

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY MAY 27, 2021 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE *RICHMOND TIMES-DISPATCH* MAY 10, 2021 AND MAY 17, 2021.**
6

7
8 **Members Present:** Terone B. Green, Chair
9 Walter L. Johnson, Jr., Vice-Chair
10 Gentry Bell
11 Terrell A. Pollard
12 James W. Reid
13

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

21
22 **Mr. Green -** Good morning and welcome to today's meeting of the Henrico
23 **County Board of Zoning Appeals.** For those who are able, please stand and join me in
24 **the Pledge of Allegiance.**
25

26 **[Recitation of the Pledge of Allegiance]**
27

28 **Mr. Blankinship** will now read our rules.
29

30 **Mr. Blankinship -** Good morning, Mr. Chair, members of the Board, ladies and
31 **gentlemen.** The rules for this meeting are as follows. There are two remote options for
32 **participating in this meeting.** There's a livestream on the Planning Department web page,
33 **and we are hosting a video conference using Webex.**
34

35 **I'd like to welcome everyone who is joining us remotely.** If you wish to observe the
36 **meeting, but you do not intend to speak, then welcome and thank you for joining us.**
37

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

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

48
49 So acting as secretary, I will call each case and then we will ask everyone in the room
50 who intends to speak to that case to stand and be sworn in. Then a member of the
51 Planning Department staff will give a brief presentation. Then the applicant will speak.
52 And then anyone else who wishes to speak will be given the opportunity. We'll hear first
53 from citizens in the room, then from citizens on Webex. After everyone has had a chance
54 to speak, the applicant, and only the applicant, will have an opportunity for rebuttal.

55
56
57 This meeting is being recorded. So for those in the room, we will ask you to speak into
58 the microphone on the lectern in the back of the room there. We'll ask you to state your
59 name. And please spell your last name so we get it correctly in the record.

60
61 All five members are here. But, Mr. Chair, we do have one request for deferral. So if you
62 want to start the meeting with that.

63
64 Mr. Green - Okay, Mr. Blankinship.

65
66 Mr. Blankinship - That would be conditional use permit 2021, number 12.
67 Greater Richmond Aquatics Partnership.

68
69 **CUP2021-00012 GREATER RICHMOND AQUATICS PARTNERSHIP** requests a
70 conditional use permit pursuant to Section 24-12(b) of the County Code to expand a
71 noncommercial recreation facility at 317 N Wilkinson Road (Parcel 792-753-8870) zoned
72 One-Family Residence District (R-2A) (Fairfield).

73
74 Mr. Blankinship - And I believe we have the attorney, Mr. Geiger, on Webex.

75
76 Ms. Blankinship - Mr. Geiger has now been unmuted.

77
78 Mr. Geiger - Good morning members of the board. Jeff Geiger here on
79 behalf of the applicant. The applicant, Greater Richmond Aquatics Partnership, is
80 requesting a deferral until your September Board meeting so that the applicant will have
81 more time to work with the community on the request. During this time, the applicant will
82 be improving and operating the pool under the current conditional use permit.

83
84 Happy to answer any questions that the Board may have regarding this deferral.

85
86 Mr. Green - Is there a motion to defer until the September meeting?

87
88 Mr. Pollard - I move that we defer this application to September 23rd, like
89 he said, to allow additional time for the applicant to respond to the objections that have
90 been raised by the neighbors.

91
92 Mr. Green - Any other discussion? All in favor?
93
94 Mr. Blankinship - Was there a second?
95
96 Mr. Green - Was the second?
97
98 Mr. Bell - Second.
99
100 Mr. Green - All in favor?
101
102 On a motion by Mr. Pollard, seconded by Mr. Bell, the Board **deferred application**
103 **CUP2021-00012 until the September 23, 2021 Board of Zoning Appeals meeting.**
104
105
106 **Affirmative: Bell, Green, Johnson, Pollard, Reid 5**
107 **Negative: 0**
108 **Absent: 0**
109
110
111 Mr. Green - It has been deferred, sir.
112
113 Mr. Geiger - Thank you.
114
115 Mr. Green - You're welcome. Mr. Blankinship?
116
117 Mr. Blankinship - All right. Our first case this morning -- we have two conditional
118 use permits left on the agenda and we also have four variances on the agenda.
119
120 So to begin with the conditional use permits. Conditional use permit 2021, number 10,
121 Michael Kennedy.
122
123 **CUP2021-00010 MICHAEL KENNEDY** requests a conditional use permit pursuant to
124 Section 24-95(i)(4) of the County Code to build a garage in the front yard at 3300 Wood
125 Brook Lane (ROCK SPRING ESTATES) (Parcel 766-777-2577) zoned Agricultural
126 District (A-1) (Brookland).
127
128 Mr. Blankinship - Is there anyone in the room who is here to speak to that case?
129 All right. We do have Mr. Kennedy on Webex, so we'll begin with Mr. Madrigal and the
130 staff report.
131
132 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board,
133 good morning.
134
135 Mr. Green - Good morning.
136

137 Mr. Pollard - Good Morning.

138

139 Mr. Johnson - Good morning.

140

141 Mr. Madrigal - Before you is a request to build a detached garage in the front
142 yard of the one-family residence. The subject lot is located at the northeast corner of
143 Wood Brook Lane and Wood Brook Court in the Rock Spring Estate Subdivision.

144

145 The property is over 69,000 square feet in area. It is densely wooded and slopes down
146 in a northeasterly direction and at a 5 percent slope. It is improved with a two-story,
147 2,500-square-foot home with an attached two-car garage that was constructed in 1999.

148

149 Although a lot of fronts on Wood Brook Court, the home is oriented towards Wood Brook
150 Lane and is accessed by way of a gravel driveway off of the side street. Other
151 improvements include 144-square-foot shed that's located in the rear yard. The property
152 is served by county water and an on-site septic system.

153

154 The applicant acquired the property in 1996 and had a house built there in 1999. Although
155 the house has an existing attached two-car garage, the applicant would like to build a
156 detached garage, one story in height, 670 square feet in area at the end of this driveway
157 oriented towards Wood Brook Lane.

158

159 While the proposed garage would appear to be located behind the house, it would actually
160 be located in the front yard as the lot fronts on Wood Brook Court. Thus, the applicant is
161 requesting a conditional use permit to place the garage in the front yard as allowed by
162 code.

163

164 The property is zoned A-1 and is designated Rural Residential on the 2026 Future Land
165 Use Map. A one-family dwelling is consistent with both designations. Accessory
166 structures are permitted by right in the rear yard and can be approved in the front or side
167 yard by a conditional use permit.

168

169 Although the proposed garage would appear to be behind the house because of the
170 home's orientation facing towards the side street, again, it would actually be in the front
171 yard.

172

173 The garage would be approximately 120 feet from the street-side property line, 62 feet
174 from the front property line, and 46 feet from the interior-side property line. There would
175 be a minimum 50-foot tree buffer along the entire width of the front yard and a 45-foot
176 tree buffer along the interior side yard between the applicant and their neighbor. The
177 eastern neighbors' dwelling is approximately 25 to 30 feet distant from the common
178 property line, and is separated by an asphalt driveway.

179

180 The garage should not pose any detrimental impacts due to the heavy screening provided
181 by existing trees and vegetation, which the applicant intends to preserve. The proposed

182 garage should not have any visual or aesthetic impact on the streetscape or the adjacent
183 neighbor due to the proposed setbacks and the wooded nature of the lot.

184
185 The garage will emulate the architectural style of the home and match it in materials and
186 color. Both the existing and the proposed garage will be used to store the applicant's
187 vehicles and boat.

188
189 Although the proposed structure could be built in the lot's rear yard, the applicant prefers
190 the proposed location to capitalize on the existing driveway, to preserve on-site trees, and
191 to avoid conflicts with the existing septic drainfield located in the northeastern quadrant
192 of the lot.

193
194 In conclusion the applicant intends to construct a detached two-car garage behind his
195 existing home. Although the garage will appear to be in the rear yard it will technically be
196 in the front yard due to the orientation of the lot. No significant detrimental impacts are
197 anticipated due to the large size of the lot, generous setbacks, and dense screening.
198 Also, the proposed garage will match the architectural style and materials of the existing
199 dwelling.

200
201 Staff has drafted specific conditions of approval to mitigate any potential detrimental
202 impacts. As long as the applicant adheres to the suggested conditions, staff recommends
203 approval of this request.

204
205 We've received several phone calls from adjoining neighbors on this. Once staff
206 explained the circumstances of the request there were no concerns. This concludes my
207 presentation. I'll be happy to answer your questions.

208
209 Mr. Green - Are there any questions from Board members? We'll now
210 hear from the applicant.

211
212 Ms. Blankinship - Mr. Kennedy is now unmuted.

213
214 Mr. Kennedy - Oh, yes. Good morning. Thank you for hearing the case this
215 morning.

216
217 I think the Planning staff covered it nicely. I don't have anything to add unless there are
218 any questions. I think the fundamental issue is, although it technically is in my front yard,
219 from a sort of architectural point of view, an aesthetics point of view I would prefer the
220 garage be behind the house where the proposed location shows right there. Again, by
221 zoning code it is the front yard, as you can see, it really appears to be the rear of my
222 house. So that's my preference.

223
224 To the left side of the house, as you're facing to that north side, I have a nice tree buffer
225 with my neighbor to the other side. And to place the house on that side would involve the
226 removal of a lot of trees on that side, a nice natural buffer, as well as having to install a

227 second driveway, which takes out a large amount of that privacy buffer between myself
228 and my neighbor. So. I am happy to answer any questions if the Board has any.

229
230 Mr. Green - Are there any questions from members of the Board?

231
232 Mr. Pollard - I just wanted to ask, were you familiar with the conditions of
233 approval and do you agree to them?

234
235 Mr. Kennedy - Yes. Yes. I have read through the conditions of approval and
236 spoken to staff members and I have no concerns about the conditions of approval.

237
238 Mr. Pollard - Thank you.

239
240 Mr. Green - Does anyone else wish to speak in support of this request?

241
242 Mr. Bell - You've read and understand the conditions?

243
244 Mr. Blankinship - Yes. He just acknowledged it.

245
246 Mr. Kennedy - Yes, sir.

247
248 Mr. Green - Does anyone else wish to speak in support of this plan? Does
249 anyone wish to speak in opposition? Hearing none, is there a motion.

250
251 Ms. Blankinship - We have no one on --

252
253 Mr. Green - Excuse me?

254
255 Ms. Blankinship - We have no one on Webex.

256
257 Mr. Blankinship - I think that's fine. Go ahead.

258
259 Mr. Bell - I move that we approve the conditional use permit subject to
260 the conditions recommended by the staff. This is a large corner lot. And the house was
261 built facing the side street. To anyone driving down the street, the garage will appear to
262 be in the front yard -- or rear yard. And then the garage will not be detrimental to the
263 neighbors. So I think we should approve it.

264
265 Mr. Johnson - I second that.

266
267 Mr. Green - The motion was made by Mr. Bell and seconded by Mr.
268 Johnson. All in favor. Oh, is there any discussion? All in favor.

