Mills is gone. Will that continue? And
1681 also the property at 9740, that's had three or four different owners in the last five

1682 years. So I am concerned about the property value. And then the children. The
1683 bus stop is I think at 9727.

1684

1685 Mr. Witte - Thank you. Anyone else to speak in opposition? Ms.
1686 Mills, you have your chance for rebuttal.

1687

1688 Ms. Mills - When I took the cats to the SPCA I was told that the
1689 cats had to have a name and an address in order to be spayed or neutered. So
1690 since I had taken them in and trapped them, of course I gave my name. And I
1691 gave my address because that's where they are. I noticed when Charmaine held
1692 up pictures there was a picture of a white cat. That white cat happens to belong
1693 to an owner who has had it for twelve or thirteen years at the other end of the
1694 block. That is an owned cat. The cats have been boosted. And I only have
1695 seven. That's all I wanted to take care of. Those cats are basically in my
1696 backyard and Johnny's backyard, as you can see from the pictures. And I did not
1697 mislead the neighbors when I went to talk to them. You have my records there
1698 where I asked the people to sign if they were in agreement. I told them exactly
1699 what I wanted to do, that I wanted to feed them and take care of them and see
1700 that their needs were met. I did not want to make them my personal cats. I didn't
1701 lie to the neighbors. At the time I didn't even know that a kennel license was
1702 going to be required.

1703

1704 Also, you know there are a lot of owned cats in the neighborhood that do roam.
1705 Without pictures how would we know whether or not they are the ones that live
1706 basically in my backyard and Johnny's backyard? At any given time I can step
1707 out my backdoor and they all come running to the porch. So that tells me they
1708 don't roam too far.

1709

1710 Now there is a picture in that book that I gave you to look at and it is a birdcage
1711 that's sitting on the ground in front of Charmaine's house. There is a parakeet in
1712 it. She did it to entice the cats, the feral cats to come in her yard. They did not.
1713 But you have the pictures; you can look. Why would someone who cares about
1714 pets put a birdcage on the ground at the bottom of their stairs in front of their
1715 house and go inside and just leave them there?

1716

1717 That's all I basically have to say.

1718

1719 Mr. Witte - Okay, thank you. Any of the Board members have
1720 any questions? I think we'll rule on this case with the rest of them at the end.

1721

1722 **[After the conclusion of the public hearings, the Board discussed the case**
1723 **and made its decision. This portion of the transcript is included here for**
1724 **convenience of reference.]**

1725

1726 Mr. Witte - Is there a motion on the case?

1727

1728 Mr. Wright - Mr. Chairman, before we get to that, this case really
1729 concerns me because I don't even think it should be here. I'm looking at the
1730 Code. It's a non-commercial kennel, so the keeping of animals by the occupant
1731 of the property—that concerns me in that there is no—I mean there was
1732 testimony that she owns these animals. I don't how many of you have had
1733 experience with feral cats. I've had experience with feral cats. You can't get
1734 within fifteen feet of a feral cat; they'll run from you. They're scared of people.
1735 What Ms. Mills is trying to do is feed these cats, basically. That's all. She's
1736 complying with the request of the SPCA. They request that you trap them and
1737 bring them in so they can neuter/spay them. That's their request. I don't think she
1738 initiated that on her own. She did that because that's the SPCA requirement or
1739 they're asking people to do that with feral cats. You heard all of the explanation
1740 of that.

1741

1742 I'm not so sure that this is the type of thing that even should be before us insofar
1743 as a non-commercial kennel because she doesn't own these cats. I feel like this
1744 should be referred to a County attorney to get a legal opinion as to how we treat
1745 this matter. I think it's beyond what we can do. If she doesn't feed these cats
1746 they're going to still be there; they're not going away. Somebody will feed them
1747 either down the road or in the neighborhood.

1748

1749 It concerns me that this really doesn't fit the use permit application that she had
1750 to comply with. I'd like to refer this to the County attorney to get a legal opinion
1751 as to whether it's within our purview or not.

1752

1753 Mr. Blankinship - There was a lot of testimony that I found to be
1754 ambiguous. Even Ms. Mills within her own testimony I think said that she does
1755 own the cats and that she does not own the cats. She refers to seven particular
1756 cats as her cats. But she also acknowledges that they're not her cats, that
1757 they're feral cats. If they're feral then why are those seven—to say, "I own feral
1758 cats," is a contradiction of terms. I'm very uncomfortable with what decision
1759 you're making. I agree with Mr. Wright entirely. I would like to have some
1760 guidance because I don't know what you're being asked to approve.

