

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRING ROADS, ON THURSDAY NOVEMBER 16, 2017 AT**
5 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH OCTOBER 30, 2017 AND NOVEMBER 6, 2017.**
7

Members Present: William M. Mackey, Jr., Chair
Helen E. Harris, Vice Chair
Gentry Bell
Terone B. Green
James W. Reid

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

8
9 Mr. Mackey - Welcome to the November 16, 2017 meeting of the
10 Henrico County Board of Zoning Appeals. For all those who are able, will you
11 please stand and join us in the Pledge of Allegiance.

12
13 Thank you. Now we'll have Mr. Ben Blankinship please read the rules of our
14 meeting.

15
16 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
17 ladies and gentleman, the rules for this meeting are as follows: Acting as
18 secretary, I will call each case. And at that time, we will ask everyone who
19 intends to speak to that case to stand and be sworn in. Then a member of the
20 staff will give a brief introduction to the case. Then the applicant will have their
21 opportunity to present their case. After the applicant has spoken, anyone else
22 who wishes to speak will be given the opportunity. After everyone has had a
23 chance to speak, the applicant, and only the applicant, will have an opportunity
24 for rebuttal.

25
26 When the Board has heard all the public statements on that case, they will close
27 that public hearing and proceed to the next public hearing. They will go back
28 through the agenda at the end of the meeting and render all of their decisions.
29 So, if you wish to hear their decision on a specific case, you can stay until the
30 end of the hearings, or you can check the Planning Department website—we
31 usually get it updated within an hour of when the meeting ends—or you can call
32 the Planning Department this afternoon.
33

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

37
38 Mr. Chair, we do have two withdrawals this morning.

39
40 Mr. Bell - I have one question for you real quickly.

41
42 Mr. Blankinship - Yes sir.

43
44 Mr. Bell - I just found it. On the cover sheet of paper for
45 variance 22, it's a small thing, but it says that the property acreage is .307 acres.
46 And I think 1-1/2 acres. Will that make a big difference? This is just a cover
47 sheet.

48
49 Mr. Blankinship - I would think on that case that is the correct area.
50 That's a very small lot. So that would be almost a third of an acre.

51
52 Mr. Bell - Okay.

53
54 Mr. Blankinship - I think that is correct.

55
56 Mr. Bell - I must be thinking about something else. Thank you.

57
58 Mr. Blankinship - All right. We have the two cases that were deferred
59 from a previous meeting that have now been withdrawn. Those are APL2017-
60 00007, The East End Landfill, LLC and CUP2013-00014, the request to revoke
61 the use permit for The East End Landfill.

62
63 **APL2017-00007 THE EAST END LANDFILL, LLC** appeals a decision
64 of the director of planning pursuant to Section 24-116(a) of the County Code
65 regarding the property at 1820 Darbytown Road (Parcels 808-706-6679, 808-
66 707-7024, 808-708-0513 and 809-707-1585) zoned General Industrial District
67 (M-2) (Varina).

68
69 **CUP2013-00014 THE EAST END LANDFILL:** the director of planning
70 requests revocation of a conditional use permit to expand an existing landfill at
71 1820 Darbytown Road (Parcels 808-706-6679, 808-707-7024 and 809-707-1585)
72 zoned Business District (B-3) and General Industrial District (M-2) (Varina).

73
74 Mr. Blankinship - The substance of these matters is still coming
75 forward, but there has been some additional information received from the
76 Virginia Department of Environmental Quality. As a result, the attorneys for both
77 sides—the County attorney and the applicant's attorney—have discussed
78 withdrawing these two matters and filing a new petition. So that is expected to
79 come before you in January. So, there will not be a hearing this morning on The

80 East End Landfill, but the matter is not resolved. It should be coming back in
81 January.

82
83 At the request of the applicant, cases **APL2017-00007, THE EAST END**
84 **LANDFILL, LLC, and CUP2013-00014, THE EAST END LANDFILL**, have been
85 **withdrawn**.

86
87 Mr. Blankinship - We also have one deferral, Mr. Chair, and that is
88 VAR2017-00023, Chris Rogers.

89
90 **VAR2017-00023** **CHRIS ROGERS** requests a variance from Section
91 24-95(i)(2)b. of the County Code to build an accessory structure at 509 Walsing
92 Drive (MOORELAND LANDING) (Parcel 743-732-5147) zoned One-Family
93 Residence District (R-1) (Tuckahoe). The accessory structure setback
94 requirement is not met. The applicant proposes 3 feet accessory structure
95 setback, where the Code requires 10 feet accessory structure setback. The
96 applicant requests a variance of 7 feet accessory structure setback.

97
98 Mr. Blankinship - Is there anyone here this morning expecting to speak
99 to that case? Okay. Mr. Chair, we discovered as we processed the application
100 that the application was not complete. We didn't discover that until after the
101 advertisement had run, so it can't really be heard this morning. It needs to be
102 deferred to your December 21st meeting.

103
104 Mr. Mackey - Okay. All right. Do we have a motion to defer
105 VAR2017-00023 to our December 21st meeting?

106
107 Mr. Reid - So moved.

108
109 Ms. Harris - Second.