269
270 On a motion by Mr. Bell, seconded by Mr. Johnson, the Board **approved** application
271 **CUP2021-00010 MICHAEL KENNEDY's** request for a conditional use permit pursuant
272 to Section 24-95(i)(4) of the County Code to build a garage in the front yard at 3300 Wood

273 Brook Ln (ROCK SPRING ESTATES) (Parcel 766-777-2577) zoned Agricultural District
274 (A-1) (Brookland). The Board approved the request subject to the following conditions:
275

276 1. This conditional use permit applies only to the location of a detached garage in the
277 front yard. All other applicable regulations of the County Code remain in force.
278

279 2. Only the improvements shown on the plot plan and building design filed with the
280 application may be constructed pursuant to this approval. Any additional improvements
281 must comply with the applicable regulations of the County Code. Any substantial changes
282 or additions to the design or location of the improvements will require a new conditional
283 use permit.
284

285 3. The new construction must match the existing dwelling as nearly as practical in
286 materials and color.
287

288 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant
289 must obtain approval of an environmental compliance plan from the Department of Public
290 Works.
291

292 5. Any exterior lighting must be shielded to direct light away from adjacent property and
293 streets. Exterior light fixtures will be limited to the western and northern facades.
294

295 6. The applicant must obtain a building permit for the proposed garage by May 29, 2023,
296 or this conditional use permit will expire. If the building permit is cancelled or revoked after
297 that date due to failure to diligently pursue construction, this conditional use permit will
298 expire at that time.
299

300			
301	Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
302	Negative:		0
303	Absent:		0

304

305

306 Mr. Green - Motion has been approved. Thank you.

307

308 Mr. Kennedy - Thank you.

309

310 Mr. Green - We will now talk about conditional use permit 00011.

311

312 Mr. Blankinship - Yes, sir. That's the application of Claudia Robles Arias.
313

314 **CUP2021-00011 CLAUDIA ROBLES ARIAS** requests a conditional use permit pursuant
315 to Section 24-12(g) of the County Code to operate a family day home with employees at
316 10401 Staples Mill Road (Parcel 764-765-7780) zoned One-Family Residence District (R-
317 2) (Brookland).
318

319 Mr. Blankinship - And Mr. Chair, I'll call your attention to the memorandum that
320 was left on the table that came in either last night or this morning regarding this case.

321
322 Mr. Green - Yes, sir.

323
324 Mr. Blankinship - Is there anyone in the room who intends to speak to this case?
325 Okay. We do have the applicant on Webex again. So Mr. Gidley, if you can go ahead
326 with your staff report.

327
328 Mr. Gidley - Yes, sir. Thank you, Mr. Secretary. Good morning, Mr. Chair,
329 members of the Board.

330
331 Mr. Green - Good morning.

332
333 Mr. Gidley - The subject property consists of a 0.84-acre parcel located at
334 the northeast side of Staples Mill Road near its intersection with Courtney Road. It
335 contains a 922-square-foot home and was purchased by the applicant last August. She
336 currently operates a family day home here where care is provided for up to 12 children.

337
338 And this is a picture of the home right here.

339
340 The applicant previously inquired about rezoning to allow a commercial daycare, like a
341 KinderCare, but was told the surrounding residential zoning and land use plan designation
342 made such a request a challenge. In lieu, she has decided to hire an outside employee
343 to assist in the care of the children at the existing family day home. Because an outside
344 employee requires the approval of a conditional use permit, she has submitted the
345 application currently before you.

346
347 In evaluating this request for consistency with the Comprehensive Plan and zoning
348 ordinance, the property is designated as Suburban Residential 1 on the Future Land Use
349 Map, and it is zoned R-2 One-Family Residence District.

350
351 As you can see here, it is served by a gravel driveway that is on Staples Mill Road.
352 Staples Mill Road is a major arterial highway that carries substantial traffic. The zoning
353 ordinance allows a family day home as an accessory use to the applicant's residence.

354
355 And, as I said, an outside employee is allowed by a conditional use permit. The
356 Department of Community Revitalization did receive a complaint that the applicant did not
357 reside at the home as required for a family day home, but instead, lived elsewhere. In
358 response, she indicated that she would live there during the five-week nights that she
359 operates the family day home, and the complaint was closed.

360
361 Since the staff reports went out, we did receive three letters of opposition that should be
362 at your desk. We printed out copies and then it dawned on me the applicant would not
363 be here today because I was going to hand them out.

364

365 So, just briefly, for the applicant's benefit, the letters came from 10333 Old Courtney,
366 10325 Old Courtney, and one of the adjacent properties. I don't have the number here
367 right now.

368
369 And essentially what the letters are saying is, the applicant, they believe, should live at
370 the home seven days a week. Given the size of the home at 995 square feet, the number
371 of children should be limited.

372
373 And, finally, there's concern about traffic and the speed of traffic on Staples Mill Road,
374 which is a busy highway. And, you know, how that would impact the ability of people to
375 turn on and off safely onto that street. And therefore, there may need to be, some sort of
376 improvements there to accommodate that traffic. That's essentially what the three letters
377 are saying.

378
379 In conclusion, the family day home has adequate parking and a large, fenced, rear yard
380 that provides a safe area for the children to play. The outside employee should not have
381 a detrimental impact on nearby property. So long as the property is the applicant's
382 primary dwelling, staff recommends approval of this request, subject to the conditions in
383 your staff report.

384
385 This concludes my presentation and I'll be happy to answer any questions you may have.
386 Thank you.

387
388 Mr. Bell - Mr. Chairman, one question.

389
390 Mr. Green - Yes, sir.

391
392 Mr. Bell - This slide we have right now shows a fence in front of the
393 house going down towards Old Courtney Road. And approximately half of it -- the other
394 side of the fence is a grassed area.

395
396 Now, if it goes to 12 kids, they got room to turn around one car over here in a circle so
397 that it won't have to back out onto Staples Mill Road, which is very, very dangerous I
398 would think, backing out. Or having to wait there in the morning for cars to come. So it's
399 got room for two or three cars that come in. More than that -- there's going to be problem.

400
401 But my question, after saying that, is where the fence is. It's nice fence, it's grass there
402 right now. Additional parking for special affairs or something. Can it be used along there
403 in terms of to park a car? Or is it too low, too muddy, or things such as that?

404
405 Mr. Gidley - The applicant submitted a plot plan indicating, you know,
406 graveling the entire area along Staples Mill Road. As you can see on the picture I just
407 had up --

408
409 Mr. Bell - Yeah.

410

411 Mr. Gidley - The whole area has not been graveled. As far as whether or
412 not she could get to gravel the entire front, I'll let her answer that, because she has more
413 knowledge of the property than I do.
414

415 Mr. Bell - All right. Is it listed as a condition? I didn't think it is.
416

417 Mr. Gidley - No, sir.
418

419 Mr. Bell - Okay.
420

421 Mr. Gidley - No sir. We did not make that a condition.
422

423 Mr. Bell - All right. It looks like there's plenty of room for two or three
424 cars and I drove by it. If they organize to let the children off at the house there and then
425 circle on back around and go out there should not be any problem for a small amount of
426 cars is what I get a feel that you all might have saw when you were over there.
427

428 Mr. Gidley - Depends on the number of cars --
429

430 Mr. Bell - Yeah.
431

432 Mr. Gidley - --at any given time.
433

434 Mr. Bell - The cars at any given time.
435

436 Mr. Gidley - There was one vehicle, as you can see, for the owner when
437 we were there. So. You've got to be careful getting on and off of Staples Mill, obviously.
438

439 Mr. Bell - Yeah.
440

441 Mr. Gidley - But it's, you know, people going by 55-plus at that point. But
442 if there were more cars, then I'm sure that would be more of a challenge.
443

444 Mr. Bell - Yeah. And it's a two-lane highway as well.
445

446 Mr. Gidley - Two lanes westbound, yes.
447

448 Mr. Blankinship - In each direction.
449

450 Mr. Bell - In each direction, yes. All right. Thank you.
451

452 Mr. Gidley - Yes, sir.
453

454 Mr. Green - Are there any other questions from the Board?
455

456 Mr. Blankinship - The applicant is on Webex. Whenever you're ready.

457
458 Mr. Johnson - All right. Well I have one question. The staff report said that
459 they are not there during the weekend, but they are there during the day. Did you say for
460 the five days that they are operating?
461
462 Mr. Gidley - Yes, sir. In my discussion with the inspector who had the
463 complaint, my understanding is the applicant was listed as being a resident of Hanover
464 County. And obviously, a family day home that you typically get, is, you know, where
465 somebody lives and during the day, they care for children there and then, you know, at
466 night, they live there like you and I live in our homes.
467
468 So the inspector approached and talked to the applicant. And I guess the applicant
469 responded that she was willing to live there during the weekdays in order to comply with
470 code. So at that point, Community Maintenance went ahead and closed the case.
471 Because I guess the feeling is, you know, people do have weekend homes at the beach
472 or the mountains where they may go off to, but this should be her primary residence even
473 if it's five days a week. I think their approach was reasonable in Community Maintenance.
474
475 Mr. Green - Are there any questions from the Board before we hear from
476 the applicant? We'll now hear from the applicant.
477
478 Ms. Arias - Hi, good morning.
479
480 Mr. Green - Sorry, excuse me. Mr. Bell?
481
482 Ms. Blankinship - The applicant is now muted.
483
484 Mr. Green - Mr. Bell has another question before we move to the
485 applicant.
486
487 Mr. Gidley - Yes, sir.
488
489 Mr. Bell - I understand they also had been using this as a daycare
490 center with more than 5 people ever since about November of last year.
491
492 Mr. Gidley - She did purchase the property in August. And sometime after
493 that she did open up a family day home.
494
495 Mr. Bell - All right.
496
497 Mr. Gidley - You're allowed up to 12 children by right. Where the problem
498 can come in, obviously, is the state has regulations dealing with not only the number of
499 children, but even the age of the particular child. Obviously, an eight-year-old is not as
500 difficult as say a three-year-old, you know, from a safety perspective.
501

502 So the state has a pattern or a formula when it comes to how many people you need
503 there to keep an eye on the children. And so how many she can actually have with just
504 one person versus, you know, two people under state code I can't really speak to that.

505
506 Mr. Bell - All right.

507
508 Mr. Gidley - I'm just saying, under the zoning ordinance, you can, in theory
509 have up to 12 children.

510
511 Mr. Bell - Okay. But prior to that, when she was going to be just keep
512 five kids all along -- I guess I'm wondering how long has it been used as a daycare center,
513 be it five or the maximum number?

514
515 Mr. Gidley - I would direct that to the applicant, because I don't have first-
516 hand knowledge.

517
518 Mr. Bell - Thank you.

519
520 Mr. Gidley - Yes, sir.

521
522 Mr. Blankinship - All right. Let's hear from the applicant then.

523
524 Ms. Blankinship - The applicant is now unmuted.

525
526 Ms. Robles - Hi. Good morning. My name is Claudia Robles. Thank you
527 for giving me the opportunity to speak.

528
529 So in reference of the licensing, I am licensed through the Virginia Department of Social
530 Services. And they are able to come here unannounced and check on the ratio. So as
531 far as that, I've gone through the process, the lengthy process of getting the license. Just
532 the document to get everything in place is over 100 pages.

533
534 And I worked in order to get that license. So that has approval from zoning and just so
535 many other things. Education, First-Aid certifications, and so many other things. So as
536 far as being in compliance with Virginia Department of Social Services, I am.

537
538 The reason I said that I'm mainly here Monday through Friday is because I also have two
539 older children. I have a 15-year-old 10th grader that does year-round swim in Hanover
540 Aquatics Swim Club. I also have an 11-year-old son who plays travel soccer at Dynamo.
541 And I also have a four-year-old.

