

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRING ROADS, ON THURSDAY MAY 28, 2015 AT 9:00**
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH MAY 16, 2015, AND MAY 23, 2015.**

7
Members Present: Gentry Bell, Chairman
 Greg Baka, Vice Chairman
 Dennis J. Berman
 Helen E. Harris
 James W. Nunnally

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

8
9 Mr. Bell - Good morning. Welcome to the May meeting of the
10 Henrico County Board of Zoning Appeals. I ask that you all please stand and join
11 me in the Pledge of Allegiance to our flag. Thank you.

12
13 Mr. Blankinship, please read our rules.

14
15 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
16 ladies and gentlemen. The rules for this meeting are as follows: Acting as
17 secretary, I will announce each case. And while I'm speaking, the applicant
18 should come down to the podium, we will then ask everyone who intends to
19 speak to that case to stand and be sworn in. Then the applicant will present their
20 case. Then anyone else who wishes to speak will be given the opportunity. After
21 everyone has spoken, the applicant, and only the applicant, will have an
22 opportunity for rebuttal. After the Board has heard all the evidence and asked
23 any questions they may have, they will proceed to the next case. They will render
24 all of their decisions at the end of the meeting. So if you wish to hear their
25 decision on a specific case, you can either stay until the end of the meeting, or
26 you can check the Planning Department website later this morning—we usually
27 get it updated within about a half an hour after the end of the meeting—or you
28 can call the Planning Department this afternoon.

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

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

37
38 Mr. Chairman, for the first time in a while, we don't have to talk about not having
39 a full Board here. Good to have all five members of the Board.

40
41 Mr. Bell - It certainly is. Before we get started, does anyone
42 have any desire to defer a case until next month? You do have that privilege, if
43 you do. Seeing that everybody is satisfied—

44
45 Mr. Blankinship - Mr. Chairman, I did forget to mention one thing; we
46 have an intern with us this morning. Laura Howell is interning with the Planning
47 Department for the summer semester.

48
49 Mr. Bell - Welcome. Let's go ahead and start then.

50
51 **CUP2015-00016** **DTLR, INC.** requests a conditional use permit
52 pursuant to Section 24-116(c)(1) of the County Code to hold a special event at
53 3121 Mechanicsville Turnpike (Parcel 801-732-6533) zoned Business District (B-
54 3C) (Fairfield).

55
56 Mr. Blankinship - Does anyone else intend to speak to this case?
57 Would you please raise your right hand? Do you swear the testimony you're
58 about to give is the truth, the whole truth, and nothing but the truth so help you
59 God?

60
61 Mr. Lipscomb - Yes.

62
63 Mr. Blankinship - Thank you. And state your name, please.

64
65 Mr. Lipscomb - Tremayne Lipscomb—L-i-p-s-c-o-m-b.

66
67 Mr. Blankinship - All right.

68
69 Ms. White - Lori White—W-h-i-t-e.

70
71 Mr. Blankinship - All right.

72
73 Mr. Lipscomb - We are a retail company located in the Oakdale Plaza
74 shopping center. We are looking to do a community event in the parking lot
75 adjacent to our store. It's a simple event with clean music, some free food, and
76 some informational vendors such as collages, health organizations, and some
77 other neighborhood resources. Just having booths and tables under tents,
78 possibly some moon bouncers and other activities for youth, and everything will
79 be free, of course. That's pretty much a quick summary.

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Mr. Bell - Any questions?

Ms. Harris - Yes. Good morning. On the application I notice that you said from 1 to 5, but you have to set up and take down.

Mr. Lipscomb - Yes.

Ms. Harris - And know that's 8 to 8. I didn't know if it was necessary for them to change the time to from 8 a.m. to 8 p.m.

Ms. White - In the process of logistics and stuff, we made a couple of changes in which we would just make it from 12 to 4. So the setup time for the vendors will probably be between 8 and 9. Is that something that we were supposed to also state?

Ms. Harris - I was looking at the application. On the application you had the hours of operation. I didn't know if you just wanted to say from 8 until 8, and that would take in account whatever time you set up, take down, or whenever the vendors come in.

Mr. Lipscomb - Right, yes. We could do that, but we plan to be done by five and cleaned up by five. The store will stay open, of course, but the activity outside the store will be done and off the property, as the property manager stated.

Ms. Harris - Okay. I notice on the police report that they talk about landscaping. What type of landscaping is over there at Oakhill?

Mr. Lipscomb - As you see in the picture, just little medians of grass. And then the perimeter of the whole shopping center there is some grass.

Ms. Harris - If you have to have alternate parking, where are you going to place that?

Mr. Lipscomb - I think this picture shows a good area of the section. That's all we would use going to the Advance Auto. I think that's Advance Auto. And the perimeter of that whole space is parking. And it goes all the way down beyond the Food Lion. So we would barricade that off so no cars could drive through, but there would be ample parking around.

Ms. Harris - This is the first time you've done this, right?

Mr. Lipscomb - Yes.

125 Ms. Harris - The DTLR, is that affiliated with the store in Virginia
126 Center Commons?
127
128 Ms. White - Yes it is.
129
130 Ms. Harris - It is. Okay. I just wondered about that. I was noticing
131 how costly this may be. But your goal is not to make money, but to—
132
133 Mr. Lipscomb - Just to give back. It's been ingrained in the company
134 that even as far as Baltimore and other cities, we take pride in giving back to the
135 communities we serve. The store is about making money, but we also want to
136 use the assets that we generate to give back in the cities that we service.
137
138 Ms. Harris - Okay. On the report we have Ms. Lori White as the
139 representative. What is your function, Mr. Lipscomb?
140
141 Mr. Lipscomb - I am the community outreach coordinator, and I work
142 out of the corporate office in Baltimore, Maryland.
143
144 Ms. Harris - Okay. Thank you. Those are my questions.
145
146 Mr. Bell - Any other questions? How about security? What are
147 your plans for that?
148
149 Mr. Lipscomb - We have store security that we will of course have
150 and double up on. But the property manager has also requested that we hire at
151 least two Henrico County police officers for the duration of the event. And we
152 plan to double that, so we will do four or more.
153
154 Mr. Bell - Thank you.
155
156 Mr. Baka - Just a comment. There was an interoffice memo from
157 Kim Vann in Police with CEPTED information on parking, perimeter security, and
158 security that was included in the packet for the Board's consideration. It is very
159 detailed and thorough and should be a great plan to follow. I just wanted to
160 commend the applicant for doing this. I've driven by the shopping center and
161 been in some of the stores before and eaten lunch in the shopping center. There
162 appears to be ample room for parking. There always tends to be a surplus of
163 parking. I think this will be a great event, a good location for it, and it should add
164 to the community spirit and help the stores on that day also. Hats off to you.
165
166 Mr. Bell - Have you read and understand and agree with all the
167 suggested conditions that are in the report?
168
169 Mr. Lipscomb - The conditions in the application?
170

171 Mr. Blankinship - In the staff report that was mailed to you. Did you
172 receive a packet?

173
174 Mr. Lipscomb - I received something via e-mail, and he said that this
175 report I guess you're speaking of would be mailed to Ms. White, and she didn't
176 receive it prior to the meeting.

177
178 Mr. Baka - There are fourteen conditions.

179
180 Mr. Blankinship - These are what we suggested to the Board.

181
182 Mr. Lipscomb - Okay.

183
184 Mr. Bell - If you'd like to, sir, you can go ahead and read it, and
185 we could continue on. Then later on we'll call you back and just ask you—

186
187 Mr. Lipscomb - Okay, that's fine. Thank you.

188
189 Mr. Bell - Is there anyone else who is going to speak to this
190 issue? Seeing none, we can move on.

191
192 *CUP2015-00016 continues on page 16.*

193
194 **[At this point, the transcript continues with the public hearing on the next**
195 **case.]**

196
197 **CUP2015-00017 BZG PAGOSA LLC** requests a conditional use permit
198 pursuant to Section 24-116(c)(1) of the County Code to allow a temporary sales
199 stand at 9004 W Broad Street (TUCKERNUCK SQUARE) (Parcel 758-756-6786)
200 zoned Business District (B-2) (Brookland).

201
202 Mr. Blankinship - Does anyone else intend to speak to this case?
203 Would you raise your right hand, please? Do you swear the testimony you're
204 about to give is the truth, the whole truth, and nothing but the truth so help you
205 God?

206
207 Mr. Chubboy - Yes.

208
209 Mr. Blankinship - State your name, please.

210
211 Mr. Chubboy - My name is Michael Chubboy—C-h-u-b-b as in baker,
212 o-y.

213
214 Mr. Blankinship - Thank you.

215
216 Mr. Chubboy - Can I start?

217

218 Mr. Blankinship - Yes, if you're ready.
219

220 Mr. Chubboy - I just have a simple tropical plant sale. I used to be a
221 grower in Florida. I got started selling plants under a tent throughout the United
222 States. After getting away from that for a while, I am working my way back to that
223 business. I'm using this year as kind of a test market to find out suppliers, what
224 has changed in terms of codes, what has changed in terms of what plants the
225 clients like, things of that nature so I'm better prepared for next year.
226

227 This will be my third site for this year. I set up the tent, I open up for about three
228 weeks, and I put the plants in kind of, if you will, a racetrack design. The center is
229 plants, and the outside is plants that expose the entryway or exits to give egress
230 to people for the event that's shown up there.
231

232 There is an issue with the concrete curb that's in the parking lot. What I would do
233 is I would run it with the length of the tent horizontally, so my center poles—that's
234 a good photo actually. My center poles would be to the left of the concrete
235 embankment, and I would put all my plants on top of it so it does not become a
236 tripping hazard. It actually becomes a nice display case, if you will. There is
237 another issue that you can't see in the photo with an exit coming out of SunTrust.
238 And I would bring the tent this way to give egress to the exit.
239

240 And there's plenty of room. That's a great shot. I don't know who's doing that.
241 Other stuff happens to me. If you look at the exit coming out of SunTrust—
242

243 Mr. Blankinship - You can barely pick it up there. There are three
244 parking spaces between the exit and Broad Street.
245

246 Mr. Chubboy - That's it exactly. So with the tent moved to our right
247 toward the Kentucky Fried Chicken, that will allow those cars to have access in
248 and out of that area. So that would address that issue.
249

250 You had a couple other issues. You had requested that I have bathroom
251 facilities, a temporary stall of some sort. If I was out in the boondocks farther
252 away from public places, I would be happy to. I would ask that you would
253 consider that I'm so close to the Kentucky Fried Chicken, if somebody was thirsty
254 or needed to go the restroom, it's right there. From the near side of the tent, it's
255 less than 100 feet to the Kentucky Fried Chicken.
256

257 Mr. Blankinship - Condition #7 reads that the applicant shall provide
258 adequate restroom facilities and hand-wash station as required by the Building
259 Inspections Department. So you'll need to negotiate that with Building
260 Inspections.
261

262 Mr. Chubboy - Oh, okay. All right.
263

264 Mr. Blankinship - Whatever satisfies them will satisfy that condition,
265 assuming the Board adopts it.

266
267 Mr. Baka - Should we say "if required"?