110
111 Mr. Mackey - It's been properly moved and seconded. All in favor
112 say aye. Those opposed say no. There is no opposition; that motion passes. The
113 case will be moved to the December 21st meeting.

114
115 After an advertised public hearing and on a motion by Mr. Reid, seconded by
116 Ms. Harris, **VAR2017-00023, CHRIS ROGERS**, has been deferred until the
117 December 21, 2017 meeting.

118
119
120 Affirmative: Bell, Green, Harris, Mackey, Reid 5
121 Negative: 0
122 Absent: 0

123
124

125 Mr. Mackey - All right, Mr. Blankinship, we'll let you call our next
126 case.

127
128 **CUP2017-00035 JEWISH COMMUNITY CENTER** requests a
129 conditional use permit pursuant to Sections 24-12(b) and 24-52(a) of the County
130 Code to expand a noncommercial recreation facility at 5403 Monument Avenue
131 (Parcel 770-736-3957) zoned Agricultural District (A-1) (Brookland).

132
133 Mr. Blankinship - Would everyone who intends to speak to this case
134 please stand and be sworn in. Raise your right hands, please. Do you swear the
135 testimony you're about to give is the truth, the whole truth, and nothing but the
136 truth so help you God? Thank you. Everyone else can be seated. Mr. Gidley, you
137 may begin.

138
139 Mr. Gidley - Thank you, Mr. Secretary. Good morning,
140 Mr. Chairman, members of the Board.

141
142 First off, you should have some revised conditions before you. From the staff
143 report condition #14 has changed. There was a fence in the old conditions from
144 1972 that is not there. Instead, you have a landscaping along the terminus of
145 Monumental Avenue, not to be confused with Monument Avenue. So condition
146 14 has been brought forward from that 1972 case and reflects the existing
147 conditions out there.

148
149 Mr. Green - I have a question.

150
151 Mr. Mackey - Yes, Mr. Green.

152
153 Mr. Green - Since we had individuals stand who are going to be
154 opposed to this, are they aware of these or seen these changes? If not, shouldn't
155 they be given an opportunity to have copies in the event that could impact their
156 rebuttal or decision?

157
158 Mr. Blankinship - Very good point. Thank you, Mr. Green. I'll just note
159 that I did provide the applicant with a copy this morning just before the meeting.

160
161 Mr. Gidley - Thank you. This is a request to expand the parking lot
162 at the Jewish Community Center. It's located off Monument Avenue just east of
163 Libbie. Here's a picture of it. This JCC facility was established back in 1958 with
164 the opening of a gymnasium and an indoor pool on the site. Since this time, there
165 have been a number of improvements authorized, and today the site has roughly
166 100,000 square feet of floor area.

167
168 This growth has led to increased demand for parking. To address this, the JCC is
169 proposing an expansion of the parking lot by a total of 55 parking spaces. As you
170 see here, Monument Avenue would be up towards the north. The neighborhood

171 behind it is right here, the existing parking lot, and then the new parking would be
172 right here with 55 total spaces.

173
174 In evaluating the request, the property is zoned A-1 Agricultural District, and it is
175 designated as Semi-Public on the 2026 Land Use Plan. Private non-commercial
176 recreation facilities are permitted by conditional use permit in the A-1 District, and
177 they are consistent with the Semi-Public designation on the Comprehensive Plan
178 as well.

179
180 Dealing with any substantial detrimental impact, the JCC is right here. It does
181 back up onto the city's Westhampton Heights neighborhood, which is located
182 right here in this area. As you can see, when the parking lot gets expanded
183 westward, there would be a total of four homes in this area that would potentially
184 be impacted by that. One of those homes at 1005 Glenburnie, which is located
185 right here, would be just over 40 feet from the proposed parking lot. And again,
186 this is the parking lot, and here is the home right here. It is just over 40 feet
187 distance right there.

188
189 A week and a half ago, the applicant held a meeting with neighbors where
190 concerns were expressed over lighting and privacy issues. To mitigate these
191 impacts, staff has suggested expanding the existing landscape buffer along the
192 rear of the parking lot westward between the new parking lot and the existing
193 residences. So over here, where the existing parking is, you have a landscape
194 buffer. Our recommendation is to extend that westward to place it between the
195 residences here and the parking lot right here. Here are a couple of pictures of
196 the buffer. The applicant has agreed to this request, and I believe he has a
197 rendering today that shows the extension of this buffer.

198
199 In addition to that, he has shown some trees being added to it as well. Staff is
200 also recommending that any lighting be limited to 20 feet in height and be from a
201 concealed source. This would prevent the light from being exposed and spilling
202 out in all directions, including into the neighborhood.

203
204 In conclusion, since its opening in 1958, the JCC has experienced steady growth.
205 The proposed parking lot would enable it to better accommodate its membership.
206 This request is consistent with the Comprehensive Plan and the Zoning
207 Ordinance. The suggested conditions of approval include several items designed
208 to protect the adjacent neighborhood. As a result, staff can recommend approval
209 of this request subject to the conditions found in your staff report.

210
211 This concludes my presentation, and I'll be happy to answer any questions you
212 may have.

213
214 Mr. Mackey - All right, thank you, Mr. Gidley. Does anyone from the
215 Board or staff have any questions for Mr. Gidley?