542
543 So, anyways, the toys in the backyard are for my four-year-old. They are mainly for
544 younger kids. That's why I also decided to open up my -- it's the only Spanish immersion
545 preschool in the entire Richmond area.

546

547 I moved here. But a couple of years ago, in 2019, I even won a national award through
548 PBS Kids. And I do a lot of community work through that.

549
550 This weekend, my son has a travel soccer tournament in Philadelphia. We'll be in
551 Hershey. The following weekend my daughter has a swim meet. And I usually stay. The
552 home meets for this team are at Stafford. They're an hour away. And with the busy life
553 that I have, I usually stay there.

554
555 The following weekend we are in Virginia Beach for a sand soccer tournament. And that
556 just goes on and on and on. That's just my busy life of supporting my two older kids. I
557 mean, my daughter only has two more years in high school and then she's planning to
558 leave. So I don't mind going back and forth and spending my weekends.

559
560 During the weekdays, my daughter practices five days a week and she has to be taken
561 back and forth. My son practices Tuesdays, Wednesdays, and Thursdays. So, yes, after
562 I'm done, I have to leave, pick them up, drop them off, come back.

563
564 I mean, the complaints that the neighbors are doing -- I don't know them. And, of course,
565 they don't know my personal life or what I'm doing. But I stay very busy.

566
567 In addition to that, I have a 70-year-old dad, and I'm his sole caregiver. He doesn't live
568 with me. So I have to go check on him. Just four weeks ago, I had to take him to the ER
569 once again. I didn't come back home until like 3:00 AM in the morning on a Monday.
570 That's when we left VCU emergency room.

571
572 And he doesn't speak any English. We were actually doing our taxes today because I
573 was at VC. I had to file extensions for my own taxes and my parent's taxes because --
574 it's as if I have five kids. My two parents that don't speak English and my three young
575 kids.

576
577 And I just live a very busy life and I do a lot of good things for the community and, I, you
578 know I'm not here over the weekends. I am just so busy. And I don't really plan to change
579 that. I can provide proof of all of these things that I'm saying. Even the emergency trip
580 to VCU. I think that was, like, exactly four weeks ago.

581
582 So, yes, over the weekends I'm here, I water my garden, I have planted so many trees
583 that I take care of and grow them with the kids. I'm here doing all of the normal things.
584 But I'm also very busy taking care of my kids and supporting them in their sports.

585
586 Mr. Green - Excuse me. I'm lost. I'm trying to understand this particular
587 project. And I'm hearing you talk about a lot of other things that would make me think you
588 don't have the ability to maintain this because of the various things you just described.
589 Could you refocus on this project, please?

590
591 Ms. Robles - Okay. You mean like maintaining the yard in general?
592

593 Mr. Green - Yeah. I mean, the fact that you have to travel with your
594 children is insignificant to what we're dealing with today. And some of the other issues
595 you describe, while we're compassionate and hope that everything works out, we're just
596 trying to focus on this particular project. And I don't know if my other Board members got
597 lost, but I got kind of lost in all of the other things that you brought in as it relates to the
598 project.

599
600 Mr. Gidley - She mentioned Hanover County. So where is everybody in
601 this process?

602
603 Mr. Green - Yeah. So where is everybody? Are they in--?

604
605 Ms. Robles - Do you mean, like, my two older children? They're in Hanover
606 County.

607
608 Mr. Green - And where are you?

609
610 Ms. Robles - I'm here in this white house that's on the picture, actually, with
611 my four-year-old daughter. And I have a company that takes care of the landscaping.
612 And I'm here, you know, whenever I'm not busy with my older kids I'm here.

613
614 I forgot to mention about the gravel. I mean, if it's necessary that I add additional gravel
615 towards the other side, I mean, that's not an issue at all. I actually have a person that
616 takes care of that that has been improving -- we have done a lot of improvements.

617
618 When I bought the house, it was a mess. Actually, I've had neighbors come over and
619 thank me because of how it looks now. There were weeds running all over the house.
620 Even the house siding was moldy. The two pretty trees that are in the backyard, that was
621 a jungle. You couldn't even walk around them. I got rid of all of that. I added mulch. And
622 it's looking great.

623
624 And even those pretty trees in the front yard, they were all filled with other large weeds
625 that had overgrown. So as far as taking the house, I mean, right now what you see is --
626 it's really well-maintained and it's so, so much better than what it used to.

627
628 I wish we had the pictures that are online of the house. Like when you Google the
629 address, you can actually see what I'm talking about. It was just like a close-up picture.
630 The house was in really, really bad shape.

631
632 So every month I have been doing a lot of home improvements. It looks a lot better than
633 it used to.

634
635 Mr. Green - Excuse me. What is your physical registered address? Is it
636 in Hanover, or is it in Henrico?

637
638 Ms. Robles - No. As of now it's here in Henrico.

639
640 Mr. Green - As of now. What do you mean as of now?
641
642 Ms. Robles - Because I moved here just last year.
643
644 Mr. Green - But your children are in Hanover?
645
646 Ms. Robles - The two oldest ones, correct.
647
648 Mr. Green Any other questions from members of the Board?
649
650 Mr. Bell - Yes. I have a few.
651
652 Mr. Green - Mr. Bell.
653
654 Mr. Bell - How many parking spaces do you have there for people to
655 come and drop off their kids?
656
657 Ms. Robles - I actually had a Mother's Day party and I had 10 cars here that
658 were able to park just fine. Back where you see that minivan on the far side of the picture.
659 There's a lot more room to pull forward and two cars can park there. Usually, the parents
660 park -- there's the width of that driveway in front of the house that is at least for two cars.
661 And where the white car is on the right side, I mean, the parents know that what they're
662 supposed to do is park along the fence and then back up towards the grass because they
663 know it's, you know, the grass is eventually, like, it can be gravel, if I see that more parking
664 space is needed. And then they know to go back to Staples Mill Road and face forward.
665 So at least I'll say that for now what it is the gravel area for at least 10 cars.
666
667 Mr. Bell - So the parking is going to be allowed along the fence line
668 there. My question, though, is on which direction do they come in from Staples Mill, drop
669 their kids off, and go back out? Or do they come in from Staples Mill, go over and park
670 their cars by the fence, walk out, drop their kids out, go back to the car, and then go out?
671
672 Ms. Robles - Yeah.
673
674 Mr. Bell - It makes a difference in terms of your parking because, as
675 you've already said, the green space is going to have to be used for some parking if that's
676 the case.
677
678 Ms. Robles - Okay.
679
680 Mr. Bell - So what are you doing now and what have you been doing
681 ever since you bought the place in November of last year in terms of parking? Have you
682 had any close accidents from cars going out onto Staples Mill? Or have they backed out
683 onto Staples Mill?
684

685 Ms. Robles - No, we have not had any accidents at all. The parents know
686 to back up inside our property.
687
688 Mr. Bell - How about complaints from neighbors? Have you had any
689 complaints from neighbors or other people?
690
691 Ms. Robles - About the parking space? No.
692
693 Mr. Bell - About anything pertaining to the business.
694
695 Ms. Robles - The ones that were mentioned. First, a neighbor complained
696 that I was running an illegal business. And so they came, and I had to show proof of all
697 of my paperwork that it's not an illegal business.
698
699 Mr. Bell - All right.
700
701 Ms. Robles - So that was closed. And then the same neighbor complained
702 about me not living here. And that's why this other investigation was done.
703
704 Mr. Bell - Okay. And with this slide that's on the Board right now, or on
705 the computer right now, could you show us, basically, someone coming in from Staples
706 Mill going drop the kids off and leave?
707
708 Ms. Robles - So this car will--
709
710 Mr. Bell - Maybe you could pen -- do you have the picture?
711
712 Ms. Robles - Yes, I can see the picture. That was, actually, if you see right
713 on the porch, there is a parent. That's one of the parents that was dropping off, right?
714
715 Mr. Blankinship - It's not there. That's okay.
716
717 Mr. Bell - Where is the car that he was at?
718
719 Ms. Robles - So he parked -- I'm sorry?
720
721 Mr. Gidley - County car.
722
723 Mr. Bell - All right, now, if you go to that --
724
725 Ms. Robles - Yeah, the white car.
726
727 Mr. Gidley - That's a county car.
728
729 Mr. Bell - If he's going to get out, how's he going to do that?
730

731 Ms. Robles - So. He has to back up inside the property. He can do that by
732 backing up in front of the house or towards the other side, towards the tree per se. And
733 then face forward towards Staples Mill Road.

734
735 Mr. Bell - So the next car then coming in will be waiting for him to either
736 back to the right or back to the left and then get turned around. The driveway as such is
737 going to be --

738
739 Ms. Robles - No, usually, when it's parked like that, the other parents know
740 to park in front of the house or towards the, like, right next to it towards the grass area.

741
742 Mr. Bell - Okay, thank you.

743
744 Mr. Green - Mr. Bell, I'd like to refer everyone back to staff's report. It says
745 the driveway is large enough to accommodate cars doing pick up and drop off along with
746 the proposed employee. It also says in the conclusion that as long as the property is the
747 applicant's dwelling, staff's recommends approval request subject to the attached
748 conditions.

749
750 And it says the site has adequate parking and a large fenced area that provides a safe
751 area for children to play.

752
753 So, Mr. Gidley, I guess, could you address that you all went out and found that everything
754 was satisfactory?

755
756 Mr. Bell - And my concern here is safety in Staples Mill as much as
757 anything.

758
759 Mr. Green - Yeah. I agree with everything you just said --

760
761 Mr. Gidley - And that was mentioned in the --

762
763 Mr. Bell - No, I'm just curious.

764
765 Mr. Green - Yeah, yeah, I am too.

766
767 Mr. Gidley - Yeah. From our perspective, you know, usually the family day
768 homes are in a subdivision on a fairly quiet street. And so the staff report did mention
769 Staples Mill Road is a busy road. And, you know, that's a valid concern.

770
771 As far as parking, that was the county car. And we came during the middle of the
772 afternoon, which is not really a time when people are coming and going as far as parents.

773
774 I believe when I was done, I backed up near the van and then pulled out straight in my
775 case. So. I didn't really have any problem. But, again, that wasn't a pick-up or drop-off

776 time like in the morning or in the evening. So I found it to be adequate. And I think, you
777 know, at least from my personal experience, it was okay.

778
779 Mr. Blankinship - So the parking, you would say is adequate, but the pulling on
780 and off of the 55-mile-an-hour road is a legitimate concern?

781
782 Mr. Gidley - That's a legitimate concern yes, sir. And, you know, if in the
783 morning or in the evening, you're getting more than one person coming, as Mr. Bell
784 mentioned, they would probably have to, you know, slow down and maybe even stop on
785 Staples Mill Road if that were the case.

786
787 As far as a residence is concerned. I think it's fair, you know, if an applicant lives there
788 five days a week, if they're gone or busy during the weekend going to a summer home or
789 what have you.

790
791 To address what Mr. Bell was getting at. According to Community Revitalization, her
792 address, DMV-wise, listed as Hanover County, and that was done after the application
793 was filed. I mean, she indicated to them she would live there five days a week. But she
794 also said two of her children are in Hanover County. So I can't really comment on that
795 other than what she said. And I guess the Board will have to make its own conclusions.

796
797 Mr. Green - Are there any other questions from the Board members?