268
269 Mr. Blankinship - Well I would leave it, as they are apparently going to
270 require something.

271
272 Mr. Chubboy - And basically, that's it. I'll have a load of tropical
273 plants from Miami, anything from palms, flowering plants, hibiscus. And once I'm
274 done selling within that three-week period, I'm done. Any questions?

275
276 Mr. Bell - Yes. This is the third time you've done it this year, and
277 the other two times I think it was Fredericksburg and Manassas. Did you have
278 any complaints at those other two locations?

279
280 Mr. Chubboy - Not to my knowledge, no.

281
282 Mr. Bell - In terms of security, what kind of security are you
283 going to provide, if any?

284
285 Mr. Chubboy - I have found the best security—and I've done it many
286 different ways. My best security is no side walls, the tent is totally exposed, and
287 everybody can see anybody who would come in at night. If the walls are down,
288 once somebody gets inside the tent, they can shop. But there are no walls. They
289 are exposed to cars coming buy, visitors to Kentucky Fried Chicken, the
290 SunTrust side. I found that's the greatest deterrent. I have more trouble in a
291 college town with the frat houses.

292
293 Mr. Bell - You're not going to have any security in terms of
294 when you are open and people are walking around, for parking and things like
295 that?

296
297 Mr. Chubboy - No, I don't plan on it. Usually I have three or four cars.
298 And I'm glad to get three or four cars. Sometimes maybe a few more. But the
299 profile of my client is going to be a homeowner or someone who has a condo or
300 a townhouse, and they have a space that they want to put a tropical plant in. So
301 I've never had an adverse client ever. I've always found people coming excited to
302 see what I have, what would work well with plant, the care of the plant, how much
303 light, how much water, if they have going to move it into a bigger pot. I don't think
304 I've ever had an element of people that I felt uncomfortable with.

305
306 Mr. Baka - Just to follow up. And I understand your point about
307 natural surveillance, in other words people can actually see into the tent area,
308 and that natural surveillance will add to the security. I was reading the interoffice
309 memo from Kim Vann in our Police Department and just going over the notes

310 from that. I just wanted you to be aware of the references to perimeter security
311 and general security in her memo.

312
313 Mr. Chubboy - I read that as well. I learned a long time ago if my
314 plants are out of the tent in a non-orderly fashion—one here, one over there—it
315 begs for trouble. If I have them in an orderly fashion, grouped together—
316 especially at the end of the day, I have them grouped together so one doesn't
317 stick out and there's this uniform flow, it's attractive, and it encourages somebody
318 to shop. It's just a fun, human nature. If I have big plants, medium plants, and
319 small plants, and they're in an orderly fashion, you look, but you don't touch.

320
321 Mr. Baka - Understood.

322
323 Mr. Chubboy - If one is sitting out alone, it's amazing what happens
324 to it.

325
326 Mr. Baka - I did have one other quick question about the tent.
327 How do you anchor the tent into the ground?

328
329 Mr. Chubboy - I drill holes and drive in steel stakes.

330
331 Mr. Baka - So holes are drilled into the asphalt?

332
333 Mr. Chubboy - Correct.

334
335 Mr. Baka - Is that something that you worked out ahead of time
336 with the landlord?

337
338 Mr. Chubboy - Each time. It's a discussion point on each case. What
339 I do is when I'm done, I fill them up with a patch kit and hammer it down in so that
340 the hole is no longer exposed. So if the hole is two feet deep, I fill it up with about
341 a foot and half, eighteen inches of sand. I leave about six inches of room for the
342 asphalt filler. And I have a big-headed carriage bolt that I tap down with a
343 hammer and keep adding the asphalt. I finish the top, and have just a little bit of a
344 crown on it so it doesn't get water going down in it. Usually the parking lots that
345 I'm going to aren't brand new, and they have a vacancy, and they have cracks.
346 So I pay attention that I'm not drilling a hole into a crack or something of that
347 nature.

348
349 Mr. Baka - Thank you.

350
351 Mr. Chubboy - You're welcome.

352
353 Mr. Bell - Any other questions?

354

355 Ms. Harris - Yes I do. How many employees will be working for
356 you?
357
358 Mr. Chubboy - I have no employees.
359
360 Ms. Harris - Just you will be there.
361
362 Mr. Chubboy - Just myself.
363
364 Ms. Harris - Okay. Thank you.
365
366 Mr. Berman - This event begins tomorrow. Have you filed the
367 necessary permits because that takes a couple of weeks? Do you have all the
368 permits you need?
369
370 Mr. Chubboy - I filed about two weeks ago. I do have some
371 communication from a Mr. John Cooper, who I plan to follow up with after the
372 meeting. And I won't be able to open up tomorrow. It's post-Mother's Day, which
373 in the floral business or the tropical plant business, it's equivalent to Christmas.
374 So getting trucks out of South Florida is a challenge. They're all across the
375 United States working their way back, getting loads to cover their expenses. I
376 have secured a truck, and it's supposed to load on Monday. So I'm probably
377 looking at Wednesday/Thursday next week for setup.
378
379 Mr. Berman - So there's a big trailer right where your event is going
380 to be. That's not yours?
381
382 Mr. Chubboy - No sir. There will be no trailer. There will be a 53-foot
383 trailer that will come, drop off the plants. And nothing will be there but the tent
384 itself and the plants. I find a tractor-trailer a distraction, and I do not want it there.
385
386 Mr. Berman - Good. You've consulted and heard back from
387 SunTrust and KFC or does Tuckernuck Square handle that?
388
389 Mr. Chubboy - Tuckernuck Square handled that on my behalf. I've
390 got a green light from Mary Holbeck, who's the trustee for the property.
391
392 Mr. Berman - Thank you.
393
394 Mr. Chubboy - You're welcome.
395
396 Mr. Bell - And when you have a green light, you were talking
397 about the restroom facilities at KFC. They've agreed that it will be all right for you
398 to use their facilities?
399
400 Mr. Chubboy - To use the facility? I missed the question.

401
402 Mr. Bell - Kentucky Fried Chicken.
403
404 Mr. Chubboy - Oh. I have not yet talked to them. I will do that this
405 morning. They were closed. I went on site this morning; they weren't open. I
406 walked the property, understanding the curb better, so I could speak a little more
407 intelligently on it. And I will go back to Kentucky Fried Chicken. When I was in
408 Fredericksburg, I was next to Chick-fil-A. I was the most frequent client they ever
409 had. I did eat there. And so they got to know me really well. I build relationships, I
410 build bridges. It helps in that relationship. The same in Manassas. I'm working
411 with Café Rio. They're all affable, they're interested in what I'm doing. We talk
412 about plants and how their business works. So I always build a good relationship.
413
414 Mr. Bell - Number 9 on the suggested conditions once again
415 deals with the security. It merely says that on-site security measures shall satisfy
416 the police department. Have you been dealing with the police department? Have
417 you satisfied that?
418
419 Mr. Chubboy - I have not yet dealt with the police department here,
420 no I haven't.
421
422 Mr. Bell - Have you read and understand the suggested
423 conditions?
424
425 Mr. Chubboy - From the police department, yes I have.
426
427 Mr. Bell - Have you read and understand the suggested
428 conditions from our Planning Department?
429
430 Mr. Chubboy - Yes.
431
432 Mr. Bell - Within that, #7 and #9 are the ones that are in
433 question now.
434
435 Mr. Chubboy - Correct.
436
437 Mr. Bell - Before anything is done, obviously they have to be—
438
439 Mr. Chubboy - What the police were requesting was to facilitate
440 traffic flow. In my best interest, I would like the cars parked in such a manner that
441 people aren't at risk crossing the parking lot. The greatest problem I have is right
442 now in Manassas, because of the void of the anchor tenant people cut across the
443 parking lot, and they're going fast unless a policeman is sitting there. On
444 occasion, a police car will sit there, and they adjust and modify their behavior.
445

446 So what I do is I put my plants out in a fashion that deflects the cars coming. In
447 other words, if they could, they would come right by the tent. So what I do is I put
448 the plants out so that they don't come right by the tent. And I park my vehicle in
449 such a manner that it—people are led; you can't push people. So the way I park
450 my vehicle tends to cause everybody else to park their car the same way. Even if
451 I park it in an awkward way, that next car is going to do the same thing, and the
452 next one. So I find a way that parking the car leads to the other cars parking and
453 gives them the ability to walk to the plants and feel comfortable. And I always
454 help load their cars with the plants. Even if they're quite capable physically, I
455 help. The thing about a tall hibiscus tree full of blooms, they want all those
456 blooms to get home. I want it, too, because that's good advertising. So I help put
457 the tree in their car. And so I help doing that.

458
459 The point of all that is I set the plants up so that it leads to where people would
460 park, it leads people in to the main front of the tent.

461
462 Mr. Berman - Let's talk really quick about loading of the cars. In this
463 picture on the screen now, the activity area is where the person is walking with
464 the briefcase or whatever?

465
466 Mr. Chubby - Yes.

467
468 Mr. Berman - The white car, that area right there. Let's assume that
469 those spaces are available for people to load. My concern is that in front of that I
470 believe is a—if you can go to the overhead, please. In front of that is a traffic
471 lane. And if you have to park your car away from your activity area and walk
472 across that traffic lane to load it, that's about my only concern.

473
474 Mr. Chubby - Can we put the cursor where we would be parking
475 toward that concrete—

476
477 Mr. Berman - That's the traffic lane I'm talking about where the
478 cursor is now. I assume you'd have to park to the north of that.

479
480 Mr. Chubby - All the cars that I would get would be parking toward
481 that concrete piece, the curb we were talking about earlier.

482
483 Mr. Berman - The L-shaped one?