216

217 Ms. Harris - Mr. Gidley, have you had any complaints from the
218 neighbors about this expansion?

219
220 Mr. Gidley - Yes ma'am. There was a neighborhood meeting held
221 at the city's I believe it's Westhampton branch library off Patterson Avenue.
222 During the meeting several neighbors showed up. Their concerns were
223 predominantly twofold, dealing with lighting potentially spilling over and also the
224 impact of having a parking lot behind their houses, which is not insignificant.

225
226 There was also mention of people cutting through the neighborhood. I guess
227 pedestrians or people coming and parking at a church there. When I asked if
228 they knew who the people were, where they were going, I was told they did not.
229 So that's more of, I guess you would say, a private matter for the property owner
230 to address with the people who are trespassing. But that was mentioned as well.

231
232 My conditions were designed to address the items that the JCC has more direct
233 control over, which would be the lighting and the parking lot and its screening.

234
235 At the meeting, some of the residents suggested—if I could show you here. If
236 they still feel this way, they can bring it up. There was a suggestion that rather
237 than extending the lot over here this way that a row be added this way parallel to
238 the existing parking lot out there. That would tend to keep it more away from
239 neighbors right here. That was something that was brought up at the meeting.
240 The two sides discussed, but didn't reach any agreement on that as such.

241
242 Ms. Harris - No complaints about noise?

243
244 Mr. Gidley - I don't recall any about noise per se, other than the
245 fact that there is going to be a parking lot going in behind some of the houses if
246 this is approved. More of a privacy concern. I guess you could put noise in there
247 if you wanted to.

248
249 Ms. Harris - Okay. I wanted to ask about the last parking lot
250 expansion. Can you point that out on this map? Where was the last expansion?

251
252 Mr. Gidley - Initially, the parking lot was right behind the center. I
253 know I looked at some photos from the 1980s, and it showed it kind of cutting off
254 right here. Then over time, it was expanded out this way towards the rear
255 property line. So I believe the last expansion would have been in this area right
256 here.

257
258 Ms. Harris - Okay. Thank you.

259
260 Mr. Gidley - Yes ma'am.

261
262 Mr. Mackey - Are there any other questions from Mr. Gidley?

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Mr. Green - Yes. With all that open space, why wouldn't they agree to move it back further away from those houses—there's a lot of space—and go with that first cut-through that you talked about it? Is it related to expense or what? I could see folks not wanting stuff that close to their houses, especially when you have that much mass of land. Then does that mean that the rest of that land is going to be used, they're going to come back and want to use it for additional parking at a future period of time?

Mr. Gidley - I'll address the discussion on the parking first. The JCC indicated—and the engineer I suspect can get into more detail on this when he speaks. If they put a row right here, they indicated an issue related to the entryway coming in right here. They would have to obviously make some new arrangements with this entryway in this area. And I believe they have a playground over in through here, and that would obviously have to be moved elsewhere.

Obviously from their perspective, this area out here is really not being used at the present time and it's going to be simpler to use it. From the neighborhood's perspective, as you noted, if you move the parking lot down through here, it would have less of an impact on the neighborhood. So to a certain extent, I guess there are differing perspectives from who's going to have to make the most changes and the most adjustments to accommodate this. So really it could go in either place. It's a situation where, like I said, the JCC probably felt since this space was unused it made more sense to put it there. And obviously the neighbors felt differently. I didn't really get involved in that debate at the meeting. I just took notes and listened to the two sides.

Mr. Green - What's the distance between the farthest point next to the neighbor's house to the building? That's the other thing I would be concerned about if I'm having to walk. If I'm parking there and I'm having to walk, how much walking am I doing?

Mr. Gidley - The closest home is right here, which is located real close to the property line for whatever reason. The distance, as you can see, is just over 40 feet from the edge of the parking lot to the property line. To this house I'm thinking is maybe another two feet or so. So that would be around 42 feet.

Mr. Green - No. The question was the parking lot to the JCC building.

Mr. Gidley - Oh, I'm sorry. Exactly. I'm sorry.

Mr. Green - That looked like a huge distance.

309 Mr. Gidley - This would be the most distant portion of the property,
310 yes sir. To just be straight about, it could go in either location. I guess it's a
311 matter of how many hoops the JCC wants to go through when it comes to placing
312 the parking lot.

313
314 Mr. Mackey - All right. Any other questions?

315
316 Mr. Bell - This is not really a question. Riding out there at
317 nighttime—pull up there where you showed that house.

318
319 Mr. Gidley - The site plan?

320
321 Mr. Bell - Just 42 feet from the corner of the lot. The whole
322 street from the house on down has four large poles of lights already. At nighttime,
323 every house in there is—that's not shown straight through them. This house is
324 probably the closest, but the other differences aren't that much. Like I said, if you
325 live in the city, the lights that are there right now are already streetlights, even
326 though they're across the way.

327
328 Mr. Gidley - You're speaking of the street lights on the road in
329 front of the houses.

330
331 Mr. Bell - Yes, in front of the house.

332
333 Mr. Gidley - Yes sir.

334
335 Mr. Bell - If you go down to where the second choice could be,
336 if they put it back there, what would it create in terms of lighting for the closest
337 houses?