798
799 Mr. Reid - Well, you know, I think if two or three parents arrive with
800 children at the same time, I think there's going to be a problem with the parking getting
801 back out on to Staples Mill. Which as we all know is heavily traveled. So that would be
802 my concern.

803
804 And I think these parents generally bring their children about the same time in the morning
805 and pick them up about the same time in the afternoon.

806
807 Mr. Green - Mr. Johnson.

808
809 Mr. Johnson - I had one question. It's about the operational hours of the
810 facility.

811
812 Mr. Gidley - Yes, sir. They're allowed to operate even up to 12 children
813 from 6:00 AM to 6:00 PM if my memory is correct. But the applicant can say what she is
814 specifically authorized.

815
816 Mr. Blankinship - Ms. Robles, what are your hours of operation?

817
818 Ms. Robles - They are 7:30 to 4:30. But in reality, the first children get drop
819 off 10 to 8:00 AM. So, like, 7:50. And the last ones get picked up at 4:30. And I wanted
820 also to add that on purpose I mainly enroll siblings.

821

822 So there's a total for the 12 kids, there's a total of seven families enrolled. So at the most
823 on a day, I'll get seven cars and they never get picked up at the same time. And I do that
824 for several reasons. One of them was the pandemic. I didn't want a lot of families and
825 I'm just fine in keeping it that way.

826
827 Mr. Bell - Would you run those numbers by me one more time?

828
829 Ms. Robles - I'm sorry.

830
831 Mr. Blankinship - You said you care for 12 children and they are from a total of
832 7 families.

833
834 Ms. Robles - That's correct.

835
836 Mr. Bell - Thank you.

837
838 Mr. Green - Okay, any other questions from the --

839
840 Mr. Bell - Not a question but a statement.

841
842 Mr. Green - Yes, sir.

843
844 Mr. Bell - I've expressed concern about the safety of her getting in and
845 out. However, I think it's appropriate for me to advise -- I travel that road quite a bit myself.

846
847 Mr. Green - Right.

848
849 Mr. Bell - So I know it. And you go down headed towards where the
850 building that new mausoleum -- not a mausoleum, but a --

851
852 Mr. Blankinship - The Mormon temple.

853
854 Mr. Pollard - Mormon temple.

855
856 Mr. Bell - The Mormon temple there. You've got a church and then a
857 house and then them that also empty into the highway. So anything on that side of the
858 road that's going to be built in the future is going to have to empty into the highway.

859
860 We don't own the highway. Therefore, that's another thing. So that is pretty much my
861 concern. Should we put in things like a sign or something there? I don't think that'll do
862 any good in terms of it. But if anybody has any thoughts of how we might be able to make
863 it a little bit safer, let's do so. If not, let's continue on.

864
865 Mr. Pollard - Would widening the entrance and exit help at all?

866

867 Mr. Bell - Go to where the house and the fence is in the front side. No,
868 the other one. Okay. In other words they don't back the -- they have room for one or two
869 cars to make a round circle and come right on out, no problem.
870
871 But if they have to back out into it. Or what if a car is waiting there and another car comes
872 and parks on the side of the street behind that car in a 55 traveling lane? You got a
873 problem.
874
875 Mr. Green - Are you not allowed --
876
877 Mr. Bell - So I don't see anything we can do except if she's going to use
878 the gravel, to -- which I would suggest highly she does along the fence line for parking,
879 then bring all the gravel that she sees here over to where that tree is. And that just gives
880 it a lot more room for them to turn around and move. And that would pretty much be what
881 I would suggest.
882
883 Mr. Green - And what about making it circular? Would that help?
884
885 Mr. Bell - That would help. That would help. But should we be putting
886 that into a condition, or just have her go out and find some plans and bring them back
887 and show them to us for approval.
888
889 Mr. Blankinship - You could do it either way. You could defer the case until she
890 can address that, or you could put the condition on there. Staff is not prepared to present
891 you with a condition that would deal with that. We'd want to talk to traffic engineering.
892 And, you know, there are limits on how much gravel you can spread before you get into
893 environmental regulations. So.
894
895 Mr. Gidley - I think VDOT would have to be the one, too.
896
897 Mr. Blankinship - Yeah. It's a VDOT road. So it wouldn't be our --
898
899 Mr. Gidley - Any access lanes on or off of it, it'd be up to the Virginia
900 Department of Transportation.
901
902 Mr. Blankinship - Yeah, they would have to get entrance permits. So it's a little
903 more complicated than it would be just on a regular subdivision street.
904
905 Mr. Green - Any other questions from members of the Board?
906
907 Mr. Johnson - Like Mr. Bell mentioned, I think it would be advantageous if
908 they could use some of that green space, you know, for turning around and also parking
909 by that tree. But I don't know how far it goes down.
910
911 Mr. Bell - Give us plenty of gravel -- plenty of more driveway. Double it.
912

913 Mr. Johnson - Right.
914
915 Mr. Pollard - And it sounds like if you want to put that condition in, it might
916 be best to defer it to see if that even, you know, if that even can be done.
917
918 Mr. Bell - Well the push should be to do something like that. I think that
919 would solve some of the safety problems.
920
921 Mr. Green - Yeah. But we also have another issue. We need stronger
922 verification that the applicant is living there as well. So would you Ms. Robles -- excuse
923 me if I'm not pronouncing your name correctly -- would you entertain deferring this to the
924 next meeting so we can get with you to work out some of the particulars? The residency
925 issue, as well as the parking.
926
927 Ms. Robles - Yes, that's fine.
928
929 Mr. Green - Okay.
930
931 Mr. Blankinship - There is one more speaker on Webex who would like to
932 speak.
933
934 Mr. Green - Okay. We will entertain that individual.
935
936 Mr. Blankinship - All right, we have one other speaker.
937
938 Ms. Blankinship - Yes, Miss Rowland?
939
940 Ms. Rowland - Good morning. I'm Robin Rowland with the Henrico
941 Education Foundation. If you're thinking of deferring this to later, I don't know whether
942 my speaking today is necessary or not. I guess that's up to the Board. We've been a
943 great supporter of what Claudia Robles is doing there, and I just had a few thoughts that
944 I'm willing to share. It's up to you.
945
946 Mr. Green - Yes, you can proceed.
947
948 Ms. Rowland - Okay. So I met Claudia through a Smart Beginnings partner
949 who was helping her bring her family day home from Hanover to Henrico. So I really hate
950 that she's having such a hard time now that she's gotten here, because it was our goal in
951 life to get her to Henrico County.
952
953 And when she found this property, it was in significant disrepair. In fact, we questioned
954 whether it would ever be in a condition to be used as a family day home. But surprisingly,
955 in the course of eight weeks, she managed to redo the home, the property, and the
956 parking. I visited several times while she was working through the licensing with the
957 Department of Social Services. And just like this white car in this picture, I pulled in

958 straight, backed into that gravel area in front of the house, pulled out onto Staples Mill
959 straight.

960
961 And, you know, like you said, I wasn't there with other cars. I get that. But Staples Mill
962 Road is significantly dangerous no matter where you are. The stoplight that's just past
963 that home at the first street is hidden. If you're coming down Staples Mill at a 55-mile-an-
964 hour clip and you find out that that light is red, you also have significant issues.

965
966 That's something that can be addressed with VDOT about why that hasn't been
967 addressed yet. But I don't believe this particular home being a childcare center, family
968 day home, instead of an actual home would have anything to do with that safety.
969 And certainly, she's made every agreement to do whatever this Board asks her to do to
970 alleviate their concerns about the parking situation.

971
972 I think what Claudia has asked for out of this Board meeting is to be allowed to have a
973 nonfamily member employee, so that she always has someone at the residence that
974 could be there to take care of the students.

975
976 Licensing determines their capacity by square footage. So when licensing came and
977 licensed that home for 12 children, that was done, like the speaker said, with the formula
978 that determines that the space both inside and out are adequate for 12 children under the
979 age of 12.

980
981 But the ratio that they ask you to have for children depending on their age is much lower
982 than that. So with 12 children, it cannot be operated without two employees. The permits
983 she currently has, I think, requires it to be a family member. And she's asked this board
984 to give her the conditional use permit to have a nonfamily member employee.

985
986 Addressing the parking situation, there are two parking spaces where that silver van is,
987 one for Claudia Robles and one for her nonfamily member employee, that would be out
988 of all of the area that would be used by parents. So to the left of the home, the employee
989 parking, Claudia's parking. And then as parents are dropping off, they would use that,
990 pull and back up, and pull out on Staples Mill straight.

991
992 I just wanted to make sure that somebody spoke on her behalf, since she's had such a
993 very difficult time, for whatever reason that is, taking a property that was an eyesore and
994 making it look like this.

995
996 But the neighbors are concerned, I guess, and got a hold of what they felt like regulations
997 or whatever and complained. And when that complaint didn't warrant, complained again
998 with a different complaint. They're just unhappy for whatever reason they are.

999
1000 But it is the only bilingual program that we have, basically, in the state. But definitely in
1001 Henrico. And Claudia participates in all of the programs with the Early Learning Programs
1002 that I run. So the Preschool Development Grants, the Mixed Delivery Grants. And she
1003 does work very closely with VPM.

1004
1005 I would hate for her to be discouraged and leave Henrico County because of the difficulty
1006 of, you know, getting this through what she needs. So I'm happy to come when you defer
1007 it again and answer questions if you have them come up.

1008
1009 Mr. Green - Thank you. I don't think we're trying to make this difficult, we
1010 are just trying to understand the parking situation and the dwelling concerns. And then
1011 once we can get beyond that, then I think we can appropriately decide on this case.

1012
1013 The applicant has agreed to defer this for 30 days, so staff can make sure that the dwelling
1014 situation is addressed as well as the additional space requests for parking. Is there a
1015 motion to defer for 30 days?

1016
1017 Mr. Bell - I move that we defer for 30 days to give us a chance to look
1018 at the safety aspects of getting in and out of Staples Mill Road and other parking or vehicle
1019 problems within the property.

1020
1021 Mr. Green - Second?

1022
1023 Mr. Reid - Second.

1024
1025 Mr. Green - It was moved by Mr. Bell, second by Mr. Reid. Any
1026 discussion. All in favor?

1027
1028 On a motion by Mr. Bell, seconded by Mr. Reid, the Board **deferred** application **CUP2021-**
1029 **00011**.

1030
1031
1032 **Affirmative: Bell, Green, Johnson, Pollard, Reid 5**
1033 **Negative: 0**
1034 **Absent: 0**

1035
1036
1037 Mr. Green - It has been deferred.

1038
1039 Mr. Blankinship - All right. That concludes our conditional use permits. There
1040 are four variances on the agenda for this morning. The first is Variance 2021 number 9,
1041 Nissan of Richmond.

1042
1043 **VAR2021-00009 NISSAN OF RICHMOND** requests a variance from Section 24-
1044 104.1(l)(2) of the County Code to allow additional sign area and height at 11401 W Broad
1045 Street (Parcel 740-761-8451) zoned B-3C, Business District (Conditional) and West
1046 Broad Street Overlay (WBSO) (Three Chopt). The sign area requirement and height
1047 requirement are not met. The applicant proposes 131 square feet sign area and 35 feet
1048 sign height, where the Code requires 32 square feet sign area and 8 feet sign height. The
1049 applicant requests a variance of 99 square feet sign area and 27 feet sign height.