484
485 Mr. Chubby - The tent is going to run horizontally the length of that
486 curb and take up the first two sets of parking spots next to the curb. Then the rest
487 of that becomes open and available parking.

488
489 Mr. Berman - Oh, okay. So they can come into that rectangular
490 area.

491

492 Mr. Chubboy - Oh yes. Absolutely.
493
494 Mr. Berman - Park and load without being in the parking lane. Okay.
495
496 Mr. Chubboy - Correct. Those first two parking spots immediately
497 adjacent to the curb away from Broad Street will be covered up by the plants.
498 The rest will be on the other side of the curb. So you have umpteen parking spots
499 available. And I will be toward the Kentucky Fried Chicken side of the curb so the
500 SunTrust cars can still come out and drive down. So if I count—1, 2, 3, 4, 5, 6, 7,
501 8, 9, 10—11, 22, 33 parking spots are available.
502
503 Mr. Berman - Within that rectangle.
504
505 Mr. Chubboy - Within that black parking lot.
506
507 Mr. Berman - Good.
508
509 Mr. Chubboy - So it has plenty of spaces.
510
511 Mr. Berman - Good. My concern was that—
512
513 Mr. Chubboy - I would dream of filling that up and being done with
514 the business.
515
516 Mr. Berman - Very good. Thanks.
517
518 Mr. Chubboy - You're welcome.
519
520 Mr. Bell - Any other questions? Is there anyone else that would
521 like to speak to this issue? Thank you. We have a police officer coming up.
522
523 Mr. Chubboy - Okay.
524
525 Lt. Maher - I am Lieutenant Maher with the Henrico Police
526 Department. I have not been sworn in, just to let you know.
527
528 Mr. Blankinship - All right. Don't lie.
529
530 Lt. Maher - Just letting you know. In reference to this situation,
531 the tent, by having no side flaps on it, lacks an obvious sign that the operation is
532 closed or open, it looks like it's open 24/7. Our concern from the police
533 department's standpoint is having people coming in any time of the night when
534 he's not around and taking items. At that point, our concern would be—or to
535 recommend his business to have a "no authorization" letter on file.
536

537 Mr. Bell - Excuse me, sir. If you want to, you can sit down, and
538 then you can rebut anything that he says when it's over. Okay?

539
540 Lt. Maher - And basically, the authorization letter has to be
541 posted with no trespassing. It has to have hours of operation for anyone that
542 comes into that tent showing that it is closed and it's a no-trespassing type of
543 situation over a certain time of hours.

544
545 We also have what we call night card information. In other words, if something
546 does happen overnight when no one is there, we can easily contact the owner or
547 a representative from the business so we can make notification if something
548 does happen.

549
550 Mr. Blankinship - Is that something that's posted on the property or
551 something that's provided—

552
553 Lt. Maher - No. He would have to call in for the authorization
554 form. It's basically your information, contact. Whoever is working—from my
555 understanding, you're going to be over there. Have your information, so if an
556 officer comes across someone that looks like they're stealing plants, then we can
557 make contact and say is this person authorized to be in the tent.

558
559 Mr. Blankinship - And he would do that just once when he sets up?

560
561 Lt. Maher - The night card, yes, and the authorization form as
562 well. And obviously you have some kind of a sign saying the operation is open or
563 closed.

564
565 Mr. Bell - Any questions?

566
567 Ms. Harris - Officer, do you normally have problems in this area
568 with theft?

569
570 Lt. Maher - We do have vandalisms in the County. During the
571 next week to two weeks, three weeks, schools are letting out. Young kids are
572 going to be roaming the County streets, going to movies and so forth. They're not
573 going to be in around 9 or 10:00 at night. Our concern is anyone traveling that
574 area sees a place that may be open—could be an innocent person thinking that
575 it's open, go in there and so forth if it's not posted properly. Our concern is that
576 we don't want to cause a problem with the person who's a so-called innocent
577 person not knowing if it's open or closed at that time.

578
579 Ms. Harris - So you have not had problems in this area?

580
581 Lt. Maher - We do have vandalisms in the area. We have
582 larcenies from there such as car break-ins and so forth. He doesn't have a truck

583 that's going to be there overnight, from what I'm being told. I assume that money
584 is not going to be left there on the site at night either. So that's not really our
585 concern. Our concern is more of the trespassing, theft, and vandalism to tents.
586 We have had tents where people would take a knife and run down the tents and
587 cut them. We just don't want that to happen.

588
589 Ms. Harris - Thank you.

590
591 Mr. Bell - Would this be in terms of plants being left out, would
592 you think—we don't know—would this be any different than plants they leave out
593 at Lowe's, Home Depot, grocery stores at night in terms of—

594
595 Lt. Maher - It's a little different. The parking lot is lit at night, so it
596 will appear that it's open. If we don't have the hours of operation on the tent or
597 nearby that shows that it is closed, that it's not open for business—we just don't
598 want an officer to go down the street, see someone parked next to the tent who
599 works that area and say that car doesn't belong there at this time. And this
600 person is an innocent person walking in there, looking around, and being caught
601 in that situation, a bad situation.

602
603 Mr. Bell - It's more closely akin to the Christmas trees at
604 Christmastime.

605
606 Lt. Maher - Correct. But they have people stay overnight on
607 those.

608
609 Mr. Bell - Thank you. Any questions? Thank you. Do you have
610 anything you want to say in relationship to—

611
612 Mr. Chubboy - Not as a rebuttal. All of his is commonsense.
613 Whoever is doing that, if you can find my picture where I have the layout of the
614 tent and the color for BZG. Yes, that one. Where it says "exits and entrance," at
615 night, I close that up with plants. So it's no longer inviting. And I haven't done it,
616 but it's a good idea to put tape across that area and say "Closed. Will open 8 to 9
617 tomorrow." That's easily done and makes sense to me. But all that right now that
618 looks so inviting, at night I close it up. You have to find a way to get in to the tent
619 at that point.

620
621 And I think there was a night card; I can provide that, of course. I didn't get what
622 the authorization form was.

623
624 Mr. Blankinship - Because you're on private property, in order to
625 enforce something like no trespassing, the police would have to have an
626 authorization to act on your behalf. So it's just a letter authorizing the Division of
627 Police to enforce—

628

629 Mr. Chubboy - Got you. Okay. All right.
630
631 Mr. Blankinship - —no trespassing on private property.
632
633 Mr. Chubboy - So from me to the police.
634
635 Mr. Bell - So therefore, we will be adding that probably as one
636 of the suggested conditions.
637
638 Mr. Chubboy - Sure, it makes sense.
639
640 Mr. Bell - Anything else? Anybody else want to speak to this
641 issue? Thank you, sir.
642
643 Mr. Chubboy - Thank you.
644
645 **[After the conclusion of the public hearings, the Board discussed the case**
646 **and made its decision. This portion of the transcript is included here for**
647 **convenience of reference.]**
648
649 Mr. Baka - Mr. Chairman, I'll make a motion to approve
650 CUP2015-00017, the temporary sales tent at Tuckernuck Square shopping
651 center with the ten conditions suggested by staff and adding condition #11 to
652 require an onsite authorization form. Any other conditions, Ben?
653
654 Mr. Blankinship - I think there were three points that Lieutenant
655 Maher [?] mentioned—the onsite authorization, posting the property for no
656 trespassing after hours, and providing his contact information to the police
657 department.
658
659 Mr. Baka - So all three of those items that Ben mentioned be
660 incorporated into condition 11. And that would be my motion to approve the case.
661
662 Ms. Harris - Second the motion.
663
664 Mr. Blankinship - Could you give a little statement?
665
666 Mr. Baka - A statement of why?
667
668 Mr. Blankinship - Yes, please.
669
670 Mr. Baka - With these eleven conditions, I believe that the use
671 would not adversely impact the neighborhood, the health, safety, and welfare of
672 the adjoining properties, and it would blend in as a short-term event in the
673 commercial shopping center.
674

675 Mr. Bell - Is there any discussion? Hearing none, all in favor say
676 aye. All opposed say nay.

677
678 After an advertised public hearing and on a motion by Mr. Baka, seconded by
679 Ms. Harris, the Board **approved** application **CUP2015-00017, BZG PAGOSA**
680 **LLC's** request for a conditional use permit pursuant to Section 24-116(c)(1) of
681 the County Code to allow a temporary sales stand at 9004 W Broad Street
682 (TUCKERNUCK SQUARE) (Parcel 758-756-6786) zoned Business District (B-2)
683 (Brookland). The Board approved the temporary conditional use permit subject
684 to the following conditions:

- 685
686 1. This conditional use permit is for the approval of a temporary sales event that
687 will commence on Friday, May 29, 2015 and will end on Wednesday, June 17,
688 2015. This time frame includes set-up, event, and breakdown periods.
689
690 2. Hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.
691
692 3. The temporary sales event shall be located in the shopping center parking
693 area along West Broad Street between SunTrust Bank and Kentucky Fried
694 Chicken - refer to site plan. The proposed tent shall be placed and centered over
695 the concrete parking lot median (closest to W Broad Street) so that it can serve
696 as an elevated display area for plants and does not cause a tripping hazard to
697 customers.
698
699 4. Only the temporary improvements shown on the layout plan filed with the
700 application may be erected pursuant to this approval. Any additional
701 improvements shall comply with the applicable regulations of the County Code or
702 as specified in the conditions of approval.
703
704 5. The applicant shall clearly delineate the perimeter of the event area with traffic
705 cones and shall install traffic barriers at affected parking drive aisles entrances to
706 block vehicular traffic from entering the event area. Main traffic drive aisles
707 (providing internal traffic circulation) leading in or out of the shopping center shall
708 be kept free and clear of equipment, vehicles, and obstacles associated with the
709 event. Fire lanes shall be maintained in accordance with the Fire Prevention
710 Code. Access to on-site fire hydrants and fire department connections shall not
711 be impaired.
712
713 6. The applicant shall obtain a building permit for the tent.

714
715
716 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
717 Negative: 0
718 Absent: 0
719

720 [At this point, the transcript continues with the continuation of the public
721 hearing case on case CUP2015-00016.]

722
723 Mr. Blankinship - Do you want to call Ms. White and Mr. Lipscomb back
724 up?

725
726 Mr. Bell - Yes. Ms. White and Mr. Lipscomb?