1761

1762 Mr. Wright - Mr. Nunnally, what he produced was a certificate
1763 where she went to the SPCA to get them spayed or neutered and they require
1764 you to put a name on there; they won't put *John Doe* on there. So she put her
1765 name on there and her address. Therefore he says that that makes her the
1766 owner of these cats. Can you own a cat that you can't touch?

1767

1768 Mr. Blankinship - Can you own a cat at all I think is a reasonable
1769 question. You know the old saying that dogs have owners but cats have staff.

1770

1771 Mr. Wright - These cats are all over this neighborhood. If she
1772 stops feeding them they're still going to be there.

1773

1774 Mr. Blankinship - I thought I understood this case before the hearing.
1775 And now I don't feel like I have a clear idea of what you would be approving or
1776 denying if you were to vote on this case today.
1777
1778 Mr. Wright - Let's say we denied it. If she continues to feed the
1779 cats what are you going to do?
1780
1781 Mr. Blankinship - She would not have a right to keep those cats on her
1782 property. But I'm not sure she *keeps* the cats on her property now. I'm not sure.
1783
1784 Mr. Wright - She feeds them and they run off.
1785
1786 Mr. Blankinship - I'm not sure what it means. I would feel much more
1787 comfortable with a deferral for us to meet with Animal Control, meet with the
1788 County Attorney's Office, and probably with the SPCA representative, too.
1789
1790 Mr. Wright - Find out some solution.
1791
1792 Mr. Blankinship - To get a clear understanding of what it is you're being
1793 asked to vote on. If they were going to build a kennel, if they were going to put
1794 some fencing in their backyard, then we know what you're voting on. Either
1795 you're going to allow them to do that or you're not. But in this case I'm not sure
1796 what you're being asked.
1797
1798 Mr. Wright - Well I move we defer the case to the next meeting to
1799 permit the staff to get with Animal Control, the County Attorney, and the SPCA or
1800 whomever to find out what our role in this thing is.
1801
1802 Mr. Bruce - I second.
1803
1804 Mr. Witte - Motion for deferral by Mr. Wright, second by Mr.
1805 Bruce.
1806
1807 Mr. Blankinship - I don't mean to interrupt you, Mr. Chairman. There
1808 have been times where you have deferred the decision on a case where there
1809 was no intention of reopening the public hearing. I think the public has had their
1810 opportunity today. I don't think there was a whole lot of difficulty understanding
1811 the public testimony. It's the legal issue that I think needs—
1812
1813 Mr. Witte - Would that mean that Ms. Harris would abstain since
1814 she missed the—
1815
1816 Mr. Blankinship - Well she'll have the record.
1817
1818 Mr. Witte - Okay. All right. Well, do you amend your motion to—
1819

1820 Mr. Blankinship - For the decision.

1821

1822 Mr. Witte - Okay. We have the motion to defer the decision by
1823 Mr. Wright, seconded by Mr. Bruce to the next meeting pending a meeting of the
1824 County Attorney, Animal Protection, and any other agency that the County sees
1825 fit. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1826

1827 After an advertised public hearing and on a motion by Mr. Wright, seconded by
1828 Mr. Bruce, the Board **deferred** until the June 23, 2011 meeting **CUP2011-00012**,
1829 **SUSAN W. MILLS**' request for a conditional use permit pursuant to Section 24-
1830 12(e) of the County Code to allow a noncommercial kennel at 9738 Laurel Pine
1831 Drive (Laurel Pines) (Parcel 771-760-0658), zoned R-4, One-family Residence
1832 District (Brookland). (UP-012-11).

1833

1834

1835 Affirmative: Bruce, Nunnally, Witte, Wright 4

1836 Negative: 0

1837 Absent: Harris 1

1838

1839

1840 **[At this point, the transcript continues with the public hearing on the next**
1841 **case.]**

1842

1843 **CUP2011-00013 THE SHOPS AT WILLOW LAWN** requests a
1844 temporary conditional use permit pursuant to Section 24-116(c)(1) of the County
1845 Code to allow two tents for temporary events at 1601 Willow Lawn Drive (Parcel
1846 773-736-6272), zoned B-2, Business District (Brookland). (UP-013-11)

1847

1848 Mr. Blankinship - Does anyone else intend to speak to this application?
1849 Please raise your right hand. Do you swear the testimony you're about to give is
1850 the truth and nothing but the truth so help you God?