1050
1051 Mr. Blankinship - Would everyone in the room who intends to speak to this case
1052 please stand and be sworn. Raise your right hands, please. Do you swear the testimony
1053 you're about to give us the truth, the whole truth, and nothing but the truth so help you,
1054 God? Thank you. You can be seated.

1055
1056 Mr. Gidley you can present your report.

1057
1058 Mr. Gidley - Thank you again, Mr. Secretary, Mr. Chairman, members of
1059 the Board. The subject property is the Nissan dealership located off of West Broad Street
1060 in Short Pump. As you can see here, the property contains both attached and detached
1061 signs, and this includes a detached sign along West Broad Street that is 133 square feet
1062 in area and 35 feet in height. The sign complied with the sign ordinance in effect at the
1063 time of its construction in 2004. And this is a picture of the sign in question right here.

1064
1065 On April 25, 2017 the Board of Supervisors adopted the new sign ordinance. This allows
1066 a maximum sign area of 32 square feet and a maximum height of 8 feet. Signs that
1067 lawfully existed prior to the new sign ordinance, such as this sign, may remain in place,
1068 may be maintained, and may also be refaced. However, if the sign is removed, any new
1069 replacement sign must comply with the new sign ordinance.

1070
1071 The intent of this provision is that over time older signs that do not comply with the new
1072 ordinance will be replaced with smaller signs that do comply. This is a common provision
1073 in zoning ordinances and is consistent with recent US Supreme Court decisions
1074 governing signs.

1075
1076 The applicant mentions in their application the need for a large sign given traffic speeds
1077 and volume. This is the proposed replacement sign here. And as you can see, the main
1078 change seems to be the background is red and there's a new Nissan corporate logo right
1079 here.

1080
1081 Now, all they need to do is go to this existing sign here, replace the background with a
1082 red background and put the new corporate logo on, in lieu this one right here. They have
1083 the right to do that right now today, and they don't even need a sign permit to do that. All
1084 the county is saying is, if you get rid of this sign here -- bulldoze it down -- and you want
1085 to put a new sign up, you need to meet the new sign code. That's pretty straightforward.

1086
1087 In evaluating this request, as you can see here, the property contains an automobile
1088 dealership. That's a reasonable, beneficial use of the property. The dealership has
1089 allowed both attached and detached signs. Although the sign in question exceeds both
1090 the area and the height allowed under the new code, it may nonetheless remain. And,
1091 as I mentioned, its face may be resurfaced. The requirement that any new sign comply
1092 with the current sign ordinance is not unreasonable.

1093

1094 And because none of the tests for a variance are met, the applicant does not appear to
1095 meet the requirements for a variance. Even if one of the threshold tests were met, two of
1096 the subtests were also not met.

1097
1098 On one, the hardship is created by the applicant, namely, the desire to -- instead of simply
1099 refacing the sign, as I just mentioned, the desire to tear down the entire sign and put up
1100 a brand-new sign. That is a self-imposed condition there.

1101
1102 The third subtest deals with a question of whether or not a regulation should be passed
1103 by the Board of Supervisors or whether this is something best handled via variance. And
1104 as part of the new sign ordinance, the supervisors did, in fact, adopt regulations that
1105 govern signs that existed prior to the new ordinance.

1106
1107 As noted, such nonconforming signs may be continued. They may stay. They may be
1108 maintained and refaced. However, once removed, again, the new sign that they want to
1109 put up simply needs to meet the current code in effect presently. So the Board of
1110 Supervisors has weighed in on this question.

1111
1112 Finally, because the variances run with the land, this request would allow nonconforming
1113 signs to in effect remain, you know, forever on the property regardless of what the Board
1114 of Supervisors does, is contrary to the intent expressed in the new sign ordinance.

1115
1116 So, in conclusion, the Nissan dealership has numerous attached and detached signs.
1117 Even though the sign in question exceeds the height and area requirements of the new
1118 code, it may nonetheless remain and its face be updated. Once the sign is removed,
1119 however, any new sign must comply with the new code. This is consistent with many
1120 zoning ordinances and Supreme Court rulings.

1121
1122 The existing automobile dealership has a reasonable beneficial use, and because none
1123 of the threshold tests for a variance were met, the staff recommends denial of this request.

1124
1125 This concludes my presentation. And if you have any questions, I'll be happy to answer
1126 them. Thank you.

1127
1128 Mr. Green - Any questions from members of the Board?

1129
1130 Mr. Johnson - Oh, yes. With the sign that they already have -- are they
1131 planning to put the new sign where that one is at already?

1132
1133 Mr. Gidley - Yes, sir. That's my understanding.

1134
1135 Mr. Johnson - Oh, yes. Because that's just like even with the building. If you
1136 tear the one down that you have to get another regulation as well for that.

1137
1138 Mr. Gidley - You have to meet the current code.

1139

1140 Mr. Johnson - Right.
1141
1142 Mr. Gidley - At that point. Yes, sir.
1143
1144 Mr. Johnson - Okay.
1145
1146 Mr. Green - Any other questions from Board members? We'll now hear
1147 from the applicant.
1148
1149 Ms. Howell - Good morning. And thank you for the opportunity to meet with
1150 you all. I'm Jeri Howell. This is my husband, Joe Howell. We own Capitol Signs. We're
1151 representing Rocking Nissan in this case. And I'll let my husband speak to some of the
1152 issues that have been addressed and discussed. He's been actually part of the sign
1153 updates and various things over the years and is very familiar with property and the
1154 signage there as well.
1155
1156 Mr. Howell - Good morning, gentlemen.
1157
1158 Mr. Green - Morning.
1159
1160 Mr. Reid - Good morning.
1161
1162 Mr. Johnson - Good morning.
1163
1164 Mr. Howell - Okay, I've got just a short list here. So this won't take long,
1165 hopefully. The first thing is they're addressing what the gentleman was mentioning about
1166 refacing as an option. There's no provision for a reface in this instance because of the
1167 structure with this particular sign as it exists now. The framework in the sign is not a
1168 simple slide one face out and slide one face in. This sign is very intricate and take hours
1169 and hours to just remove one face out of the two that are on the sign. The framework in
1170 it is complicated. It probably has 300 attachment points. And that would be a pretty rough
1171 guess. But it takes a great deal of effort to get it off.
1172
1173 Now, the new Nissan program signage doesn't have anything that fits this particular
1174 signage. It's designed differently. Although in this new drawing here it looks similar. It is
1175 not at all similar in the way it's designed to be installed. The framework inside is
1176 completely different.
1177
1178 The foundation may be very similar and there is an option to actually use the existing
1179 foundation as it exists, we have records of what that foundation is. So that was an option
1180 at the very beginning. But due to the size of this, being much larger than the current
1181 regulations, we didn't think that was an option.
1182
1183 But again, the reason we can't just simply replace this is because of the new design --
1184 based on the old design, the new design is not adaptable to be installed on this existing
1185 structure. So that was my first point there.

1186
1187 Now, the additional height and square footage for this sign over the 8-foot overall height
1188 and the 32-square-foot overall area are needed for the visibility in both directions. You
1189 all know Short Pump and it's exploded in recent years. And the lanes have increased
1190 along the area significantly and traffic has as well.

1191
1192 So with that being said, the trees add to this issue. The trees that were planted back in
1193 2004, or thereabouts, have grown significantly. And in the most recent picture, you can
1194 see that the signs, based on what they were back when they were installed originally, I
1195 think they were probably about 8 feet tall, 10 feet tall. Now they're approaching the bottom
1196 of the sign panel there.

1197
1198 This is right at the entrance. So you don't get the actual tree visibility problem that I'm
1199 speaking about. I do have some printed pictures here. If I could get you guys those
1200 pictures to maybe take a look at and see a little bit more about what I'm talking about.

1201
1202 That picture that's on the screen is just right at the entrance. You only briefly get that at
1203 the 45 mile an hour posted speed limit. So you're not getting the full benefit of the full-on
1204 from top to bottom picture that you see here as you drive down Broad Street in either
1205 direction.

1206
1207 The trees are obstructing it in east and westbound traffic. And it increases your pressure
1208 as you're driving through there to try to find signs. I know there's a 7-Eleven directly
1209 across the street that has a sign that's no more than about 7 feet tall. It's actually shorter
1210 than the 8 feet that's required now. And it sits in a group of crepe myrtles that probably
1211 50 percent of the sign is obstructed. And if it didn't have the LED price sign for the gas
1212 prices, you probably wouldn't notice it at all. It blends right in.

1213
1214 So, Nissan doesn't want that to happen with their sign. And everybody is afraid, including
1215 us, that if we install a sign that's 8 feet tall and 30 square feet overall, you would drive
1216 right by it without noticing it at all.

1217
1218 And that's a concern for all up and down Broad Street. There are several other signs. I
1219 just used the 7-Eleven as an example. But there are many signs that have been replaced
1220 throughout the years with the new code requirements that are extremely short compared
1221 to what they used to be. And the trees are still the same height. So it has been a problem
1222 all along.

1223
1224 The amount of traffic through the area and the number of travel lanes make it difficult to
1225 see any of the shorter signs at the 45 mile an hour posted speed. At this point, we ask
1226 that we be granted the variance for the additional height and square footage necessary
1227 for safely navigating through Short Pump traffic.

1228
1229 Mr. Green - Are there any questions from the Board of the applicant? To
1230 the applicant? Mr. Johnson, you have a question?

1231

1232 Mr. Johnson - You haven't purchased these designs yet, have you?
1233
1234 Mr. Howell - No. We're actually the installers for a manufacturer that
1235 manufactures all the Nissan signage across the United States. And they prompted this
1236 due to the changes in their new sign designs that they jointly come up with, with Nissan.
1237
1238 And again, if it was an option to reface it, then we would be approaching that. But since
1239 it's not an option, then we have to explore everything else we can think of to get them a
1240 sign that is actually a usable sign for them.
1241
1242 Mr. Green - Any other questions from members of the Board?
1243
1244 Mr. Pollard - Is the design for the new sign larger than the current sign?
1245
1246 Mr. Howell - No, it's the exact same square footage.
1247
1248 Mr. Green - Anyone else? Do we have anyone else to speak in favor of
1249 this request?
1250
1251 Mr. Blankinship - There is no one on Webex.
1252
1253 Mr. Green - Do we have anyone to speak in opposition to this request?
1254 You can sit down. Thank you. Thank you all dropped your keys or something. I heard
1255 something drop.
1256
1257 Ms. Howell - Yes.
1258
1259 Mr. Green - As the Three Chopt representative for that area and someone
1260 who lives in Short Pump and who drives -- makes that turn every day, and I've been
1261 making that turn every day for the last 20-some-odd years, I don't really see a real problem
1262 with what they are requesting, given the fact that it appears that corporate is -- Nissan
1263 corporate is just redesigning its system.
1264
1265 So I move that we approve the variance subject to the conditions recommended by the
1266 staff. Unless the applicant is allowed to replace their existing sign, they will have no
1267 reasonable use of the property. The proposed sign will be the same size as existing
1268 signs, so it should not have a detrimental impact. I think we should approve the variance.
1269 It was moved by myself. Seconded by Mr. Pollard. Any discussion? All in favor?
1270
1271 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** application
1272 **VAR2021-00009 NISSAN OF RICHMOND's** request for a variance from Section 24-
1273 104.1(l)(2) of the County Code to allow additional sign area and height at 11401 W Broad
1274 Street (Parcel 740-761-8451) zoned B-3C, Business District (Conditional) and West
1275 Broad Street Overlay (WBSO) (Three Chopt). The Board approved the variance subject
1276 to the following conditions:
1277