727
728 Mr. Lipscomb - We had a chance to look over everything, and we're
729 in total compliance with all of the suggested conditions, although we do have a
730 few questions. Mainly was the "shall obtain all the necessary building permits for
731 items" such as "stages"—we won't have any mechanical amusement devices—
732 and generators. It does say that we would need to do this two weeks prior to the
733 event. We're about two weeks away. Is there any way—I know it's our
734 responsibility to find out exactly before we leave today, how to get that process
735 started.

736
737 Mr. Blankinship - Yes. I would suggest you just stop by the Department
738 of Building Construction and Inspections. They're on the second floor of the
739 administration wing.

740
741 Ms. White - The bouncies, if they already have permits and
742 they've already been certified and stuff like that, do we still need to get those
743 permits?

744
745 Mr. Blankinship - That would be a good question for them. Building
746 Inspections will know what's required.

747
748 Ms. White - Okay.

749
750 Mr. Blankinship - We'll rely on their expertise.

751
752 Mr. Lipscomb - And then we were looking at #10 and then the
753 requirements for the police. The only question we had on this was the fencing. It
754 did say provide fencing around the entire event, at minimum cones and color
755 mesh fencing should be used. So not just cones. We need I guess the standing
756 cones with the mesh inside of them? Lining cones wouldn't be enough, correct? I
757 just want to make sure I'm reading that—

758
759 Mr. Blankinship - Yes, I think that's correct.

760
761 Mr. Lipscomb - Okay. I think that's it.

762
763 Mr. Bell - Thank you again.

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

768
769 Mr. Bell - Do I hear a motion?

770
771 Ms. Harris - Mr. Chairman, I would like to move that this
772 conditional use permit be approved. I feel that the purpose of it does line up with
773 bringing the best to the community. It does not adversely affect the health, safety,
774 or welfare of other residents, and I feel that it should be approved.

775
776 Mr. Bell - Do I hear a second?

777
778 Mr. Berman - I second the motion.

779
780 Mr. Bell - Is there any discussion? Hearing none, all in favor say
781 aye. All opposed say nay. The ayes have it; the motion passes.

782
783 After an advertised public hearing and on a motion by Ms. Harris, seconded by
784 Mr. Berman, the Board **approved** application **CUP2015-00016, DTLR, INC.,’s**
785 request for a conditional use permit pursuant to Section 24-116(c)(1) of the
786 County Code to hold a special event at 3121 Mechanicsville Turnpike (Parcel
787 801-732-6533) zoned Business District (B-3C) (Fairfield). The Board approved
788 the temporary conditional use permit subject to the following conditions:

789
790 1. This conditional use permit is for the approval of a one-day temporary outdoor
791 event to be held on Saturday, June 13, 2015.

792
793 2. The outdoor event shall be limited to 8:00 a.m. to 8:00 p.m. including set-up,
794 event, and breakdown.

795
796 3. Only the temporary improvements shown on the layout plan filed with the
797 application may be erected pursuant to this approval. Any additional
798 improvements shall comply with the applicable regulations of the County Code or
799 as specified in the conditions of approval.

800
801 4. The applicant shall clearly delineate the perimeter of the event area with traffic
802 cones and shall install traffic barriers at affected parking drive aisles entrances to
803 block vehicular traffic from entering the event area. Main traffic drive aisles
804 (providing internal traffic circulation) leading in or out of the shopping center shall
805 be kept free and clear of equipment, vehicles, and obstacles associated with the
806 event. Fire lanes shall be maintained in accordance with the Fire Prevention
807 Code. Access to on-site fire hydrants and fire department connections shall not
808 be impaired.

809

810 5. Temporary tents shall maintain a 10 foot setback from property lines,
811 buildings, and other tents (unless attached). The tents shall not be enclosed (with
812 tarps or fabric) and generators used for the event shall maintain a 10' setback
813 from tents and fuel cans.

814

815 6. The applicant shall obtain all necessary building permits for items including
816 but not limited to tents (in excess of 900 square feet), elevated stages,
817 mechanical amusement devices, electrical generators and electrical connections
818 to be used during the event. The applicant shall request building permits no later
819 than two weeks prior to the event and shall schedule required inspections no
820 later than 10:00 am on the day of the event.

821

822 7. The applicant shall provide adequate restroom facilities and hand wash
823 stations as required by the Building Inspections Department or Department of
824 Health.

825

826 8. Perimeter landscaping planters shall be kept free and clear of equipment and
827 displays. All approved landscaping shall be maintained in a healthy condition at
828 all times. Dead plant materials shall be removed within a reasonable time and
829 replaced during the normal planting season.

830

831 9. The applicant shall maintain the property so that debris is controlled during
832 the event. Adequate trash receptacles shall be provided throughout the site
833 during the event.

834

835 10. On-site security measures shall satisfy the Division of Police written
836 requirements - see attached memo dated May 13, 2015.

837

838 11. The sale of alcoholic beverages shall be prohibited at the event.

839

840 12. The applicant shall prohibit loitering on the property

841

842 13. Speakers for amplified sound and music shall be directed toward the
843 shopping center in order to limit its impact on adjoining businesses and/or
844 residential neighborhoods and shall not exceed 65 dB at the property line.

845

846 14. The applicant shall place the proposed bounce houses to the interior of the
847 parking lot, not adjacent to Mechanicsville Turnpike.

848

849

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

851 Negative: 0

852 Absent: 0

853

854

855 **VAR2015-00003** **JAMES D. AND FRANCES PREVETTE** request a
856 variance from Section 24-9 of the County Code to build a one-family dwelling at
857 5319 Wythe Avenue (Parcel 770-736-4519) zoned General Residence District
858 (R-5) (Brookland). The public street frontage requirement is not met. The
859 applicants propose 0 feet public street frontage, where the Code requires 50 feet
860 public street frontage. The applicants request a variance of 50 feet public street
861 frontage.

862
863 Mr. Blankinship - Does anyone else intend to speak to this case. If so,
864 would you please stand? Please raise your right hand. Do you swear or affirm
865 that the testimony you're about to give is the truth, the whole truth, and nothing
866 but the truth so help you God?

867
868 Mr. Walker - Yes. Good morning. My name is Eric Walker. I'm here
869 representing the Prevette family. I am the contract purchaser of this property. We
870 come this morning requesting a variance to build a single-family dwelling at 5319
871 Wythe Avenue.

872
873 The Prevette family has owned this parcel for a number of years and always
874 understood it to be a buildable lot with road frontage that's shown there on the
875 asphalt turnaround. It was later explained to them when I approached them about
876 purchasing the property that that turnaround was not road frontage. So
877 essentially we needed to come for a variance or ask for some other kind for
878 exception.

879
880 Again, the history is, as I understand it, this turnaround was actually constructed
881 or built by Public Works and it is currently maintained by Public Works. But the
882 turnaround is not deeded right of way.

883
884 One of the conditions in the package is that the owners agree to make this
885 turnaround an easement in so much as that easement does not hinder the
886 overall use of the property. They are in agreement with that. One other condition,
887 I believe it's condition #6, the owner and myself are in agreement with a brick
888 front. But we request that it not be required on the eastern side of the elevation.

889
890 Mr. Bell - How is the house going to be fixed on the lot?

891
892 Mr. Walker - That's a great question. Mr. Blankinship and I talked
893 about that. Because of the dimensions of the buildable area, it will be something
894 specially designed to fit the lot. But it's going to be somewhat on a ranch or a
895 Cape Cod style home.

896
897 Mr. Bell - Is it going to lining up like the other houses right next
898 to 519 or 518?

899

900 Mr. Walker - Another good question. Yes. In fact, if you're looking
901 down Wythe Avenue towards this property, it would line up very similar, if not
902 exactly like the other homes on that street. So again, it wouldn't, in terms of
903 aesthetics, look any different than any other house on that street.

904

905 Mr. Bell - And the front of the house will be brick?

906

907 Mr. Walker - Yes.

908

909 Mr. Bell - And one of the sides of the house looks like it's going
910 to be brick.

911

912 Mr. Walker - Well, that's one of the conditions. And again, we're in
913 agreement to do the brick front and request that the eastern portion of the
914 elevation in terms of brick be removed, that condition be removed.

915

916 Mr. Bell - How many square feet do you think the house will be?

917

918 Mr. Walker - I did some schematics, but the square footage would
919 be somewhere between 1,400 and 1,500 square feet.

920

921 Mr. Bell - Is there going to be a driveway going to the house or
922 would there be parking in the turnaround?

923

924 Mr. Walker - No, there would be a driveway that would go
925 somewhat similar to the other driveways. If we were to assume that this paved
926 area was an actual right-of-way or cul-de-sac, we would construct a driveway off
927 of that that would go to the house.

928

929 Mr. Bell - Is the house going to be a rental property or is
930 someone going to be buying it?

931

932 Mr. Walker - It will be a for-sale property.

933

934 Mr. Bell - I was over there several times. I do know that there
935 are a couple of other houses for sale. There is a total of sixteen houses, I think—

936

937 Mr. Walker - On that street.

938

939 Mr. Bell - Do you feel that that will fit in with that neighborhood?

940

941 Mr. Walker - Yes sir. Again, it's been my experience—I've been a
942 builder for a number of years. My business practice is to go into existing
943 subdivisions similar to this and build. It's been my experience that it's adding
944 value as opposed to detracting from the neighborhood.

945

946 Mr. Bell - As just an estimate, an estimate only, that type of
947 house, how much would something like that sell for?
948
949 Mr. Walker - Well, now I think somewhere north of \$200,000.
950
951 Mr. Bell - Any questions?
952
953 Ms. Harris - Yes. Mr. Walker, you've been before us before, so I
954 am sort of acquainted with your work.
955
956 Mr. Walker - Yes ma'am.
957
958 Ms. Harris - So you know it would help us if we had a blueprint or
959 proposed construction of the home. You know, a picture is worth a thousand
960 words.
961
962 Mr. Walker - Yes ma'am, I totally agree with that. Unfortunately,
963 because, again, of the dimensions of the lot—I spent a little bit of time on
964 conceptualls, but I didn't want to spend too much time and money until I get past
965 this process. Again, it's going to be either a ranch or a Cape Cod style home,
966 which is consistent with what's in the neighborhood now.
967
968 Ms. Harris - Okay. You've never built this style before?
969
970 Mr. Walker - I have. But again—
971
972 Ms. Harris - So do you have anything that we can see?
973
974 Mr. Walker - I have a ranch plan that—well, the ranch plan that I've
975 built before, a couple of the ones that I've built before really don't fit on the lot.
976 But again, my concern or issue was because of the buildable area that's left—
977 again, I've been in business a number of years. A lot of what I build fits on a lot of
978 different lots. But because of the confinement of this lot, I have to really retro
979 design something to make it fit. But again, I'm in agreement to build something in
980 ranch or Cape Cod style.
981
982 Mr. Berman - You talked about a driveway coming off of possibly
983 the paved turnaround. From a continuity standpoint, first of all, none of the
984 homes on Wythe have a driveway except for the one that's next door to this lot.
985 Mr. Mejia is here. He will be speaking to that, if he chooses to, the neighbor's
986 son. Question. Is it possible—and this would be between you and the Mejias. Is it
987 possible to share the existing driveway that comes off of Wythe, rather than
988 utilize the paved turnaround from a consistency standpoint?
989
990 Mr. Walker - Well again, I'm not going to utilize the paved
991 turnaround. That's just going to give me access onto the property. I'm essentially

992 going to build a driveway off of the paved—that's over in the yard, if you will—to
993 get up to the house.