1851

1852 Ms. North - Yes sir, we do. Good morning, my name is Sara
1853 North and I work for Federal Realty. I am the marketing manager for the Shops
1854 at Willow Lawn. We are here today requesting permits for our Mommy and Me
1855 program, which is an outdoor event held the second Wednesday of the month,
1856 from April through October. The Mommy and Me Club at the Shops at Willow
1857 Lawn is a monthly event for Willow Lawn customers and their children to
1858 participate in active learning and creative play from Willow Lawn merchants and
1859 local sponsors while enjoying special offers from our eateries and retailers, story
1860 time, arts and crafts, and giveaways.

1861

1862 I also have a list of the program goals if you're interested.

1863

1864 Mr. Witte - Have you read the conditions with this?

1865

1866 Ms. North - Yes.
1867
1868 Mr. Witte - Are you in agreement with the five conditions?
1869
1870 Ms. North - I don't remember the conditions off the top of my
1871 head. Do you have them?
1872
1873 Mr. Blankinship - While they're reviewing those, Mr. Chairman, there
1874 was a little ambiguity between two of the illustrations in this case. I don't know if
1875 it's critical to anybody's review of this whether the tents are located exactly as
1876 shown on his diagram or as shown on one of the other diagrams. The
1877 information submitted was a little bit different from what's actually out there on
1878 the ground. It was 50 or 100 feet. I don't believe it really makes a difference one
1879 way or the other, but if any members of the Board are concerned about that we
1880 should probably nail it down.
1881
1882 Ms. North - I can speak to that if you would like.
1883
1884 Mr. Witte - Please.
1885
1886 Ms. North - The first event we held was in April and we were
1887 expecting about 150 to 200 people and we actually had 350, and we had a lot
1888 more sponsors. We just needed more room and we wanted them to be sheltered
1889 from the sun, so we got two 30-by-90 tents as opposed to one 30-by-90 tent. So
1890 the original application was for one 30-by-90 and then we asked for two 30-by-
1891 90s.
1892
1893 Mr. Witte - Thank you. Any questions by the Board? Thank you.
1894
1895 Mr. Blankinship - Are you okay with the conditions?
1896
1897 Ms. North - Yes. Yes sir.
1898
1899 Ms. Preusser - The first condition does state that only—I wasn't sure
1900 if the conditions were for one tent or two tents. It just speaks to one tent.
1901
1902 Mr. Witte - Is the application for two?
1903
1904 Ms. Preusser - The second application that we submitted was for
1905 two, so we added a tent.
1906
1907 Mr. Blankinship - Whatever was on that application.
1908
1909 Mr. Witte - It says two tents.
1910
1911 Ms. Preusser - We have pictures.

1912

1913 Mr. Witte - Excuse me.

1914

1915 Ms. Preusser Sure.

1916

1917 Mr. Witte - Can we get your name please?

1918

1919 Ms. Preusser - Oh, yes; I'm sorry. Julia Preusser. P-r-e-u-s-s-e-r.
1920 We brought props that we'd be happy to leave behind just in case you have
1921 questions about the program. There are some pictures. If that would interest you
1922 at all we'd be happy to leave them.

1923

1924 Mr. Witte - Thank you.

1925

1926 **[After the conclusion of the public hearings, the Board discussed the case**
1927 **and made its decision. This portion of the transcript is included here for**
1928 **convenience of reference.]**

1929

1930 Mr. Witte - Do we have a motion?

1931

1932 Mr. Bruce - Motion to approve with two tents.

1933

1934 Mr. Wright - Second.

1935

1936 Mr. Witte - The reason, please?

1937

1938 Mr. Bruce - It's not detrimental to the neighborhood and it's a
1939 continuation of a very good business.

1940

1941 Mr. Witte - Motion by Mr. Bruce, seconded by Mr. Wright. All in
1942 favor say aye. All opposed say no. The ayes have it; the motion passes.

1943

1944 After an advertised public hearing and on a motion by Mr. Bruce, seconded by
1945 Mr. Wright, the Board **approved** application CUP2011-00013, **THE SHOPS AT**
1946 **WILLOW LAWN** request for a temporary conditional use permit pursuant to
1947 Section 24-116(c)(1) of the County Code to allow two tents for temporary events
1948 at 1601 Willow Lawn Drive (Parcel 773-736- 6272), zoned B-2, Business District
1949 (Brookland). (UP-013-11) The Board approved the temporary conditional use
1950 permit subject to the following conditions:

1951

1952 1. Only the tents and accessory uses shown on the plot plan filed with the
1953 application are authorized by this approval. Any additional uses or improvements
1954 shall comply with the applicable regulations of the County Code. Any substantial
1955 changes or additions to the application will require a new use permit.