338
339 Mr. Gidley - At the present time, as I said, staff is recommending
340 the light be from concealed sources to direct it down. So we don't think there is
341 going to be significant spillover impact in general. But obviously from the
342 neighbors' perspective—and this was mentioned at the meeting—a parking lot is
343 getting placed behind their houses under this proposal, and concern was
344 expressed about the lighting.

345
346 Again, I guess it's going to be less of an impact visually, and probably sound-
347 wise, if it's moved down here. From staff's perspective, our conditions were
348 designed to mitigate that by requiring concealed source lenses on the lights to
349 limit the spillover. I suspect if you live here, if the lights are more down this way, if
350 nothing else it will have less of a visual impact.

351
352 Mr. Bell - Thank you.

353

354 Mr. Mackey - Thank you, Paul. If there are no other questions, we
355 can hear from the applicant.

356
357 Mr. Gidley - Thank you.

358
359 Mr. Lewis - Good morning. My name is Monte Lewis, Lewis &
360 Associates. We're the civil engineers on the project. L-e-w-i-s. If I can put this on
361 your projector.

362
363 Just to address a couple of the comments that have come out. It's not about
364 money, because actually it costs more to put it back in the corner because we
365 have to run storm sewer all the way up to the next corner. Right now the field that
366 you see—it's kind of hard to see it, but that's a playground for the kids. They
367 have a preschool program. They have 160 kids right now. It's fenced in. I'll point
368 out the play area.

369
370 Right now the play area is along here and it goes into our parking lot. It comes
371 over like this, and it's a fence that connects all the way back up. The kids come
372 out of this building. We built a crossover here, and we have a crossover built
373 here. It's a raised crossover for safety. We put that in maybe eight or ten years
374 ago. It's twofold—to slow people down for safety and to have a designated
375 crossing for the kids. The entrance to all of this play area is right here. There is
376 no other entrance. It's all fenced in for safety reasons.

377
378 The reason we didn't want to turn it 90 degrees is because then it would take out
379 that crossing where all the kids come in. You want them in that area because that
380 drive makes a real hard 90-degree turn, and it's a safety issue of people coming
381 around that corner. We've also installed rumble strips, two sets, to slow the
382 people down. And it's mainly the moms who have come to drop their kids off. To
383 slow them down because of safety concerns of them crossing at that point.

384
385 That and this area, like Paul said, is really somewhat unused at this point. Part of
386 the playground is in there. They have a garden area that they use for education
387 of the kids. That's being moved into the area that's to the—if north was straight
388 up, to the north of the parking lot, that's going to be moved and reused. Right
389 now, the existing buffer is right here. That was put in when this expansion was
390 done in 2002. That buffer has worked real well because as far as we know, these
391 people back here haven't had any complaints about noise, lights, people walking
392 through. This is very thick as you can see from the pictures.

393
394 The lights for this parking lot are right here. The lights that we're proposing, there
395 are probably just going to be three of them, and they're going to be on this side.
396 We just got the lighting plan from the consultants two days ago, and we're going
397 with LED lights, which you can really adjust the angle, and you can shield each
398 individual light so you cannot see it from the adjacent property. And also their
399 analysis shows that we're only going to have 0.3 foot candle at the property line.

400 The County minimum requirement is half, 0.5. That's one of the reasons why we
401 had the lights over on that side.

402
403 Somebody had asked the question about the distance to walking. This parking lot
404 is mainly for employees. It's employees and buses. The first layout we sent to the
405 County had large buses at the end so the parking lot actually came closer to that
406 house that's like a foot off of the property line. At the County's request, we took
407 that out. So the large buses, which are school bus size, they will stay in the big
408 lot. They take up two spaces, but they'll stay there. We have some small mini
409 buses that will be parked back here. Then the rest of the parking, they want the
410 employees to park back there so it frees up their spaces. They have—what do
411 you have, over 100 employees now? So with these 55 spaces, at least it'll take a
412 lot of that burden off of that lot because it does get crowded.

413
414 The landscape buffer that we're putting in there is going to be very similar to what
415 we have against the other lots that are in the city. The existing is about 25 feet
416 from the property line to the parking lot. We're starting at 25 and making it wider
417 so it's 40 feet at the other end. That gives a little more buffer. There is an
418 overhead line in there that we can't plant big trees under. But as you can see, the
419 buffer that we have planted, the same overhead line goes through it. So there are
420 plantings that you can do, just keep them low so—Dominion Power does still
421 allow those.

422
423 All of our stormwater goes into our site and goes out to Monument Avenue.
424 Actually, we're talking stormwater from these lots. Some of it drains over onto us,
425 so we're capturing that and taking it out.

426
427 The question about the old condition, do the people know about it. That condition
428 was put in when, in the '70s? What they do is each time a use permit comes up,
429 they keep track of all the conditions so you don't have to look back over the years
430 to see what all the conditions are on this site. When we went out there, we found
431 out the fence was never put up in the '70s. And probably the reason was
432 because there's a utility easement. A sanitary sewer goes there, and the utility
433 department doesn't allow a fence right on top of their line. It is a good buffer
434 that's hard to see through to the other side. There is a fence on the playground
435 across our drive, but that wasn't because of a condition. That was just because
436 of child safety.