994
995 Mr. Berman - I understand.

996
997 Mr. Walker - So we're not going to use that turnaround as parking
998 space.

999
1000 Mr. Berman - I understand because everybody else uses it,
1001 including the JCC people. My question is instead of doing that, is it possible to
1002 maybe widen the existing driveway next door and use that as a driveway instead
1003 of coming off—over across your property into the house?

1004
1005 Mr. Walker - It's an infesting concept. My experience, any time that
1006 you have a joint driveway there are potential possibilities in the future of
1007 maintenance issues. I'm willing to have a conversation with the neighbor, but it's
1008 been my experience—for example, if you build on a major street and the
1009 requirement is that you utilize one driveway, my experience is that in the future
1010 there potentially could be issues, who is going to maintain it, and so forth and so
1011 on. So I try to stay away from that. But I'm willing to have a conversation with the
1012 neighbor about it.

1013
1014 Mr. Berman - In the backyard—thank you. In the backyard there is
1015 a—I don't know if you can see it on here. There's a fenced-in area that appears
1016 to be heading towards the neighboring lot. Yes, right there. Is that backyard
1017 deeded to the lot in question?

1018
1019 Mr. Walker - Yes.

1020
1021 Mr. Berman - Okay. It's just that the back lot is not segregated
1022 between the two properties. That's the only reason why I asked. I thought it might
1023 have been an L-shaped because it was built in the 1950s before we prevented L-
1024 shaped or flag lots.

1025
1026 Mr. Walker - What I understand is that when this property was
1027 purchased from the JCC, the owner of the neighboring home was the gentleman
1028 that purchased the lot. And at some point, he sold the lot to the family that
1029 currently owns it. I wasn't around in 1965, but I would assume that a lot of what
1030 you see may have been an offspring of that relationship.

1031
1032 Mr. Berman - Was the JCC notified of this plan?

1033
1034 Mr. Blankinship - Yes sir.

1035
1036 Mr. Berman - Okay.

1037

1038 Mr. Blankinship - I haven't received any comments from them.
1039

1040 Mr. Berman - No comments? What has kind of prompted this? The
1041 house and the lot have been there since the early '50s. Fast forward sixty years,
1042 what's changed? What has prompted the interest in developing this lot?
1043

1044 Mr. Walker - I don't think anything's changed. Based on my
1045 conversation with the owner, the father purchased this as an investment, an
1046 asset that he could either utilize himself or pass on to his heirs, which he's
1047 passed on to his heirs. I've been in conversation with the owners for over ten
1048 years, and they finally decided that they were willing to sell it. So again, their
1049 understanding has always been that this was a buildable lot. In fact, the
1050 assessments on the lot kind of show that at least the assessment office thought it
1051 was a buildable lot as well. Both of the majority owners in this property are up in
1052 age, and so at this time they decided to sell it.
1053

1054 Mr. Berman - The 35-foot building line, are you intending—yes, right
1055 there. Are you intending to align with the neighboring homes front porches or the
1056 mass of the houses themselves?
1057

1058 Mr. Walker - I believe that—and I don't have dimensions off of the
1059 neighbor's house, but I believe the mass of the buildings is where that setback is
1060 off of.
1061

1062 Mr. Berman - The reason for the question is aesthetically I want to
1063 make sure, as you said, when you look down Wythe that everything aligns.
1064 Whether it's the front porch or the house, that it's just a nice, clean line.
1065

1066 Mr. Walker - Well I think, unfortunately, because this neighborhood
1067 is so old, you're going to have a little bit of a skew because the standards in
1068 terms of setback off of porches versus the house may have been different. And
1069 then somebody may have decided instead of putting their house up on the 35-
1070 foot, they might have decided to set it back 40 feet, so you're going to get a little
1071 bit of skew. But essentially, the house is going to be lined up similar to the
1072 adjacent homes.
1073

1074 Mr. Berman - Thank you, that's all.
1075

1076 Mr. Bell - Any other questions?
1077

1078 Mr. Baka - Just a couple. To reiterate some of the comments
1079 from the Board, including Ms. Harris. I would see in a situation like this that there
1080 might be some benefits to having a conceptual design of the house to actually be
1081 built on this specific property because of some of the unique scenarios here and
1082 concerns from the neighborhood as exhibited by a petition with a number of
1083 signatures.

1084

1085 As Mr. Berman said, there are also some benefits to a shared driveway. If I have
1086 half of the driveway and my neighbor has half of the driveway—driveways get
1087 maintained on a regular basis, year after year, in many neighborhoods all
1088 throughout Virginia, throughout the country. So I wouldn't see that as a big
1089 obstacle, especially when the benefits of a shared driveway might allow for the
1090 potential minimizing impact of a potential turnaround.

1091

1092 So just a couple unanswered questions in my mind that I'll kind of underscore
1093 with some comments. I guess the one question I had dealt with condition #3,
1094 talking about landscape and tree retention. It's a beautiful area of land. When you
1095 first drive by and you don't see a tax map, one would think that it's a natural
1096 buffer that's been there and it has an intention to be there for many, many years
1097 to come with a large tree mix of pine, deciduous, and I think some magnolia.
1098 Condition 3 says that the three maple trees along the western edge of the
1099 turnaround shall be retained. I guess my question about #3 is, as I understand it,
1100 most of those large deciduous trees are going to need to be removed for the
1101 construction of the home. Correct? They're right smack in the middle of the lot.

1102

1103 Mr. Walker - Could you show me on an overhead the trees that
1104 you're referring to, please?

1105

1106 Mr. Berman - I think it's a big magnolia—

1107

1108 Mr. Baka - Really large—yes, magnolias.

1109

1110 Mr. Berman - You can see it there.

1111

1112 Mr. Baka - There it is. So those trees are clearly in the middle of
1113 where the home would be. That first tree where the cursor is now, would that
1114 stay? And then as you move further southwest there, the one in the middle right
1115 there, that's obviously going to need to go. But do you know would that tree in
1116 the front stay?

1117

1118 Mr. Walker - Just looking at it, I would think that that tree would
1119 need to go.

1120

1121 Mr. Bell - That's three trees; it's not one tree.

1122

1123 Mr. Walker - Oh. I'm referring—

1124

1125 Mr. Berman - In the center of the lot, that's the magnolia.

1126

1127 Mr. Baka - The center needs to go. And then closer to the road,
1128 do you think any—

1129

1130 Mr. Walker - I would assume that that tree would need to go.
1131
1132 Mr. Baka - Okay.
1133
1134 Mr. Walker - But I'm willing to try to save as much as I can.
1135
1136 Mr. Baka - All right. And since we're zoomed in here, the three
1137 maple trees along the western edge that refers to the JCC's edge.
1138
1139 Mr. Walker - I don't think those trees are on the property.
1140
1141 Mr. Blankinship - We would expect you to do what you can to protect
1142 them so that your equipment doesn't run over the roots.
1143
1144 Mr. Walker - Right.
1145
1146 Mr. Baka - The critical root zone.
1147
1148 Mr. Blankinship - That front tree, even if you don't cut it, just running the
1149 equipment in and out of there you're going to kill it. We would hope to have some
1150 protection for the maple tree.
1151
1152 Mr. Walker - Oh, okay.
1153
1154 Mr. Berman - I would say that every tree within that yellow rectangle
1155 would have to go in order to put the house in. As you say—
1156
1157 Mr. Baka - I think so.
1158
1159 Mr. Berman - —if you do a driveway off of there. That was my
1160 concern about doing a driveway off of the turnaround is that you'd have to knock
1161 out all those trees right there, which is a nice buffer.
1162
1163 Mr. Walker - Well, one thing that I'll bring up that makes sense to
1164 see it here on this aerial, is the rear yard setback on the neighbors is twenty-five
1165 feet. The rear yard setback of this lot is thirty-five feet. So my house is essentially
1166 going to have more backyard, more usable backyard as compared to the
1167 neighbors. So anything that's within I would say ten feet of the house, we would
1168 clear and try to maintain what's left.
1169
1170 Mr. Baka - Okay.
1171
1172 Mr. Walker - But to go back to the driveway thing, help me
1173 understand? I'm losing the benefit of a shared driveway. If you look at this aerial,
1174 you can see the driveway that is owned by the neighbor. Let's say I come in, for
1175 argument's sake, on the right side of that property and create a driveway, or even

1176 on the left, I'm not sure I see the benefit of sharing the driveway. Could
1177 somebody help me with that?

1178
1179 Mr. Berman - Correct me if I'm wrong. The distance between the
1180 homes on Wythe are ten feet. You're proposal is to also put ten feet between you
1181 and the property line of the neighbor.

1182
1183 Mr. Walker - Well, I believe the house just adjacent to this lot is
1184 seven feet off. So some of the homes in here may actually be seven feet. My
1185 side yard setbacks are actually going to be ten feet, so that would be greater. So
1186 there is going to be more room from my house to the property line than the other
1187 homes in the neighborhood.

1188
1189 Mr. Berman - It's still going to be tight. The reason behind the
1190 driveway suggestion, the shared driveway—correct me if I'm wrong, but I think
1191 the existing driveway may even be partly on your property.

1192
1193 Mr. Baka - Correct. That's one thing I saw.

1194
1195 Mr. Berman - And for that reason, it would serve as a nice buffer if
1196 they extended that driveway another couple feet so it could be a shared
1197 driveway.