1324
1325 A new variance was sought and approved in 2017, but it too has expired. As a result, the
1326 owners applied for essentially the same variance for a third time.
1327
1328 Two home designs have been submitted by the applicant. One of these here is a two-
1329 story home that contains 1,748 square feet. I'm sorry, contains 1,500 square feet. And
1330 then there's a proposal for a one-story dwelling that would contain 1,748 square feet. And
1331 these are the two potential homes that would be constructed on the property, either of
1332 which would be consistent with the surrounding area.
1333
1334 In evaluating the request, in 1993 when the lot was created, it did not conform with the
1335 public street frontage requirements. At the time, however, it was common practice for a
1336 family to divide their property as part of a family division and then to obtain variances for
1337 the lots. This is what was done on the other two lines as I mentioned earlier.
1338
1339 The property is too small to farm economically and is not suited to any other reasonable
1340 use other than a dwelling. So absent of variance there is no reasonable use of the
1341 property.
1342
1343 As noted in your staff report, staff believes the five required subtests are met. As you can
1344 see here, it's wooded. The property is over 2 acres in size. This is the lot here. As you
1345 can see, the home would be 50 feet off this access easement and plenty distant from the
1346 other properties. So staff does not believe there would be any substantial detrimental
1347 impact if this were approved.
1348
1349 So, in conclusion, the property appears to have been purchased in good faith, reliance
1350 on the original variance approved in 2006. That variance and the one approved in 2017,
1351 as noted, have expired.
1352
1353 Absent of variance, there's no reasonable beneficial or use of the property. And staff also
1354 believes that the five subtests are met as well. As a result, we'd recommend approval of
1355 this request subject to the conditions in your staff report. Thank you.
1356
1357 Mr. Green - Are there any questions of the Board for staff? Mr.
1358 Blankinship, you said that there was no one there?
1359
1360 Mr. Blankinship - The applicant is on Webex.
1361
1362 Mr. Green - Oh, okay.
1363
1364 Ms. Blankinship - The applicant is unmuted.
1365
1366 Mr. Nicholson - Good morning. I'm David Nicholson. Hello, Board. Thank
1367 you for hearing my case.
1368
1369 Mr. Blankinship - Yes, sir.

1370
1371 Mr. Nicholson - All right. Hi, this is David Nicholson. Thank you for hearing
1372 my case again. I appreciate it. My cousin has passed his Class A commercial and
1373 residential this past weekend, and I was going to take the test in order to do it. But he
1374 has a background in electrical work and fabrication, so it made more sense for him to get
1375 it.

1376
1377 So we're going to start a corporation in order to build several houses a year, but this one
1378 is going to be our first one. And the last variance that expired, there was a condition in
1379 there that based on the septic design, we weren't able to do anything.

1380
1381 I have no plans on clearcutting the lot. We just needed a little more space in the back
1382 property line in order to handle the drainfield. All the other conditions look great on the
1383 new case.

1384
1385 Mr. Green - Questions?

1386
1387 Mr. Johnson - You're referring to the drainfield. Is that drainfield moving
1388 toward the roadway?

1389
1390 Mr. Nicholson - No, it's on the back of the property.

1391
1392 Mr. Johnson - Okay. And, also, there's the driveway that connects several
1393 other houses as well, especially one west of it. Are you doing anything with the roadway
1394 as well?

1395
1396 Mr. Nicholson - John Gibbs, who owns the parcel across the street from me, I
1397 put it about \$9,500 into improving the street back in 2005 or '06. And I think he put in
1398 another 10- or even 20 thousand into improving it. So what we did was we made it a bit
1399 wider and then cleared some of the trees in order for any public emergency vehicles to
1400 come in. And then we created a little bit more at the end. Not a place to turn around, but
1401 just improved it. And quite expensive.

1402
1403 What I planned on doing was -- the neighbor at the end of the street, he has been
1404 maintaining the road. He has, I guess, the equipment for spreading the gravel. So I was
1405 going to give him a little bit of money at closing in order for him to be able to have the
1406 funds in order to, you know, spruce up anything that he needs. And I'll talk to him about,
1407 you know, how much he needs for that and what he would like.

1408
1409 But that was already my plan, to give a little bit of money to him to help things with the
1410 road.

1411
1412 Mr. Johnson - Yeah, it's good to know. It's that just in case of an emergency
1413 we would like to have enough room to get emergency vehicles in and out. Okay.

1414

1415 Mr. Nicholson - Right. And we've got the road, I believe, at the required
1416 amount for that we did, gosh, 10 plus years ago. That we made it a little bit wider than it
1417 was originally and cleared up some of the trees that were low hanging across it.

1418
1419 Mr. Johnson - All right. And, also, since it does not have any public access
1420 and it's all private land, private property, the roadways -- the County is not dealing with it.

1421
1422 Mr. Blankinship - That's correct. There is an easement that's already
1423 Of record that allows each property owner to cross that road. And there is already a
1424 written, recorded, maintenance agreement for everybody to participate in the
1425 maintenance of the road.

1426
1427 Mr. Johnson - Right. Great. Okay. Are you aware of that, sir?

1428
1429 Mr. Nicholson - Yes. John Gibbs put that together with my approval a handful
1430 of years ago. And so that's why I've planned on giving the gentleman at the end of the
1431 street who built his house, I don't know, five, six years ago, give him some money so he
1432 could do that. Because he is the one that's been filling any potholes in the street.

1433
1434 Mr. Green - Any other questions? Is there anyone else wishing to speak
1435 in favor of this variance? Are there anyone -- is there anyone wishing to speak in
1436 opposition?
1437 Hearing none, do I hear a motion?

1438
1439 Mr. Johnson - Mr. Chairman, I move that we approve the variance subject to
1440 the conditions recommended by staff. And when these lots were created, private roads
1441 could not be approved without a variance. And there is no way to use the land.

1442
1443 There is a road maintenance agreement. And the house will fit on it with the
1444 neighborhood. So I think you should approve the variance.

1445
1446 Mr. Green - Is there a second?

1447
1448 Mr. Pollard - Second the motion.

1449
1450 Mr. Green - The motion was moved by Mr. Johnson, seconded by Mr.
1451 Pollard. Was there any discussion? All in favor? Opposed? Approved.

1452
1453 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved** application
1454 **VAR2021-00010 NICHOLSON HOLDINGS INC.'s** request for a variance from Section
1455 24-9 of the County Code to build a one-family dwelling at 8578 Gibbs Lane (Parcel 818-
1456 681-2641) zoned Agricultural District (A-1) (Varina). The Board approved the variance
1457 subject to the following conditions:

1458
1459 1. This variance applies only to the public street frontage requirement for one dwelling
1460 only. All other applicable regulations of the County Code will remain in force.

1507 setback for a deck, where the Code requires 40 feet rear yard for a screened porch and
1508 30 feet rear yard setback for a deck. The applicant requests a variance of 8 feet rear yard
1509 for a screened porch and 1-foot rear yard setback for a deck.

1510
1511 Mr. Blankinship - For everyone who intends to speak to this case, please stand
1512 and be sworn in. Raise your right hand, please. Do you swear the testimony you're about
1513 to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank
1514 you. I think there is no one on Webex. So, Mr. Madrigal, you can begin.

1515
1516 Mr. Madrigal - All right. Thank you, Mr. Secretary. Mr. Chair, members of
1517 the Board. Before you is a request to build a screen porch and deck with reduced rear-
1518 yard setbacks.

1519
1520 The subject property is part of a 10-lot residential subdivision recorded in 2006. The lot
1521 is 11,000 square feet in area. It's relatively flat and fronts on a cul-de-sac. It is identified
1522 on the subdivision plat as having limitations for dwelling shape, size, and location.

1523
1524 The property is improved with a two and a half story, 2,400-square foot home, with an
1525 attached one-car garage built in 2010. Other improvements include a 10x16 foot rear
1526 deck and a 120-square foot shed in the rear yard.

1527
1528 The applicant is the original owner and purchased the property in 2010. He would like to
1529 enclose his existing deck with a screen porch and add a new 10x12 foot deck in the rear
1530 of the home.

1531
1532 An enclosed porch is required to meet the same setbacks as a principal structure, and an
1533 open deck is allowed to project 10 feet in the required rear yard setback as per code. The
1534 applicant's home currently complies with both of these setback requirements, but the
1535 proposed improvements would violate the rear-yard setback. The porch enclosure would
1536 infringe 8 feet, and the new deck would infringe 1-foot into the required rear yard. Thus,
1537 the applicant has requested a variance to address these two items.

1538
1539 With respect to the threshold question, the subject property is improved with an existing
1540 home, an attached garage, and a rear deck. As a result, the property has an existing
1541 beneficial use, and the code does not unreasonably restrict the utilization of the property.

1542
1543 Like all cul-de-sac lots, it has limitations on the shape, size, and location of the home that
1544 can be built on it due to the shape and configuration of the lot. It is subject to the same
1545 setback requirements as the other lots fronting on the cul-de-sac and is no more or less
1546 encumbered than its neighbors. Also, the request was not made on behalf of a person
1547 with a disability. Because the threshold for variance has not been met, the Board has no
1548 authority to grant the variance requested.

1549
1550 Relative to the five subtests, the applicant does not satisfy these requirements.

1551

1552 Based on the facts that the case, staff has made the formal determinations. The
1553 applicant's request is a self-imposed hardship. Approval of the request would establish
1554 a negative precedent and would be tantamount to the granting of a special privilege, as
1555 the property does not enjoy any less rights than similar properties fronting on the cul-de-
1556 sac. And reducing the rear-yard setback would reduce the privacy of neighbors, resulting
1557 in a detrimental impact.

1558
1559 In conclusion, the subdivision was recorded in 2006, and the dwelling was constructed in
1560 2010. The lot was clearly identified on the subdivision plat as having developmental
1561 limitations due to the shape. The property has an existing beneficial use, is code
1562 compliant, and does not enjoy any less rights than similar properties on the cul-de-sac.
1563 As a result, the zoning ordinance does not unreasonably restrict the use of property, and
1564 any hardship is self-imposed.

1565
1566 Approval of the request would establish a negative precedent and would undermine the
1567 purpose and intent of the zoning ordinance. Because the application does not meet the
1568 legal requirements for variance, staff recommends denial of this request.

1569
1570 Staff has received a few email messages on this, and those have been supplied to you.
1571 And those messages were in support of the request.

1572
1573 That concludes my presentation. I'll be happy to answer any questions.

1574
1575 Mr. Green - Were in support?

1576
1577 Mr. Madrigal - They were in support.

1578
1579 Mr. Green - Not opposition?

1580
1581 Mr. Madrigal - That is correct.

1582
1583 Mr. Green - Okay. are there any questions from the Board to the staff?
1584 We'll now hear from the applicant.

1585
1586 Mr. Johnson - One question.

1587
1588 Mr. Green - Yes, sir.

1589
1590 Mr. Johnson - You said we don't have the right to vote on it. Right?

1591
1592 Mr. Madrigal - Right. It did not meet a threshold question. So. And it's not
1593 meeting any of the subtests. So the board really has no authority to grant the variance
1594 under case law.

1595
1596 Mr. Blankinship - They have a reasonable use to the property and there's no
1597 hardship.