437
438 Like you said, there's lighting on Stokes now—we call them cobra heads—that
439 Dominion Power puts up that isn't shielded at all. Ours will be completely
440 shielded. In fact, the existing lights are shielded so that there's no light that
441 comes over onto the properties to the south. The new lights we're going to be
442 putting up are a whole lot better. Their more energy efficient. Everybody is going
443 to LED lights. They're overall plan is to change out all the other parking lots to go
444 to LED at some time in the future.

445

446 Mr. Mackey - Mr. Lewis, what's the height on your lights?
447
448 Mr. Lewis - Twenty feet. That's one of the conditions also. That's
449 what we were putting up before they even told us what the condition was.
450
451 Mr. Mackey - All right. Are there any questions from the Board or
452 from staff for Mr. Lewis?
453
454 Ms. Harris - Mr. Lewis, before this application was completed,
455 have you had any complaints about the lighting from the neighbors?
456
457 Mr. Lewis - Not that I'm aware of. Have you all had any
458 complaints?
459
460 JCC official: [Off microphone] No.
461
462 Mr. Lewis - Not that we know of, no ma'am.
463
464 Ms. Harris - I know we had all of these conditional use permits.
465 But when they approved the original footprint of the parcel, were they out of
466 compliance when they constructed this facility, this parcel so close to the
467 residents, especially the one house that's 42 feet away?
468
469 Mr. Lewis - Were the neighbors in compliance?
470
471 Ms. Harris - No.
472
473 Mr. Lewis - Was the JCC in compliance?
474
475 Ms. Harris - Yes.
476
477 Mr. Lewis - The property line was already there. That was
478 established. For some reason—I don't know what the setbacks are in the City of
479 Richmond for that type of development, but it's like this close to the property line.
480 It's right up on it.
481
482 Ms. Harris - Okay. Mr. Blankinship, are there requirements for
483 parking on parcels like this from residential communities?
484
485 Mr. Blankinship - The setback from parking?
486
487 Ms. Harris - Yes.
488
489 Mr. Blankinship - Yes ma'am. We require ten feet of parking lot
490 setback.
491

492 Mr. Lewis - Our setbacks are going from 25 feet where we tie into
493 the existing to 40 feet on the other end.

494
495 Ms. Harris - Thank you.

496
497 Mr. Mackey - Are there any questions for Mr. Lewis?

498
499 Mr. Lewis - Just to let you know, the rest of that field to our north,
500 all of it is used by the kids in the preschool.

501
502 Mr. Mackey - Thank you, Mr. Lewis. Is there anyone here who
503 would like to speak in support of the application? Is there anyone who would like
504 to speak in opposition? Come forward, please. For the record, would you please
505 state and spell your name?

506
507 Ms. Rose - Certainly. My name is Tammy Fields Rose. T-a-m-m-
508 y, F (as in Frank)-i-el-d-s, Rose, just like a flower, R-o-s-e.

509
510 Mr. Mackey - All right. Thank you, Ms. Rose.

511
512 Ms. Rose - Good morning. I live at 5414 Stokes Lane, which
513 would actually be the . . . so while we figure that out. But we are directly behind
514 the proposed parking. March 2016 is when the JCC had their surveyors come
515 out. At that time, they were putting stakes up, and they were putting it right up
516 against our property, as well as our neighbor's property at 1005 Glenburnie
517 Road. Now Glenburnie is a dead end at that point. So our lots are connected,
518 they're touching. So 1005 Glenburnie is up against what would be 5416. There is
519 a blind and then our property.

520
521 If you're looking at this—I don't know how to do this, so I'm going to try my best.
522 This house right here is my house. This space right here is the church parking
523 lot, Westwood Baptist Church. I do want to make one clarification. This is not the
524 Westhampton Heights neighborhood. This is the Westwood neighborhood, the
525 original Westwood, not on the other side of Monument. This is the original
526 Westwood neighborhood.

527
528 Ms. Francis Jones, who is with us today, that's her property, 1005. So the house
529 next to ours, the people could not be here today. We were the only ones to
530 receive notice of this meeting today. Ms. Francis Jones didn't receive anything
531 from the JCC, nor did the owners of 5412 Stokes Lane. And that would be
532 Yolanda Fields Witherspoon.

533
534 If you notice, the playground area, there is a small portion where the playground
535 actually is. The playground, the slides and everything, are right here. So this
536 space, all of this space, and all of this space here is vacant. There is nothing
537 there. They aren't playing that much there. How do I know? I used to work at the

538 JCC, so I walked that. Also, I look out that window every day. So there is not a lot
539 of activity during the summer months.

540
541 And I know even with the garden there, there is not a lot of activity. There is
542 someone who comes out and they will do whatever they need to do to prune or
543 whatever in the garden. But there is no activity. The children may come out
544 during the day, but most of the activity from those kids that are there in the
545 preschool, and even in the day camp, is over here.

546
547 This space going into the JCC, there is a walkway. Our complaints and we
548 voiced at the meeting was the noise. We did also talk about the maintenance.
549 And I know that they talked about how they've put brush up against the houses
550 down on this side. But that brush is not kept up. It's not maintained properly.