1956

- 1957 2. The applicant shall obtain building permits and comply with all required
 1958 inspections.
 1959
 1960 3. The assembly area and pedestrian access shall be separated from automobile
 1961 access by means approved at the time of building permit review. The parking lot,
 1962 driveways, and loading areas shall be subject to the requirements of Section 24-
 1963 98 of Chapter 24 of the County Code.
 1964
 1965 4. Hours of operation shall be limited to 10:00 – 11:30 am on the following dates:
 1966 June 8, July 13, August 10, September 14, and October 12, 2011.
 1967
 1968 5. The tents and accessory uses shall be removed from the property on or
 1969 before October 21, 2011, at which time this permit shall expire.
 1970

1971			
1972	Affirmative:	Bruce, Nunnally, Witte, Wright	4
1973	Negative:		0
1974	Absent:	Harris	1
1975			

1976
 1977 **[At this point, the transcript continues with the public hearing on the next**
 1978 **case.]**
 1979

1980 **VAR2011-00003** **GGC HOMES INC** requests a variance from Sections
 1981 24-94 and 24-95(t) of the County Code to build a one-family dwelling at 9516
 1982 Arrowdel Court (River Road Farms) (Parcel 744-738-7017), zoned R-1, One-
 1983 family Residence District (Tuckahoe). The total lot area requirement and
 1984 floodplain area requirement are not met. The applicant has 23,500 square feet of
 1985 lot area outside the floodplain, where the Code requires 25,000 square feet of lot
 1986 area outside the floodplain. The applicant requests a variance of 1,500 square
 1987 feet of lot area outside the floodplain. (A-003-11)
 1988

1989 Mr. Witte - Anybody who wishes to speak to this case please
 1990 stand and be sworn in.
 1991

1992 Mr. Blankinship - Raise your right hands please. Do you swear the
 1993 testimony you're about to give is the truth and nothing but the truth so help you
 1994 God?
 1995

1996 Mr. Lewis - I do.
 1997

1998 Mr. Witte - State your name please.
 1999

2000 Mr. Lewis - My name is Monte Lewis. I'm with Lewis and
 2001 Associates. We're the civil engineers on the project. L-e-w-i-s. We're here
 2002 representing the applicant.

2003

2004 This is a lot that was recorded in 1976. At that time we were only required to
2005 have a fifty-year floodplain. With a fifty-year floodplain we had 25,700 square
2006 feet outside of the floodplain. In 1978, two years later, the ordinance was passed
2007 where you had to have that area outside of the 100-year floodplain. What we're
2008 asking for is the 1500 square feet, which only represents six percent of the
2009 requirement. As the lot stands right now we cannot build a house on that lot. We
2010 don't have the ability to expand that lot because the buildable area is very small
2011 in the lot to the right of that lot.

2012

2013 This kind of represents on a larger scale what we have. The lot in question is in
2014 red. You'll see I've highlighted the floodplain; that's the 100-year floodplain.
2015 You'll see the crosshatched area. That is where the limits of the fifty-year
2016 floodplain were when we recorded the lot in 1976. The kind of yellow-green is
2017 our buildable area as defined by the setback to the floodplain. The setbacks are
2018 not changing. What we're asking for is to be able to build on the lot with the
2019 23,500 square feet which is outside the floodplain. You can see the lot on the
2020 right-hand side. The yellow or the greenish outline is its buildable area. As you
2021 can see, it's very confined. It doesn't come before the BZA, but we also have
2022 restrictions due to the RPA (Resource and Protection Area). Like I said, as it
2023 stands right now, we can't build a house on this lot no matter what.

2024

2025 Mr. Witte - Did you acquire that lot next to this lot that's outlined
2026 in green?

2027

2028 Mr. Lewis - We own that lot.

2029

2030 Mr. Witte - Combining the two would not give you enough
2031 buildable area?

2032

2033 Mr. Lewis - It would.

2034

2035 Mr. Witte - It wouldn't change where the house would be built
2036 would it.

2037

2038 Mr. Lewis - No sir. The house would be in the same place as it
2039 was.

2040

2041 Mr. Witte - The problem with where the house is located is with
2042 the floodplain. They're afraid the water will come up to where the house is.