1198
1199 Mr. Walker - Again, this is a conversation I'm more than willing to
1200 have with the neighbor. I spoke to my reservations, but I'm not opposed to having
1201 that conversation with them.

1202
1203 Mr. Berman - It's not my place to broker any kind of arrangement;
1204 I'm just making a suggestion.

1205
1206 Mr. Walker - Okay.

1207
1208 Mr. Baka - If they do not pursue a shared driveway, would the
1209 owner of this lot, the Prevettes, or even a future landowner who it might be
1210 transferred to one day down the road, have the ability to say hey, I don't want
1211 that encroachment on my property anymore, you can't have that driveway there?

1212
1213 Mr. Walker - That's a great question. That's something that I hope
1214 to resolve before I transfer this property.

1215
1216 Mr. Baka - Thanks.

1217
1218 Mr. Walker - Thank you.

1219

1220 Ms. Harris - Mr. Walker, some minor questions. I drove by there
1221 too. Is there a structure on that lot? I was seeing something back there. Is there
1222 any type of fenced-in structure on the lot itself behind these trees?
1223

1224 Mr. Walker - There is a fence, yes.
1225

1226 Ms. Harris - Just a fence.
1227

1228 Mr. Walker - There is a fence. I don't remember seeing any kind of
1229 structure. There's a picture of the fence. That fence will be taken down.
1230

1231 Ms. Harris - Okay, that may be what I saw. Have you had any
1232 challenges to build on similar properties?
1233

1234 Mr. Walker - That's a great question as well. The challenge is, in all
1235 fairness—in fact, one of the homes that I've personally lived in had been vacant,
1236 similar to this, for a number of years. The owners and the neighborhood were a
1237 little bit upset when I built the home there because it had always been a treed
1238 area, vacant space with no house. And so the challenge is always when—again,
1239 this is my business. I go into existing neighborhoods and do this. So the
1240 challenge is always having communications with your neighbor about what's
1241 going on, which I haven't done yet. But having communications and giving them
1242 understanding that what's going to be built is going to be a benefit to the
1243 neighborhood and not a detriment. And then hopefully work out—you have a
1244 meeting of the minds, an understanding, and everybody walks away okay.
1245

1246 Ms. Harris - So you don't think you're going to have any problems
1247 with setbacks—rear, front, side?
1248

1249 Mr. Walker - I've looked at what's available in terms of buildable
1250 area, and I think I can construct something that is similar to the neighborhood
1251 and is aesthetically pleasing and marketable.
1252

1253 Ms. Harris - Those are my questions. Thank you.
1254

1255 Mr. Berman - Some of the apprehension of the neighbors—and
1256 they can speak to this directly—is that, as we talked about, the aesthetics, that it
1257 should match what's on Wythe already. They've been using this area, right or
1258 wrong, as a community gathering place and as a buffer, as it were. But one of the
1259 tasks of this Board is to help protect the rights of the people who own the land.
1260 And if they build on it and meet all the regulations, then they shouldn't be
1261 prevented from building on it. So that's kind of the discussion that's been going
1262 on with the neighbors, and that's why seventeen people signed the petition.
1263

1264 Mr. Walker - And I definitely understand. I guess in my mind if the
1265 paved turnaround wasn't there, it would be something different. I would

1266 understand, and I would probably still come to the Board and ask for a variance.
1267 But it would be a different animal. But because the turnaround is there and it's
1268 laid out and lends itself to just being another lot—in fact, this lot is bigger than
1269 most of the lots in that neighborhood. So because it lays out that way, to me it's
1270 less of an argument for anybody to say that somebody building on this lot is
1271 going to adversely impact their property. I understand.

1272
1273 Like I said, I deal with this every day. I understand the hurdle that you have to
1274 overcome, but the reality is this turnaround was constructed by Public Works
1275 prior to the current owner buying it. They always understood that it was a
1276 buildable lot as it is. And we can't figure out how Public Works built it, but it was
1277 built. So at this point, all we can do is try to work with what's there.

1278
1279 Mr. Bell - Mr. Kelley? Yes.

1280
1281 Mr. Kelley - I'm Tom Kelley—K-e-l-l-e-y. I just have some
1282 concerns on this. I've only lived there fifty years, so I know a little bit about the
1283 neighborhood. I'm on the opposite end of the block on the corner. We've used it
1284 for a gathering spot since I've been there, but that's neither here nor there.

1285
1286 I am concerned about the house. It would be nice to have some idea of what it's
1287 going to look like. Nobody knows. It's going to be a rancher or it's going to be
1288 Cape Cod, but what is it going to look like? And how it is going to fit on that lot? I
1289 have some concerns about that. If it's going to be in line with Mr. Mejia's house,
1290 it's going to be facing the cul-de-sac that's there now. Where is the driveway that
1291 he is proposing going to go, and how is it going to access that house? And
1292 what's going to happen to the cul-de-sac? People going up that block need that
1293 turnaround to get out of there. Otherwise, it becomes a dead end, which is not
1294 going to work. What are you going to do, drive up to the end of the block and
1295 then you have to back all the way out? That's not going to work. So I don't know
1296 what will happen to the cul-de-sac as a result of all this.

1297
1298 And the setback, as you were talking about. Most of the houses are like fifty feet
1299 back off of the street. So how far is this going to be in relation to the other houses
1300 on the block? All the houses on the block are brick. A front brick is not very
1301 appealing to me. I had heard something about maybe the east side would be
1302 brick and the front. Well what about the other two sides—the back and the side
1303 facing the center? If you come onto the center light, you'll see that end of the
1304 house. Granted, you're not going to see it driving up Wythe Avenue, but from a
1305 resale standpoint later on, what is that going to do to have a brick front and
1306 cardboard sides or whatever? I don't know what's going to go up there. So I'm
1307 not too happy with that. I would say it should be all brick, not just partial brick. It
1308 should be all brick, which is in keeping with the rest of the houses on the block.

1309

1310 The size of it, I guess it should be at least 1,300 square feet, but I'm hearing that
1311 it may be 1,400 square feet or so. Is that in fact enough space to put that size of
1312 house there? That is my concern too.

1313

1314 So basically, those are my concerns, and that's why I'm here.

1315

1316 Mr. Bell - Any questions? Thank you, Mr. Kelley, for your
1317 concerns.

1318

1319 Mr. Mejia - I'm Michael Mejia, and I'm here on behalf of my
1320 father. And I have a letter stating that I'm talking for him. I don't know if—

1321

1322 Mr. Bell - Could you give us the spelling of your last name?

1323

1324 Mr. Mejia - It's M-e-j-i-a. We basically share the same concern as
1325 Mr. Kelley about this turnaround right here. And we have used this lot, everybody
1326 in the neighborhood. I guess it doesn't really have any bearing on the case, but
1327 we have used it, maintained it. And we would like to see something, if it is built, to
1328 be in the same style as the rest of our homes. We don't want to see the property
1329 values decrease. And aesthetically, just keep it in line with the neighborhood. We
1330 don't want something that doesn't belong there or is going to look like an
1331 eyesore. And as many trees as possible that we can keep also, because we like
1332 that part of the neighborhood. It looks nice, and we try to keep it that way.

1333

1334 I don't know if you have any questions.

1335

1336 Mr. Berman - The side of your house facing the lot, Mr. Mejia, is it
1337 brick?

1338

1339 Mr. Mejia - It is brick and then has a small portion of siding,
1340 plastic siding.

1341

1342 Mr. Berman - And the front of your house?

1343

1344 Mr. Mejia - Is all brick. And the other side is all brick, and behind
1345 is all brick. It's just that one little side facing the west we put a little bit of vinyl
1346 siding.

1347

1348 Mr. Berman - Over the brick?

1349

1350 Mr. Mejia - Yes sir. But it is all brick. My aunt has lived there for
1351 thirty years. My father bought it from my aunt. We've been there for maybe
1352 thirteen years. So this property has been in the family for forty years maybe.
1353 They have maintained the lot. And when I got there and purchased it, I
1354 maintained the lot that was there. It's a shared thing. They let us use the lot; we
1355 would maintain the lot and make it look nice. It benefits the whole neighborhood.

1356

1357 Mr. Berman - Do any formal agreements to utilize that lot exist
1358 between you and the lot owner?

1359

1360 Mr. Mejia - I've never been contacted. Ever since I've lived there,
1361 we purchased that house; there's been no contact between us.

1362

1363 Mr. Berman - In the backyard—I don't know if we have a picture of
1364 it—is there a fence in the backyard that delineates your lot from their lot?

1365

1366 Mr. Mejia - There is a fence that was constructed by my aunt's
1367 late husband. It's just been maintained ever since.

1368

1369 Mr. Berman - So if they had to remove the—I guess Mr. Walker
1370 talked about removing that fence that's on the screen right now. In order to
1371 segment your backyard from their backyard, you'd have to construct another
1372 section of fence?

1373

1374 Mr. Mejia - I would have to do something, yes sir.

1375

1376 Mr. Berman - And could you confirm if the lot that your driveway
1377 encroaches on—

1378

1379 Mr. Mejia - It is about two feet. I walked it today, and it looks to
1380 me about two feet is on their lot. And it's been that way for thirty years.

1381

1382 Mr. Berman - What is your opinion about a shared driveway, if you
1383 were to expand that driveway?

1384

1385 Mr. Mejia - That would be something I'd have to talk to my father
1386 about because he is the owner. And I'm a little concerned, not being able to see
1387 a design of what's going on this lot. We're only getting "this is going to be," but I
1388 don't see what he's talking about. I don't have a guarantee that it's going to be in
1389 similar form with the rest of our neighborhood or my house. We're going to be the
1390 ones that are going to be mostly impacted because we are beside this house.

1391

1392 Mr. Berman - Well let me ask you a question about that, because I
1393 can understand the conformity concerns, the aesthetic concerns. It's a
1394 wonderfully kept neighborhood, but these houses are sixty years old and
1395 materials and styles have changed over sixty years. Would you feel that they
1396 should absolutely duplicate something that's sixty years old or?

1397

1398 Mr. Mejia - Not maybe duplicate, but as close as possible to keep
1399 in line with the neighborhood. Yes, I believe. My thing is when they purchased
1400 this lot, how did they not know that they weren't able to build on this lot up until
1401 this time.