551
552 The spaces here? They say 55 spaces would be their daily use. But when the
553 person spoke with my father, he said that it would be overflow only on those
554 times when there is an overflow. During the daily day of the JCC, even if they
555 had 100 people working in that building, there's enough space, so there's no
556 need for additional parking specifically for their employees. There is enough
557 space. And there are always quite a few spaces that are vacant during the
558 workday.

559
560 What I suggested is that they do increase these spaces. Here, it's approximately
561 23 to 25 spaces already. So add in another 25 spaces right here would not
562 impede much on any of the property. The kids would still have quite a bit of
563 space to play and to grow.

564
565 In March 2016, I asked what were their plans, were they planning on doing
566 anything. They said no, they were only going to be doing a little construction in
567 the playground area. But there were—they did not say that they were planning
568 anything in the future or at that time. So for them to come back a year later and
569 then have this, it's kind of disheartening.

570
571 My mother worked at the JCC, so it's nothing against the JCC. I worked at the
572 JCC. My sisters and brothers went to Camp Hilbert. And so I our neighborhood
573 has had a really good relationship with them. And even if we have complaints,
574 normally we try to adhere and not go too far with it.

575
576 On this spot right here, there used to be a baseball field. And it was away, the
577 gate was away. So that's why they added this extra parking. When they
578 revamped this area. This used to be where the pool was, the indoor pool. And
579 they used to have a patio, and then they removed that patio and added some
580 other little things.

581
582 So we've been there. I'm 55, and I've been there in this neighborhood for I would
583 say 50 years when my parents moved in that spot. One of the things that I do

584 know is that this part, what they had said was that they were planning on putting
585 in a handicap something in there, and they did not. At the meeting, they said that
586 they did not want to have to reconstruct that, which I thought was really not nice
587 because they hadn't done it yet, and it hasn't been done. So it just means that
588 they just need to adjust a little bit. But there is enough space for the kids, even
589 right through here, to come.

590

591 I asked if they could move the gate down just a little bit so that it would feed into
592 the playground area and still have those [unintelligible]. Again, if they put it this
593 way, it would be easier for anyone who is coming for the overflow. Their
594 overflows are usually done on holidays, with —, which is in March, which is a
595 festival, and then they have an eatery. Most of their parking spaces right now can
596 accommodate any size that they have. And again, there are a few things that
597 they have that may, that they say they have an overflow.

598

599 As far as the lighting on Stokes Lane, there is a pole right here, then there's
600 probably a pole somewhere right here. Those poles on Stokes Lane, the light is
601 away from our house. So even though the light's shining, that light pretty much is
602 shining on the other side of the street.

603

604 In regards to noise, even with them having activities, we still hear noise. So there
605 is always noise. But the parking spot where they're suggesting now would
606 increase the noise level directly on our property. Their easement between the
607 City and the Henrico line is—Dominion Power said that easement on both sides
608 is 15 feet. So it's a 30-foot easement. What they were suggesting in the last
609 picture was showing some brush right up against our line, which would also be
610 that City piece. And I don't have anything. I wish I had known, I could have—but
611 that line is the City, so there is City and there is Henrico.

612

613 The brush that he was showing on his showed brush up against our line. And
614 that is unacceptable to us. And for Ms. Jones, being that she's by herself, and
615 that is a corner, they are not planning on putting another out for that parking lot,
616 so they're suggesting that anyone parking in that new spot would have to do a U-
617 turn in the parking area, which then causes people to maybe hit someone. They'll
618 probably an increase of hit-and-runs because somebody's going to hit somebody
619 in the parking lot and . . . what are you going to do? To have no other exit from
620 that spot can pose other impacts on our neighborhood.

621

622 We do right now have people coming from the JCC during the day, and they're
623 walking through our neighborhood going to the store. Some are employees of the
624 JCC and some are not. We can't always distinguish between who's a new
625 employee and who's not. We have had some people coming in our neighborhood
626 and parking. That's what we're trying to eliminate, more people being able to
627 access our neighborhood.

628

629 I think that's it.

630

631 Mr. Mackey - Thank you, Ms. Rose. Did anyone have a question for
632 Ms. Rose?

633

634 Ms. Harris - Ms. Rose, you talked about the impact on the
635 neighborhood, trespassing. Are they on your property?

636

637 Ms. Rose - Yes. Yes ma'am, they are trespassing. Either on our
638 property or the property next to us, which is actually my sister's property. Even
639 cutting through the back of Ms. Jones' property and the other properties there.
640 There is one spot right here that is I believe owned by the JCC. We very rarely
641 get people walking through there because they've kind of closed it up. But there
642 is space for people to walk through.

643

644 Ms. Harris - The extension of the buffer that we were told would
645 take place, how do you feel about that?

646

647 Ms. Rose - The extension rides up on our property. What I would
648 prefer, and my parents as well as my neighbor, is that the buffer stay on the other
649 side of the easement and that it does not cross the easement that is there.
650 Dominion Power is there in that easement. What they're talking about is having
651 all of that brush right up against the line, which means that they are crossing the
652 easement. It would be better if it was on that side. That would make it easier and
653 more accessible, because then the employees that work at the preschool could
654 actually park here because the preschool is here.