1598
1599 Mr. Johnson - Okay. So that pretty much leaves us out of the picture.
1600
1601 Mr. Blankinship - Yes, sir.
1602
1603 Mr. Green - Well then if that leaves us out of the picture, what are we doing
1604 here?
1605
1606 Mr. Johnson - Applicant can try to change your mind.
1607
1608 Mr. Green - Oh, yeah, okay.
1609
1610 Mr. Sangra - Good morning, everyone.
1611
1612 Mr. Green - I can't hear you.
1613
1614 Mr. Blankinship - Fred, is the mic on in the back? Try again, sir, he may just not
1615 have realized you were there.
1616
1617 Mr. Sangra - Good morning.
1618
1619 Mr. Blankinship - There we go. Thank you.
1620
1621 Mr. Sangra - Okay.
1622
1623 Mr. Sangra - I just want to start by saying thank you to the Board for giving
1624 me this opportunity to present my case. And I also want to thank the Henrico County
1625 Planning Department. They have been really helpful during this application process.
1626
1627 I am the owner of the property and the applicant for the variance application. And, as it
1628 was stated, my variance request is for two things. One is to convert the existing deck that
1629 we have, not changing any modifications. Converting our existing deck into a screen
1630 porch and adding a new deck on the side of the existing deck.
1631
1632 And the reason we have this request is, one, our property has a very irregular lot, so that
1633 the dwelling is not in parallel with the rail fence line. At one point of the deck, there is a
1634 foot -- it meets the 40 feet rear-yard setback, but the other point of the deck it does not.
1635 And that's the reason for asking for that 8-foot variance.
1636
1637 This variance, if it's granted, would not create any negative or detrimental impact to any
1638 of the neighbors on the sides. And, as it was stated, my neighbors are fully supportive of
1639 this request. And they would not have any issues, especially any privacy issues also.
1640
1641 And as a family of four, we need this variance so that we can have a screen porch,
1642 because it's next to impossible to use the deck throughout the year because of a lot of
1643 issues, whether it's pollen, whether it's bugs, or mosquitoes, and some allergy issues.

1644
1645 There are a lot of trees in the other lot which is in the back of my house. And that's the
1646 reason we have all of these issues. So if this variance is granted, then we can have the
1647 screen porch and then we can use the deck for its intended purpose.
1648
1649 So that's my presentation, and if there are any questions, do let me know.
1650
1651 Mr. Reid - Do you understand the hardship rule based on the property?
1652
1653 Mr. Sangra - Yes, I do.
1654
1655 Mr. Bell- Well, if you do, then that sort of leaves us with nothing to say
1656 but denial. Because you already have use of it -- taking advantage of it when you made
1657 buildings in the same general location.
1658
1659 Mr. Sangra - Right.
1660
1661 Mr. Bell - That's where we stand, as well.
1662
1663 Mr. Sangra - Right. Like I said, we are not able to use the deck for its full
1664 intended purpose because of this requirement. And even if this is accepted, it would not
1665 have any impact whatsoever either to my neighbors or to the neighbors at the back also,
1666 because there's such a big distance between my house and the house at the back of my
1667 neighborhood. So this would not have any negative impact at all to anyone.
1668
1669 Mr. Blankinship - But you understand that the house was built in 2010?
1670
1671 Mr. Sangra - Yes.
1672
1673 Mr. Blankinship - The code was in effect in 2010.
1674
1675 Mr. Sangra - Yes.
1676
1677 Mr. Blankinship - The house was designed to fit in that lot. And you've been
1678 living in the house. It's a reasonable use of the property.
1679
1680 Mr. Sangra - Yes.
1681
1682 Mr. Blankinship - So there's -- okay.
1683
1684 Mr. Green - Any other questions for the applicant? Yes, Mr. Johnson? I
1685 mean Pollard.
1686
1687 Mr. Pollard - Remind me. Why do you want to screen in the porch?
1688

1689 Mr. Sangra - Because of the issues such as pollen or bugs or mosquitos.
1690 It's very difficult to be out throughout because of all of these reasons. And we hardly step
1691 out because it's not covered. And the request is to just get it covered, not to extend it in
1692 any shape or form, just get it covered so that at least we have that protection for the
1693 family.
1694
1695 Mr. Pollard - Thank you.
1696
1697 Mr. Green - Any other questions?
1698
1699 Mr. Johnson - Also you was adding an additional deck to your property? The
1700 reason I was asking that is because -- is doing that just to extend it? Can you do that
1701 without having the screen porch?
1702
1703 Mr. Sangra - Yes. If the screen porch, this request, is granted, then we
1704 would like to have a small deck at this side. And if in case the screen porch variance is
1705 not accepted, we would still like to get that deck at the side so that at least we have a
1706 bigger area for the family.
1707
1708 Mr. Johnson - That'll be another--
1709
1710 Mr. Madrigal - I'm sorry, sir?
1711
1712 Mr. Johnson - That'll be another variance they have to go through. Wouldn't
1713 it?
1714
1715 Mr. Madrigal - As it's currently designed, yes. Because it would infringe or
1716 encroach a foot into the required setback. They could cut that deck back about one foot
1717 approximately and then meet code.
1718
1719 Mr. Green - Now?
1720
1721 Mr. Madrigal - The proposed deck.
1722
1723 Mr. Johnson - The proposed deck.
1724
1725 Mr. Green - Yeah. Now. But they could do that now?
1726
1727 Mr. Pollard - Yeah.
1728
1729 Mr. Green - If we agreed to it.
1730
1731 Mr. Madrigal - Yes. They can do that now. Yeah. So right now, the way
1732 that's proposed, it's encroaching one foot. They just have to push it back one foot and it
1733 would comply with code.
1734

1735 Mr. Green - Do you agree to that?
1736
1737 Mr. Sangra - Yeah, I agree to that. Yeah.
1738
1739 Mr. Green - If it, I mean, I'm just --
1740
1741 Mr. Blankinship - Right.
1742
1743 Mr. Johnson - And what are you saying that that the new deck that you were
1744 talking about putting on, making it a foot shorter?
1745
1746 Mr. Madrigal A foot shorter.
1747
1748 Mr. Green - A foot shorter.
1749
1750 Mr. Blankinship - Or just cutting the corner off.
1751
1752 Mr. Madrigal - Or just cut the corner. Yeah. That's the other option.
1753
1754 Mr. Blankinship - The point is, there is room to build and expand a deck without
1755 a variance.
1756
1757 Mr. Sangra - Yes, yes.
1758
1759 Mr. Blankinship - If the variance is denied, you can still build it and expand the
1760 deck.
1761
1762 Mr. Sangra - And let -- I should have been very clear. Our primary concern
1763 is the screen porch. Just covering our existing deck with some kind of an enclosure so
1764 that we are able to use the deck.
1765
1766 Mr. Pollard - Right.
1767
1768 Mr. Sangra - And, of course, the secondary request is to proposed deck.
1769 But I do understand, we can still build it, but it would have to be reduced by 1 feet.
1770
1771 Mr. Pollard - Okay.
1772
1773 Mr. Sangra - I understand that.
1774
1775 Mr. Johnson - And it cannot be closed in.
1776
1777 Mr. Sangra - It cannot be closed in.
1778
1779 Mr. Johnson - Okay.
1780

1781 Mr. Sangra - But if any kind of closure to an existing deck would be very
1782 helpful for my family.
1783
1784 Mr. Green - Okay. Any other questions? Are there any other persons
1785 wishing to speak in support of this?
1786
1787 Mr. Blankinship - There is no one on Webex.
1788
1789 Mr. Green - Is there anyone wishing to speak in opposition? Hearing
1790 none, what is the desire of the Board?
1791
1792 Mr. Bell - I move that we deny the variance. We all sympathize with the
1793 homeowner's desire to build a screen porch, but the Board of Supervisors has determined
1794 the setback and this Board can only grant a variance if the ordinance is unreasonable.
1795
1796 This property is similar to most cul-de-sacs in the county. There are many homes in the
1797 county that have built 40 feet from the rear lot line with a deck extended into the back --
1798 into the setback. The zoning ordinance is reasonable and there is nothing about this lot
1799 that is exceptional. So we have no choice but to deny the variance.
1800
1801 Mr. Green - Does anyone second it first?
1802
1803 Mr. Johnson - Anybody second it?
1804
1805 Mr. Green - There is no second, Mr. Bell.
1806
1807 Mr. Blankinship - Motion dies for lack of second.
1808
1809 Mr. Green - Motion dies for lack of second. So we can -- someone can
1810 move to approve. Is --
1811
1812 Mr. Johnson - I would motion that --
1813
1814 Mr. Green - Well, do you have the paper?
1815
1816 Mr. Johnson - No, no, no. Not motion. But I would recommend that if you
1817 want the deck there without the enclosure, if you shorten it one foot, then we can approve
1818 that.
1819
1820 Mr. Blankinship - He can do that without the variance. That's what he'd be left
1821 with if the variance was denied.
1822
1823 Mr. Johnson - Okay.
1824

1825 Mr. Bell - Otherwise, the variance isn't going to -- well, can't say hurt,
1826 but the same thing he can do without the variance, he can do with the variance. That's
1827 why I denied it.
1828
1829 Mr. Johnson - Okay. Then I will second that.
1830
1831 Mr. Blankinship - Oh, okay.
1832
1833 Mr. Pollard - You'll kill it. He won't be able to put the screen porch on.
1834
1835 Mr. Johnson - Right. But he -- Oh.
1836
1837 Mr. Blankinship - Right. He can extend the deck, but not build --
1838
1839 Mr. Pollard - He wants the screen porch.
1840
1841 Mr. Johnson - But he said he wants the porch, too, though.
1842
1843 Mr. Green - Yeah. But he said he could do the porch without --
1844
1845 Mr. Blankinship - Without the variance.
1846
1847 Mr. Pollard - Without the variance.
1848
1849 Mr. Green - Yeah. Your biggest concern is the screen porch.
1850
1851 Mr. Sangra - Screen porch. That's my biggest concern.
1852
1853 Mr. Green - Right.
1854
1855 Mr. Sangra - If we can have the screen porch on the deck, existing deck,
1856 that would be very helpful. And then the new deck, yeah, we can cut it short by one foot
1857 or two foot to meet the requirement as it currently needs. That's not an issue.
1858
1859 Mr. Green - Mr. Johnson is pulling back the second.
1860
1861 Mr. Blankinship - I thought Mr. Johnson was seconding the motion. So.
1862
1863 Mr. Green - Are you seconding, or pulling it back?
1864
1865 Mr. Johnson - That he can do the deck, but not the screen. Yes.
1866
1867 Mr. Green - But then he wants to do the deck. He really wants to do the
1868 screen.
1869
1870 Mr. Madrigal - That's the purpose of the variance.