2043

2044 Mr. Lewis - Correct. We have to be a foot above that floodplain.

2045

2046 Mr. Witte - So if you could acquire the lot next door, it still
2047 wouldn't help you insofar as where the house would be located.

2048

2049 Mr. Lewis - Not a bit. The lot itself is about 32,250 square feet
2050 total. It goes all the way back to the creek which is, like I say, the Resource and
2051 Protection Area. What we're asking for is just the square footage. We recently
2052 built a house on Lot #7, which is to the left. That is a 6,600-square-foot house.
2053 What we envision on this lot will be something very similar to that, maybe even a
2054 little bit smaller. That house got larger in square footage because they put a full
2055 basement in. We're expecting something in the neighborhood of 4,000 square
2056 feet to 4,500 square feet of house. So it will be comparable with the
2057 neighborhood. That's a picture of the house that's under construction. Our lot is
2058 near where that roll-off red trailer is right there.
2059

2060 Prior to this house being constructed we had one house that straddled that lot
2061 and the lot to the left of that. So really they owned all three lots and just had one
2062 house on it. We tore that house down to build this house. We're trying to market
2063 the other lots for single-family homes. The lots to the left do not need a variance;
2064 we meet the requirement for area outside the floodplain. The lot to the right,
2065 which appears to be small just because the buildable area is very small, is
2066 actually a nice sized lot. Our restriction on that is that there is a large
2067 transmission gas main that is on the lot completely. It's right in this area. We
2068 couldn't adjust the lot line to get more area outside the floodplain without making
2069 that lot just completely non-buildable. We have to be fifty feet from the gas line to
2070 our building line, which makes it about eighty feet from our property lines to that
2071 buildable area line. So we're very restricted on that lot. We do not need any kind
2072 of variance from the BZA; that has plenty of land outside the floodplain just
2073 because we have all that land that's over on the gas line.
2074

2075 Mr. Witte - So that lot to the right, that is a buildable lot?
2076

2077 Mr. Lewis - Yes sir.
2078

2079 Mr. Witte - As is. No variance required.
2080

2081 Mr. Lewis - No variance required.
2082

2083 Mr. Witte - Questions from the Board?
2084

2085 Mr. Bruce - Yes sir. You purchased this land when the fifty-year
2086 floodplain was in effect?
2087

2088 Mr. Lewis - Yes sir.
2089

2090 Mr. Bruce - Was it buildable then?
2091

2092 Mr. Lewis - Yes sir. At that time we had 25,700 square feet
2093 outside of the floodplain.
2094

2095 Mr. Witte - Was it subdivided?
2096
2097 Mr. Lewis - Yes sir. It was subdivided with that much square
2098 footage outside in 1976.
2099
2100 Mr. Witte - Any other questions? Anybody else to speak? Please
2101 come forward.
2102
2103 Mr. Kasirajan - My name is Vig Kasirajan. V-i-g. Last name is K-a-s-i-
2104 r-a-j-a-n. I'm in the neighborhood at 9522 Arrowdel Court. That's to the left of the
2105 lot to the far left.
2106
2107 The only concern I had was if the buildable land is less and they're asking for a
2108 variance, when all the four lots get built-out, it appears—it's hard to see from this
2109 picture, but when you stand there and look at it, it'll appear that the houses are
2110 very crowded together. I believe it will detract from the appearance of the
2111 neighborhood and may ultimately affect its overall value. Just as a caution I
2112 would like to point that out.
2113
2114 The lot to the far right is quite small if you put in place the easement for the gas
2115 line and the floodplain in the back. Any house built there would really be far out
2116 to the front and crowded together with three houses. That's my only concern.
2117
2118 They have done a very nice job building the existing house and I'm very pleased
2119 with that. But I would just like to point that out.
2120
2121 Mr. Wright - I understand Mr. Kasirajan and Mr. Blankinship can
2122 correct me—that this house is located within the requirements set forth in the
2123 Code.
2124
2125 Mr. Blankinship - Right. It has the same lot area. As you can see in this
2126 illustration, it's actually larger than some of the lots in the neighborhood. It's just
2127 that some of that lot area is in the floodplain. But you don't perceive that standing
2128 in the street.
2129
2130 Mr. Kasirajan - Right.
2131
2132 Mr. Wright - Where it's located will have nothing to do with the
2133 floodplain.
2134
2135 Mr. Kasirajan - That is correct. But what it does is it moves the
2136 houses up in the front. So even though the lots are bigger, it appears like the
2137 houses are all kind of crowded together. That's my only concern. If that's not an
2138 issue it's not an issue.
2139

2140 Mr. Wright - They still have to comply with the requirements of the
2141 County as to the front yard and side yard. And that's not at issue here. They
2142 would have to get a variance for that. They are placing it where they are legally
2143 able to do so under the Code.