655

656 Ms. Harris - Thank you.

657

658 Mr. Mackey - Are there any other questions?

659

660 Mr. Green - My question has always been whenever I hear about
661 these buffers that individuals want to put up, I can always see it benefiting one
662 side, in terms of cutting it and keeping it pruned. I can see you're doing it on your
663 side. So if they put a buffer as close as they're talking about, that means you all
664 would be responsible for cutting it or has some arrangement been made with the
665 JCC that they would come over onto your property and cut the trees or bushes
666 that are there.

667

668 Ms. Rose - No.

669

670 Mr. Green - That's always been a concern. How is that handled?

671

672 Mr. Blankinship - It would be the JCC's responsibility to maintain it. I
673 would think they would leave enough room. You only need a couple of feet to
674 walk between the property line and the bushes in order to maintain them. I would
675 think they would leave enough room so that they could stand on their own

676 property. They would technically be trespassing if they came onto Ms. Rose's
677 property in order to maintain their bushes.

678
679 Mr. Green - But typically what I noticed is people will clear what
680 they see. They would clear what they see on their side.

681
682 Mr. Blankinship - There is a tendency to take better care of your side.

683
684 Mr. Green - Right. And nobody ever goes on the other side. I
685 notice even with the buffers that I have in my neighborhood, I clear it on my side,
686 but my neighbor doesn't necessarily clear what's behind him. So how is the JCC
687 going to handle this? And has there been some arrangement that that will be a
688 quarterly or annual pruning/maintenance, or is it just going to be overgrown? And
689 then what kind of bushes and brush are you talking about putting out there? Is it
690 going to be aesthetically beautiful that would meet the conditions of the
691 neighborhood? Especially that one house where it's so close.

692
693 Mr. Blankinship - The actual choice of the species and the exact
694 locations would be shown on a plan. One of the conditions is that they would be
695 required to submit a plan for review and approval. So we would have a look at
696 that before that decision is final. The condition here is that they would more or
697 less match what is already there on the other portion of the buffer. So if this were
698 approved with those conditions, we would expect to see a landscaping plan that
699 would show us what's there now and show more or less a continuation of that
700 same pattern. Of course if the Board wants something different then—

701
702 Mr. Green - When you say "we," are you talking about "we" the
703 staff or "we" the Board?

704
705 Mr. Blankinship - Staff, yes. Normally it would be the staff.

706
707 Mr. Mackey - All right. Any other questions for Ms. Rose?

708
709 Mr. Bell - Real quickly. Where your house is placed, is the front
710 on Stokes and the back facing the parking lot? Is that the way it is?

711
712 Ms. Rose - Yes. Our backyard faces the JCC. You could say that
713 the backyards bump up to each other. In regards to your question, Mr. Green, I
714 don't believe the JCC has ever had anything in place. Further down where they
715 say they already have it, it is unkempt on our side.

716
717 The other impact that this would have—and even before this my parents had a
718 garden. In their garden, they had watermelon. Several years that they had their
719 garden—they don't have their garden anymore, but several years that they had
720 their garden, we would be missing watermelon. We knew that they had—the JCC
721 had people to do their landscaping. Usually once the landscaping was done, we

722 didn't see the watermelon. I don't know if that was them, but I can say that that
723 was part of the issue and challenge.

724

725 One of the questions that was raised just a moment ago was what would be the
726 plans later on for the JCC, and that wasn't answered. One of the problems that I
727 have is that while I was working at the JCC, one of the things that they had talked
728 about was them moving to Goochland for more space. They evidently decided to
729 just stay where they are. So if you're staying where you are that must mean—
730 they're going to have to grow somewhere if they're planning any expansions. And
731 those expansions will continue to affect and impact our neighborhood and our
732 homes as well. As close as they are right now is a really big impact on the
733 neighborhood. And not only on our direct neighborhood, but the neighborhoods
734 adjacent to us.

735

736 Mr. Mackey - All right. Thank you, Ms. Rose.

737

738 Mr. Green - Mr. Chairman, just a point of clarification. When
739 Ms. Rose was talking about theft of her watermelon, I didn't appreciate someone
740 in the audience laughing at something that she felt to be very serious. I would
741 hope that individuals in this audience are more cognizant and respectful of
742 individuals when they're talking about things that are important to them. To look
743 out there and see somebody turn around and laugh not only insults her but
744 insults me to see that.

745

746 Mr. Mackey - Yes, understood. So noted. Okay, thank you,
747 Ms. Rose. Is there anyone else who would like to speak in opposition? Okay.
748 Mr. Lewis, would you like to rebut?

749

750 Mr. Lewis - Yes. As far as the landscaping, they have a contractor
751 who regularly comes out and trims up and maintains all their landscaping. If we
752 can go back to show the existing buffer. It's a really great buffer. I was surprised
753 how well it did.

754

755 Mr. Mackey - Mr. Lewis, I have quick question. Your trees and
756 shrubs, do they impose onto the neighbor's property?