1871
1872 Mr. Green - This is -- this is what I'm beginning to see happen. And let me
1873 speak. We're beginning to see more and more individuals come to us wanting to enclose
1874 their decks. And given what I'm seeing and what I experience, I would, at some point,
1875 might want to do that myself because the pollen is horrendous when it comes. And so
1876 you really can't enjoy your deck. You really can't put your furniture out. You put your
1877 furniture out, you got to power wash it. You have to do a lot of things.
1878
1879 So, you know, we have approved screened-in decks before. And so I would be in support
1880 of allowing him to screen his porch and shorten his deck. So what is your pleasure, Mr.
1881 Johnson? To second the motion and kill it or just have him cut the deck back by one foot
1882 and still allow him to build a screen porch?
1883
1884 Mr. Johnson - What the Board think? Let the Board vote on it.
1885
1886 Mr. Green - Well, we need a second before we can vote. But there's no
1887 second.
1888
1889 Mr. Blankinship - Right now there's no motion on the floor.
1890
1891 Mr. Green - There's no motion, so --
1892
1893 Mr. Blankinship - If you want to approve the variance, then someone would
1894 have to make a motion to approve the variance.
1895
1896 Mr. Green - I move that we approve the variance.
1897
1898 Mr. Blankinship - For the screen porch but not for the extension of the deck if
1899 I'm understanding correctly?
1900
1901 Mr. Green - For the screen porch but not for the extension of the deck.
1902
1903 Mr. Pollard - Right.
1904
1905 Mr. Green - Because, like I said, we're seeing a lot of these issues come
1906 through, and we've been approving them. And I don't see why -- you know, we really
1907 want our residents to enjoy the comfort of their decks. And I'm beginning to wonder if I
1908 should do the same thing. Because it's just horrendous. Is there a second to the motion?
1909
1910 Mr. Pollard Second.
1911
1912 Mr. Green - Is there a second to the motion?
1913
1914 Mr. Pollard - I second the motion.
1915

1916 Mr. Green - Okay. The motion was moved by myself. Seconded by Mr.
1917 Pollard. All in favor say aye. All opposed?

1918
1919 Mr. Bell - Abstained.

1920
1921 Mr. Green - Abstained. Motion passed.

1922
1923 Mr. Sangra - Thank you.

1924
1925 Mr. Blankinship - Mr. Johnson, what was your vote?

1926
1927 Mr. Green - Did you vote to approve it?

1928
1929 Mr. Johnson. Yes.

1930
1931 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** application
1932 **VAR2021-00011 MANOJ SANGRA's** request for a variance from Sections 24-94 and
1933 24-95(i)(1) of the County Code to build a screened porch and a deck at 9812 Olde
1934 Milbrooke Way (SPRINGFIELD MANOR) (Parcel 755-768-3268) zoned One-Family
1935 Residence District (R-3C) (Brookland). The Board approved the variance subject to the
1936 following conditions:

1937
1938 1. This variance applies only to the rear yard setback requirement for the proposed
1939 addition and deck. All other applicable regulations of the County Code remain in force.

1940
1941 2. Only the improvements shown on the plot plan and building design filed with the
1942 application may be constructed pursuant to this approval. Any additional improvements
1943 must comply with the applicable regulations of the County Code. Any substantial changes
1944 or additions to the design or location of the improvements will require a new variance.

1945
1946 3. The new construction must match the existing dwelling as nearly as practical in
1947 materials and color. The applicant must comply with all the design criteria outlined in the
1948 proffers associated with Rezoning C-008C-03.

1949
1950 4. The applicant must relocate the steps from the rear to the side to prevent further
1951 encroachment into the rear yard setback.

1952
1953 5. The applicant must obtain a building permit for the proposed porch and deck by May
1954 29, 2023, or this variance will expire. After that date, if the building permit is cancelled or
1955 revoked due to failure to diligently pursue construction, this variance will expire at that
1956 time.

1957
1958
1959 **Affirmative: Green, Johnson, Reid Pollard 4**
1960 **Negative: 0**
1961 **Abstain Bell 1**

Absent:

0

1962
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Mr. Blankinship - All right. And the last case this morning is variance 2021, number 13. And I'm sorry. I do not know how to pronounce this name. I'm going to say Unni Kirandumkara.

VAR2021-00013 UNNI KIRANDUMKARA requests a variance from Section 24-9 of the County Code to build a one-family dwelling at 6881 Millers Crossing Trail (Parcel 814-698-6106) zoned Agricultural District (A-1) (Varina). The public street frontage requirement is not met. The applicant proposes 0 feet public street frontage, where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Blankinship - There is no one in the room to speak for this case. I believe the applicant is with us on Webex. So Mr. Gidley, if you would begin your staff report.

Mr. Gidley - Thank you, Mr. Secretary. The subject property is located off Pocahontas Parkway, also known as Virginia Highway 895 in the Varina Magisterial District. It contains 2.03 acres of land that was acquired by VDOT for the construction of 895.

Following the construction of this road, however, VDOT no longer needed this land, so they quit-claimed it in 2008, and it was acquired by today's applicant.

The applicant's property is served by Miller's Crossing Trail, which is a service road located within the 895 right of way. Miller's Crossing provides access to two homes that lost their public street frontage when 895 was built.

The applicant would like to construct a dwelling on his property. However, because the service road does not meet the zoning ordinance requirement for a public street, he has applied for a variance to allow a home to be constructed there.

The property is 2.03 acres in area and over 200 feet in lot width. It thus meets the lot area and the lot width requirements for a dwelling. Without a variance, there's no reasonable beneficial use of the property. Granting the variance would provide a reasonable and beneficial use of the property that would otherwise remain vacant.

As noted in your staff report, staff believes the five sub-tests were met. I would note, as far as detrimental impact, the proposed dwelling would be consistent with the surrounding land uses. It would be a 60 by 30 foot home and would meet the minimum buildable area requirement of 800 square feet for one a one-family dwelling. So staff does not believe this would have a detrimental impact on nearby property.

In conclusion, the applicant acquired the 2 acres in 2008 as the land was no longer needed by VDOT following the construction of 895. Although the property is accessed

2008 from a VDOT service road, this does not count towards the public street frontage
2009 requirement.

2010
2011 Absent of variance of property would lack a reasonable beneficial use. The proposed
2012 one-family home is consistent with the surrounding residential uses, and the requirements
2013 for a variance are met.

2014
2015 As a result, staff recommends approval of this request subject to the attached conditions.

2016
2017 This concludes my presentation. If you have any questions, I'll be happy to answer those.
2018 Thank you.

2019
2020 Mr. Green - Are there any questions from the Board to staff?

2021
2022 Mr. Johnson - Oh, yes. When VDOT got rid of the land, when they did 895,
2023 is that now under the county or is VDOT just still maintaining that front road frontage?

2024
2025 Mr. Gidley - The county does not maintain Miller's Crossing Trail, I believe,
2026 because it's in the VDOT right-of-way and these two homes that you see here, originally
2027 the lots had 50 feet of lot width that came down to Miller Road here. And that was their
2028 public street frontage. And 895 obviously cut that right off. So I believe VDOT provided
2029 this in order for these people to have access out to a public street. As I said, the county
2030 does not maintain it. I believe, but I can't be certain, that VDOT would continue to maintain
2031 it.

2032
2033 Mr. Johnson - Yes. That's what I was curious about.

2034
2035 Mr. Gidley - There's a lot of culverts and down here. Drainage. And,
2036 obviously, this provides access for VDOT and others to maintain those culverts to make
2037 sure the water can continue to flow through there. So they have their own reasons to
2038 have this access road there.

2039
2040 Mr. Johnson Okay. Yeah. But, see, now another thing that I noticed as
2041 well is that that deep drainage that's next to the property when you're looking down, you
2042 know, it's a drainage field that goes into to the back of it.

2043
2044 Mr. Blankinship - Yes.

2045
2046 Mr. Johnson - -- but just above that red sign there. You can't see it there.
2047 But next to it --

2048
2049 Mr. Blankinship - Yes. And VDOT still owns that. They still own that stormwater
2050 management pond.

2051
2052 Mr. Johnson - Okay.

2053

2054 Mr. Blankinship - This property, I guess, was outside of what they needed for
2055 that. So they sold it back.
2056
2057 Mr. Johnson - So they're going to be maintaining that as well -- they put their
2058 house in or something. Okay.
2059
2060 Mr. Blankinship - Are you ready to hear from the applicant?
2061
2062 Mr. Green - Yes, sir.
2063
2064 Mr. Johnson - Yes.
2065
2066 Mr. Blankinship - All right. May we hear from the applicant?
2067
2068 Ms. Blankinship The applicant is unmuted.
2069
2070 Mr. Kirandumkara - Hi, good morning. And thank you for giving me an opportunity
2071 to present my variance case.
2072
2073 Thank you, Mr. Secretary, Mr. Chairman, and rest of the Board. I also want to appreciate
2074 the Zoning staff for answering my questions throughout the process.
2075
2076 So I'm requesting here a variance for public street frontage access to 6881 Millers
2077 Crossing Trail, sized 2.038 acres land, zoned A-1 Agricultural Zone.
2078
2079 The variance will help me to build a three-bedroom, single-family home. And as you see
2080 in the picture, the property is located on the cul-de-sac of the public street.
2081
2082 And working with the Henrico Zoning staff, I have discussed the setbacks. So setbacks
2083 are like 106 feet on the east, 115 feet from the south, 260 feet on west, and 70 feet from
2084 north. And that's all. And I'll be happy to answer any questions that you may have.
2085
2086 Mr. Green - Are there any questions for the applicant from the Board?
2087
2088 Mr. Johnson - Okay. Also, I noticed that right behind that property is another
2089 house as well. Are you going to be using the same entrance? Because I know that that
2090 one also has access to Yarnell Court.
2091
2092 Mr. Kirandumkara - Yes, sir. And I also provided the deed. The answer is here.
2093
2094 Mr. Blankinship - That answer your question?
2095
2096 Mr. Johnson - Yeah. I didn't get the last part.
2097
2098 Mr. Blankinship - Could you repeat the last thing you said, sir? We're having a
2099 little bit of trouble hearing you. You're not coming through as clearly as we'd like.

2100
2101 Mr. Kirandumkara - Oh. Okay. So, yes. My answer is yes. It does.
2102
2103 Mr. Blankinship - There is a home behind yours, and it would continue to use
2104 the driveway that crosses your property?
2105
2106 Mr. Kirandumkara - Yeah, that driveway is in my property.
2107
2108 Mr. Blankinship - Right.
2109
2110 Mr. Kirandumkara - And I would use that driveway.
2111
2112 Mr. Green - Are there any other questions for the applicant? Are there any
2113 other persons wishing to speak in favor of this?
2114
2115 Mr. Blankinship - There is no one else on Webex.
2116
2117 Mr. Green - So there's no one wishing to speak in opposition?
2118
2119 Mr. Blankinship - Yes, sir.
2120
2121 Mr. Green - Hearing none, what's the pleasure of the Board?
2122
2123 Mr. Johnson - Mr. Chairman, I move that we approve the variance subject to
2124 conditions recommended by the staff. And although the county does not maintain the
2125 road, it is a paved road serving the property. Without a variance there would be no use
2126 for the property. And the proposed dwelling would fit in with the area and would not be
2127 detrimental. The tests have been met, so I think we should approve the variance.
2128
2129 Mr. Pollard - I second the motion.
2130
2131 Mr. Green - The motion has been moved by Mr. Johnson, seconded by
2132 Mr. Pollard. Any discussion? All in favor? Opposed? Passed.
2133
2134 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved** application
2135 **VAR2021-00013 UNNI KIRANDUMKARA's** request for a variance from Section 24-9 of
2136 the County Code to build a one-family dwelling at 6881 Millers Crossing Trail (Parcel 814-
2137 698-6106) zoned Agricultural District (A-1) (Varina). The Board approved the variance
2138 subject to the following conditions:
2139
2140 1. This variance applies only to the public street frontage requirement for one dwelling
2141 only. All other applicable regulations of the County Code remain in force.
2142
2143 2. Only the improvements shown on the plot plan and building design filed with the
2144 application may be constructed pursuant to this approval. Any additional improvements