1402
1403 Mr. Berman - Mr. Walker explained that they put in the turnaround
1404 which then changed the setback requirements after that purchase.
1405
1406 Mr. Mejia - From what I understand—I mean, my aunt is not here;
1407 she's in Columbia—this has come up before with the owner. My aunt's late
1408 husband pretty much went through this, and they knew that it wasn't buildable at
1409 that time. So I'm guessing it should be still the same owner. Maybe the kids now
1410 own it, but he knew.
1411
1412 Mr. Berman - Has this case come before the Board?
1413
1414 Mr. Blankinship - I'm not aware that we've ever had a variance
1415 application. Of course the word *buildable* can mean a couple of different things. It
1416 can mean you can get a building permit today or it can mean you can get a
1417 building permit if you can get a variance.
1418
1419 Mr. Mejia - I don't know exactly when. Like I said, I can't really
1420 get in touch with her; she's in Columbia. I'm having a hard time.
1421
1422 Mr. Blankinship - It's not buildable unless the Board grants a variance,
1423 and then it is buildable.
1424
1425 Mr. Berman - But to Mr. Mejia's point, what's changed between now
1426 and then?
1427
1428 Mr. Mejia - We're more than willing to buy this lot. They never
1429 approached us to buy it. We would keep it the same if we could, not building
1430 anything there. But I know at this point it's not feasible because things are in the
1431 works.
1432
1433 Mr. Berman - I asked the office to supply you with that contact
1434 information this week.
1435
1436 Mr. Mejia - I never received it. I called, and the only person's
1437 number that they would give me was this gentleman's right here, not the actual
1438 person who owns it at this point right now. And I've actually tried to call Mr.
1439 Prevette. I called three different numbers; no one ever answered.
1440
1441 Mr. Baka - So there is an interest on your part in possibly
1442 discussing whether you could buy the lot.
1443
1444 Mr. Mejia - We would more than happy to buy the lot and leave it
1445 the same. We hate to see it go because everybody in the neighborhood utilizes
1446 this lot. And I don't mind taking care of the lot. I've done it for thirteen years, and
1447 my aunt did it for thirty years. You know, her husband also. We'd like to keep it

1448 the same, but I understand if they would like to sell, it's their choice who they
1449 want to sell to. We just have some concerns that we're losing the aesthetics of
1450 the neighborhood, I guess, that we have come to love.

1451

1452 Mr. Berman - We understand that, but as I explained before—

1453

1454 Mr. Mejia - Yes, I understand.

1455

1456 Mr. Berman - —they own the property, and if they can meet all the
1457 requirements—

1458

1459 Mr. Mejia - And it's their right to do what they would like, I
1460 understand. We just at least would like to see if they are going to do it, what is
1461 going to be put there before you grant them authorization.

1462

1463 Mr. Bell - You keep saying "like to see," what would you like to
1464 see?

1465

1466 Mr. Mejia - I would like to see what is going to go on that lot.

1467

1468 Mr. Blankinship - Building plans.

1469

1470 Mr. Mejia - Building plans, yes sir.

1471

1472 Mr. Berman - Artist conception.

1473

1474 Mr. Bell - Artist conception?

1475

1476 Mr. Mejia - Exactly what's going to be there, not just what the
1477 gentleman is saying. In the end, that could come to anything. We don't know.
1478 We're basically just relying on his word instead of actually seeing.

1479

1480 Mr. Blankinship - Well, we are fixing certain aspects of it. The location
1481 is pretty well set. I mean, he's shown the buildable area on the lot. It's small
1482 enough that there is not a lot of flexibility to move around within that buildable
1483 area. We have proposed to the Board a condition that it be either a one-story or a
1484 Cape Cod, one-and-a-half-story dwelling. If the Board adopts that condition, then
1485 that's fixed. The staff has recommended two sides be brick. The applicant has
1486 requested to allow only the front to be brick. Mr. Kelley suggested that all four
1487 sides should be brick. So the Board will make a decision on that.

1488

1489 Mr. Mejia - I would like at least the east side and front to be brick.

1490

1491 Mr. Blankinship - That's how we felt.

1492

1493 Mr. Mejia - I would hope that would be the minimum.

1494
1495 Mr. Blankinship - It's not clearly visible from the other two sides, but it
1496 will have an impact on the neighborhood on those two sides, in staff's view. But
1497 that will be up to the Board.
1498
1499 Mr. Mejia - Yes sir.
1500
1501 Mr. Blankinship - So those facts about the design of the house are
1502 known now. That does leave Mr. Walker the flexibility to design a house that, as
1503 Mr. Berman mentioned, would meet the needs of today's market, which is not
1504 identical to what it was.
1505
1506 Mr. Bell - Any other questions?
1507
1508 Ms. Harris - Would you rather have a house that conforms to
1509 homes that are fifty years old or would you rather have a more modern home?
1510
1511 Mr. Mejia - I would like something in between.
1512
1513 Ms. Harris - Okay. Good answer.
1514
1515 Mr. Mejia - I don't really want—. It's going to look really different
1516 to have a super-new style home next door; it's going to stand out. I'd like
1517 something in between if I had a choice.
1518
1519 Ms. Harris - Thank you.
1520
1521 Mr. Mejia - I can't force anybody to do anything, so that's just my
1522 opinion. And the rest of the neighborhood shares what I'm saying right now. At
1523 least keep it somewhat in line with what we have and has been there for fifty
1524 years. The rules with the frontage and everything, so we would like that as close
1525 as possible to keep in line with the rest of the neighborhood.
1526
1527 Ms. Harris - Thank you.
1528
1529 Mr. Bell - All right. Thank you, sir. Is there anyone else who
1530 would like to speak to the issue? Any rebuttal?
1531
1532 Mr. Walker - I'll be brief. I'd love to speak to a couple of the
1533 different points. It seems like the biggest bone of contention is the conceptual. I
1534 just did a rough estimate. If I were to do a ranch-style home, it would be under
1535 1,300 square feet based on what's buildable. We have 27' by 47'. With that being
1536 said, again, my goal is to build something that's going to be between fourteen
1537 and fifteen, so it looks like I'm going to have to do a Cape Cod style. And I think
1538 everybody probably knows what a Cape Cod style home is. Again, brick front,
1539 two dormers in the roof. So it's going to be something that's going to be similar to

1540 what's in the neighborhood, aesthetically pleasing, but also marketable. Again,
1541 I'm willing to work with the neighbors as much as I can.

1542
1543 There is one other point. The fencing that we saw in the picture was actually
1544 fencing on the width of this lot. There is actually a chain link fence, if I remember,
1545 that's actually closer to the property line that runs down the property line. So they
1546 wouldn't have to necessarily construct anything new in terms of separation;
1547 there's one that's already there.

1548
1549 But I drew this elevation to kind of give you an idea of what my thoughts were in
1550 terms of the driveway. And again, we want to be a good neighbor. But in theory,
1551 we don't have any record of this turnaround being right-of-way. So in theory, the
1552 homeowners, the landowners, the lot owners currently if they elected to, could go
1553 out and remove that turnaround. But again, we want to be good neighbors and
1554 leave it there, because obviously it's needed. Any time you have a street that
1555 stops without a turnaround, as he spoke—my mom lives on a street in Henrico
1556 now that has no turnaround. So I know what that feels like. And again, we don't
1557 want to do that. We want to take a piece of property, an asset that this family has
1558 owned for years and for them to be able to utilize it. I'm obviously the beneficiary
1559 of it because I would potentially be the buyer. But ultimately, this property owner
1560 has seen this as an asset and has decided today to sell it.

1561
1562 I think the conditions speak to what the County would like to see. I'm in
1563 agreement with the majority of them, and I've mentioned what my exception
1564 would be. And I ask that the Board grant the variance.

1565
1566 Mr. Berman - Like you said, the elevation/artist conception is a
1567 concern to the Board. If we delay this for thirty days, could you provide those to
1568 us so that we have a chance to review it at the next meeting, rather than do a
1569 motion on it at this meeting? Or do you want to save that discussion for when we
1570 move into that portion of this meeting, Mr. Blankinship?

1571
1572 Mr. Blankinship - I think it would be good to hear Mr. Walker's reaction.

1573
1574 Mr. Baka - Both about the elevations, and to allow time for
1575 discussion about the driveway idea, or even to allow time to discuss the possible
1576 conveyance—

1577
1578 Mr. Berman - Purchase by the Mejias.

1579
1580 Mr. Baka - —by another party. Seems like there are three
1581 outstanding issues that we could elaborate on.

1582
1583 Mr. Walker - I understand the driveway. So opposed to me
1584 purchasing, we want them to be able to purchase it? Is that what I understand?

1585

1586 Mr. Baka - I think the primary concern I heard was that—Mr.
1587 Berman's question, identified specific conceptual plans of what would be built
1588 here. Showing an actual Cape Cod style, if that is, and showing actual brick front,
1589 and is the brick on one or two sides at that point. Is that would you were alluding
1590 to.

1591
1592 Mr. Berman - That was the conception. That's number one. Number
1593 two is the possibility of the Mejia family purchasing the lot. Number three would
1594 be the driveway, which could be part of the artist conception and the elevation.

1595
1596 Mr. Walker - I'm not opposed to deferring this case to give you
1597 conceptions. Again, it's a Cape Cod, brick front. I'm the contract purchaser. So
1598 essentially what you're saying is that you want me to go away to give the
1599 neighbor an opportunity to buy the lot.

1600
1601 Mr. Berman - That's not what I'm saying. I'm more interested in the
1602 artist conception. But since there is a desire from them to purchase the lot, that
1603 would give time for that discussion to happen. Again, I'm not here to broker a
1604 bidding war on the lot. But I'm more interested in the conception and the
1605 elevation. I will also tell you that the conditions we set forth with the brick, I'm still
1606 leaning towards all brick around. We're not voting on that at this moment.

1607
1608 Mr. Walker - Is that a new condition?

1609
1610 Mr. Berman - No, that's the existing condition, is east and north
1611 brick. And you've come to the Board to ask relieve the east brick condition. My
1612 opinion thus far is I would be opposed to that. But I'm not speaking for the whole
1613 Board at this time.

1614
1615 Mr. Walker - Understood.

1616
1617 Mr. Bell - What I think about the same situation is primarily just
1618 one and not all three that we're talking about. The driveway can be negotiated as
1619 well. And the property, if you want to. But from what I've heard—and we've
1620 covered a lot of it, but there is still some confusion as to what it will look like, how
1621 it would fit on the lot, square footage, brick side, that side. So by taking another
1622 thirty days—like many variances that come our way, we ask to see plans—you
1623 could bring something like a plan, and we could show that to them. And I think
1624 we will eliminate a lot of the concern that I've heard today. That's what I'm
1625 thinking thirty days would help us.