2144
2145 Mr. Blankinship - The only problem is that some of the rear yard
2146 setback that they couldn't build in anyway is just a floodplain.

2147
2148 Mr. Kasirajan - Thank you for the clarification. Thank you.

2149
2150 Mr. Witte - Anyone else? That concludes the case.

2151
2152 **[After the conclusion of the public hearings, the Board discussed the case**
2153 **and made its decision. This portion of the transcript is included here for**
2154 **convenience of reference.]**

2155
2156 Mr. Witte - Do we have a motion?

2157
2158 Mr. Bruce - I'm going to move approval.

2159
2160 Mr. Wright - I'll second it.

2161
2162 Mr. Bruce - The reason being is that he acquired this property
2163 and had it platted prior to the change in the floodplain. He did that in good faith
2164 and the County changed the rules on him. It does not adversely affect the
2165 neighborhood. It is contingent with the other structures in the neighborhood.

2166
2167 Mr. Witte - Motion by Mr. Bruce, seconded by Mr. Wright to
2168 approve. All in favor say aye. All opposed say no. The ayes have it; the motion
2169 passes.

2170
2171 After an advertised public hearing and on a motion by Mr. Bruce, seconded by
2172 Mr. Wright, the Board **approved** application **VAR2011-00003, GGC HOMES**
2173 **INC** request for a variance from Sections 24-94 and 24-95(t) of the County Code
2174 to build a one-family dwelling at 9516 Arrowdel Court (River Road Farms) (Parcel
2175 744-738-7017), zoned R-1, One-family Residence District (Tuckahoe). The
2176 Board approved the variance subject to the following conditions:

2177
2178 1. This variance applies only to the minimum lot area requirement outside the
2179 floodplain for one dwelling only. All other applicable regulations of the County
2180 Code shall remain in force.

2181
2182 2. At the time of building permit application, the applicant shall submit the
2183 necessary information to the Department of Public Works to ensure compliance
2184 with the requirements of the Chesapeake Bay Preservation Act and the code
2185 requirements for water quality standards.

2186

2187

3. At the time of building permit application, the applicant shall furnish the Department of Public Works a plat showing the field located 100-year flood elevation on the lot, signed and sealed by a licensed surveyor or engineer.

2188

2189

2190

4. Any dwelling on the property shall be served by public water and sewer.

2191

2192

5. The structure shall comply with applicable Code requirements for a building within a Special Flood Hazard Area.

2193

2194

2195

2196

Affirmative: Bruce, Nunnally, Witte, Wright 4

2197

Negative: 0

2198

Absent: Harris 1

2199

2200

2201

Mr. Witte - Thank you for coming to the meeting. Do we have a motion to adjourn? Oh, I'm sorry; we have to review the minutes. Keep me straight there, Mr. Blankinship. Are there any additions or deletions to the minutes?

2202

2203

2204

2205

2206

Mr. Nunnally - On page seven please, line 281. I don't know what I was supposed to have said or what I said but it's all messed up. "I move we approve because they always run a nice clean operation all these." I think it's supposed to be, "clean operation at all these sites."

2207

2208

2209

2210

2211

Mr. Wright - On page sixty, line 2705. If you read that again, "I don't know if they could to it." I think it should be, "do it in that amount of time because before they can," and then it should be "use it they have to get the stuff." Just some typos.

2212

2213

2214

2215

2216

Mr. Witte - Do we have a motion to approve the minutes with the corrections?

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Mr. Wright - I move we approve the minutes as corrected.

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Mr. Nunnally - Second.

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Mr. Witte - Motion by Mr. Wright, second by Mr. Nunnally. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

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On a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **approved as corrected the Minutes of the April 28, 2011** Henrico County Board of Zoning Appeals meeting.

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2232 Affirmative: Bruce, Nunnally, Witte, Wright 4
2233 Negative: 0
2234 Absent: Harris 1
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2237 Mr. Witte - Now do we have a motion to adjourn.
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2239 Mr. Nunnally - So moved.
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2241 Mr. Wright - Second.
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2243 Mr. Witte - Thank you.
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2245 The meeting is adjourned.



Robert Witte
Acting Chairman



Benjamin Blankinship, AICP
Secretary