1626
1627 Mr. Walker - And I appreciate that. Again, I'm here as a
1628 representative of myself as the contract purchaser and of the lot's owners. They
1629 were excited about the hearing, and the time, and being able to potentially close.
1630 But if at the end of the day they can't build on it, the thirty days I think would be

1631 agreeable to give me time to put together a conceptual and present it to the
1632 Board and possibly meet with the neighbor so they can see it as well.

1633
1634 Mr. Berman - Absent that, we would have to rule with just the
1635 information we have in front of us today. That's why we posed the thirty days.

1636
1637 Ms. Harris - Question. Would you be the builder?

1638
1639 Mr. Walker - Yes ma'am.

1640
1641 Ms. Harris - Okay.

1642
1643 Mr. Bell - Any other questions? How do we go about this?

1644
1645 Mr. Blankinship - Just go on to the next—

1646
1647 Mr. Walker - I request that we defer this case.

1648
1649 Mr. Bell - Defer it for another thirty days.

1650
1651 Mr. Walker - Another thirty days.

1652
1653 Mr. Baka - Should we move on that right now?

1654
1655 **[After the conclusion of the public hearings, the Board discussed the case**
1656 **and made its decision. This portion of the transcript is included here for**
1657 **convenience of reference.]**

1658
1659 Mr. Bell - VAR2015-00003 has been deferred for thirty days.

1660
1661 Mr. Berman - We need a motion.

1662
1663 Mr. Bell - Oh. Do I hear a motion that we defer VAR2015-00003
1664 for thirty days?

1665
1666 Mr. Berman - Mr. Chairman, I move that we defer it for thirty days to
1667 give the applicant time to produce artist conceptions and to have discussions
1668 with the neighbors.

1669
1670 Mr. Blankinship - And by thirty days, we mean until June the 25th.

1671
1672 Mr. Bell - Do I have a second on the motion?

1673
1674 Mr. Nunnally - Second.

1675

1676 Mr. Bell - Is there any discussion? Hearing none, all in favor say
1677 aye. All opposed say nay. The ayes have it; the motion passes. It's deferred for
1678 thirty days.

1679
1680 After an advertised public hearing and on a motion by Mr. Berman, seconded by
1681 Mr. Nunnally, the Board **deferred** application **VAR2015-00003, JAMES D. AND**
1682 **FRANCES PREVETTE's** request for a variance from Section 24-9 of the County
1683 Code to build a one-family dwelling at 5319 Wythe Avenue (Parcel 770-736-
1684 4519) zoned General Residence District (R-5) (Brookland).

1685
1686
1687 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1688 Negative: 0
1689 Absent: 0

1690
1691
1692 **[At this point, the transcript continues with the public hearing on the next**
1693 **case.]**

1694
1695 **CUP2015-00018 RUSSELL H. JONES** requests a conditional use
1696 permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the
1697 side yard at 1816 South Dover Pointe Road (FALCON REST) (Parcel 740-748-
1698 8401) zoned One-Family Residence District (R-2AC) (Tuckahoe).

1699
1700 Mr. Blankinship - Does anyone else intend to speak to this case?
1701 Would you raise your right hand, please? Do you swear the testimony you're
1702 about to give is the truth, the whole truth, and nothing but the truth so help you
1703 God?

1704
1705 Mr. Jones - Yes I do.

1706
1707 Mr. Blankinship - State your name.

1708
1709 Mr. Jones - I'm Russell Jones. J-o-n-e-s is the last name. We're
1710 requesting a variance in order to build a pool on our property. Due to the
1711 requirements around the easements in the backyard, we have to put the pool in
1712 the side yard in order to get a pool on this property. The shape of the lot means
1713 what might be interpreted as the backyard, we sort of thought it was the
1714 backyard, is deemed by your Planning committee to be the side yard. So I'm
1715 hoping that we can get a variance and are able to build this pool as it's located
1716 here behind our driveway.

1717
1718 Mr. Baka - Just two questions. Would you be able to explain why
1719 you're not able to shift it any further to the west on that diagram there?

1720

1721 Mr. Jones - There's a ten-foot offset from the house. And as you
1722 can see, there's a sixteen-foot drainage and utility easement. I could shift it back
1723 maybe two feet, but it would still leave a lot of the pool in the side yard. We could
1724 easily move it over those two feet or so, but it's really not going to make a whole
1725 lot of difference.
1726

1727 Mr. Baka - And then my only other question is about condition
1728 #4. Actually, before I mentioned the fence, was there any concern from the next
1729 door neighbor, the neighbor closest to this property?
1730

1731 Mr. Jones - We have spoken to all of our neighbors, and they've
1732 all said they don't have any concerns about the pool.
1733

1734 Mr. Baka - You're aware that a fence will need to surround the
1735 pool area?
1736

1737 Mr. Jones - Yes.
1738

1739 Mr. Baka - Those are all of the questions I have, sir.
1740

1741 Mr. Bell - Any others?
1742

1743 Mr. Berman - It's highly visible from the cul-de-sac, the pool.
1744

1745 Mr. Jones - It's actually not very visible from the cul-de-sac
1746 because there is a substantial rise from the cul-de-sac up to the property. You
1747 cannot see the ground there from the street. I don't think you'll be able to actually
1748 see the pool from the street. You'll be able to see the fence, but you won't be
1749 able to see the pool.
1750

1751 Mr. Berman - I was on site, and I thought I could, but I will take your
1752 word for it.
1753

1754 Mr. Jones - From up the street quite a ways you might be able to
1755 see the pool.
1756

1757 Mr. Berman - I was. I was back one lot.
1758

1759 Mr. Jones - Because it comes down to—where that car is, it
1760 comes down from further up the street.
1761

1762 Mr. Berman - To that point, would you be putting any vegetation in
1763 front of the fence?
1764

1765 Mr. Jones - Yes. Our expectations are to put vegetation between
1766 the fence and pool.

1767
1768 Mr. Berman - Thank you.
1769
1770 Mr. Bell - Have you read, understood, and agree with all the
1771 suggested conditions?
1772
1773 Mr. Jones - Yes I have, and I do.
1774
1775 Mr. Bell - Any other questions? Anybody else who would like to
1776 speak to this issue? Thank you.
1777
1778 Mr. Bell - Do I hear a motion on this case?
1779
1780 Mr. Baka - Mr. Chairman, I make a motion that we approve
1781 CUP2015-00018, on the grounds it will not adversely affect the health, safety, or
1782 welfare of the next door neighbor or any of the neighboring properties. And it will
1783 be a complement to the neighborhood.
1784
1785 Mr. Bell - Do I hear a second on this motion?
1786
1787 Mr. Nunnally - Second.
1788
1789 Mr. Bell - Is there any discussion? Hearing none, all in favor say
1790 aye. All opposed say nay. The ayes have it; the motion passes.
1791
1792 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.
1793 Nunnally, the Board **approved** application **CUP2015-00018, RUSSELL H.**
1794 **JONES's** request for a conditional use permit pursuant to Section 24-95(i)(4) of
1795 the County Code to allow a pool in the side yard at 1816 South Dover Pointe
1796 Road (FALCON REST) (Parcel 740-748-8401) zoned One-Family Residence
1797 District (R-2AC) (Tuckahoe). The Board approved the conditional use permit
1798 subject to the following conditions:
1799
1800 1. This conditional use permit applies only to the accessory location requirement
1801 for a swimming pool. All other applicable regulations of the County Code shall
1802 remain in force.
1803
1804 2. Only the improvements shown on the plot plan filed with the application may
1805 be constructed pursuant to this approval. Any additional improvements shall
1806 comply with the applicable regulations of the County Code. Any substantial
1807 changes or additions to the design or location of the improvements shall require
1808 a new conditional use permit.
1809
1810 3. At the time of building permit application, the applicant shall submit the
1811 necessary information to the Department of Public Works to ensure compliance

1812 with the requirements of the Chesapeake Bay Preservation Act and the code
1813 requirements for water quality standards.

1814
1815 4. The swimming pool shall be enclosed by a fence as required by the Building
1816 Code.

1817
1818
1819 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1820 Negative: 0
1821 Absent: 0

1822
1823
1824 Mr. Bell - That completes the voting on the appeals agenda. So
1825 we can proceed on and vote on the minutes. Do I hear a motion on the minutes?

1826
1827 Ms. Harris - I move that the minutes be approved as presented.

1828
1829 Mr. Baka - Second that motion.

1830
1831 Mr. Bell - Is there any discussion?

1832
1833 Mr. Berman - I have one minor correction, page 16, line 679. The
1834 word is *butt*—b-u-t-t. No snickers, please.

1835
1836 Ms. Harris - What line?

1837
1838 Mr. Berman - Line 679.

1839
1840 Mr. Bell - Any other discussion? Hearing none, all in favor say
1841 aye. All opposed say nay. The ayes have it; the motion passes.

1842
1843 On a motion by Mr. Baka, seconded by Ms. Harris, the Board **approved as**
1844 **corrected the Minutes of the April 23, 2015**, Henrico County Board of Zoning
1845 Appeals meeting.

1846
1847
1848 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1849 Negative: 0
1850 Absent: 0

1851
1852
1853 Mr. Bell - The last thing is the vote on adjournment.

1854
1855 Mr. Blankinship - Mr. Chairman, before we adjourn, let me just stick in
1856 that as was mentioned back during the General Assembly session, the General
1857 Assembly did pass a comprehensive revision of the standards for review of

1858 variances, as well as a couple of other matters that directly affect board of zoning
1859 appeals' procedures. I've been talking to the County attorney's office about
1860 having a work session for you, and we will probably do that at your August
1861 meeting.

1862
1863 Mr. Bell - Thank you. Do I hear a motion that we adjourn?

1864
1865 Mr. Baka - So moved.

1866
1867 Mr. Bell - Do I hear a second?

1868
1869 Mr. Berman - Second.

1870
1871 Mr. Bell - All in favor say aye. All opposed say nay. The ayes
1872 have it; the motion passes.

1873
1874
1875 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1876 Negative: 0
1877 Absent: 0

1878
1879
1880 Mr. Bell - We are adjourned.

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1895



Gentry Bell
Chairman



Benjamin Blankinship, AICP
Secretary