757

758 Mr. Lewis - No sir, not at all.

759

760 Mr. Mackey - Okay. All right.

761

762 Mr. Lewis - There's the existing landscape that's there now. And
763 that's a light that you can see that's shielded. That curb that you see is 25 feet
764 away from the property line behind it. And you can't even see through the thing.
765 It's a great hedge. We are going to extend that along our new parking lot. If I can
766 go to the overhead, Paul. This green line right here is our property line. Right
767 here is the overhead power line, about ten feet into our property. Our landscape

768 is going right here. It's 25 feet from the property line to the parking lot. It's 40 feet
769 here. Keep in mind this is where we did have the parking pushed out further for
770 our buses. We pushed that back into our lot some 20 feet to give this lady some
771 more room here that built right against the property line. Our buffer is over here.
772 Here's our property line here; here's out buffer. So we don't have to go on
773 anybody's property to maintain our own landscape.

774
775 As far as I know, there's no future expansion that we have on the books right
776 now. This is what they wanted just because you can see from the other Google
777 Earth picture—I don't know when it was taken, but there were a lot of cars in
778 there at that time. I know it wasn't on a Sunday, because the church wasn't filled
779 up. On another Google Earth, you'll see where the church lot was filled up across
780 the way.

781
782 As far as people walking through, we don't know of anybody who works there
783 who walks through there to get to work. Maybe it's people just passing through to
784 get to Monument to catch the bus, because I think the bus route does go down
785 Monument. I'm not sure if it comes up in Stokes or not. They're one-way roads. I
786 don't know who they are. We can't control those people. There are some people
787 on the back where the existing buffer is, they have some chain link fence up, but
788 that's their fence, not ours. As far as I know, we haven't heard people saying,
789 "Hey, your bushes or your shrubbery or trees are coming over on our property."
790 We'd be glad to trim their side up if they want. Most people want more trees and
791 more buffer so they won't have to see it.

792
793 On the noise issue, I don't see this being a noisy parking lot. I think you'd have
794 more noise from the kids. And the kids do use that garden area. When I was out
795 there, every kid on the lot was in the garden area. We have a condition of a
796 decibel limit—isn't that correct?—on the whole property

797
798 Mr. Blankinship - Yes.

799
800 Mr. Lewis - That we can't exceed. I don't know what the number
801 is. What is it?

802
803 Mr. Blankinship - Sixty.

804
805 Mr. Lewis - Sixty? I can't tell you what 60 decibels sounds like.
806 But it's rarely that I even see that condition on any of my site plans that come
807 before the Planning Commission. But that is a condition that hey, if they get too
808 noisy, you don't have to worry about a noise ordinance; they already have a
809 condition in there you cannot exceed that.

810
811 We have no access off of this property except to Monument, and I think that was
812 something that the neighborhood wanted years ago. We're still honoring that. We
813 don't—we have roads coming in from every different direction, which would have

814 been nicer for us as far as access and getting people in and out, but the
815 neighborhoods didn't want all those people going through their neighborhoods. In
816 fact, that's why one of the conditions on the east side was to build—they built a
817 fence all along that line probably for that reason. Because the roads on papers
818 did go through this property years ago, probably before they even bought it.

819
820 Mr. Mackey - All right. Thank you, Mr. Lewis.

821
822 Mr. Lewis - If you have questions, I'll be glad to answer them.

823
824 Ms. Harris - Mr. Lewis, I realize that the community center has a
825 comprehensive program and that you probably need to expand the parking lot.
826 But to be a good neighbor, can you relocate your parking lot?

827
828 Mr. Lewis - I think 160 kids are more important to us than this
829 quiet parking lot in the back that is mainly employee and overflow. I think this
830 better serves . . . the JCC is better served, the community, as far as the people
831 who are using it with the configuration.

832
833 Ms. Harris - I'm not talking about taking away the play area. I'm
834 talking about the area that the lady point out.

835
836 Mr. Lewis - Right. What you have to keep in mind is it's not just
837 adding parking spaces over there. You have a drive aisle too. You're looking at
838 60 feet of that playground that would be taken away going this way. I just don't
839 think that's a good use for the parcel. The County requires us to be 10 feet away
840 from it; we're 25 feet and 40 feet away from it. So I think we're doing a real good
841 job. And a buffer on top of that.

842
843 Ms. Harris - Thank you.

844
845 Mr. Mackey - All right. Any other questions? All right. Thank you,
846 Mr. Lewis.

847
848 Mr. Lewis - Yes sir.

849
850 Ms. Rose - Can I address?

851
852 Mr. Mackey - Unfortunately, we can't.

853
854 Ms. Harris - It's too late.

855
856 Mr. Mackey - I'm sorry.

857
858 Mr. Blankinship - The next case?

859

860 Mr. Mackey - Yes sir.

861

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

865

866 Mr. Mackey - What is the pleasure of the Board?

867

868 Mr. Bell - I move that we approve the variance.

869

870 Mr. Mackey - It's been moved. Is there a second?

871

872 Mr. Reid - Second.

873

874 Mr. Bell - I was going to say the reason is it's a center much like
875 the YMCA. You're going to have noise at those centers. When I was listening to
876 the evidence, I was listening and I didn't hear anything related to what additional
877 noise would be had if we added 55 new spaces. I didn't really hear that. I realize
878 that you're going to have a little bit more, but that in and of itself did not cause me
879 to vote against it because they were going to put in LED lights and keep it on
880 their side of the fence. They were going to add buffering. That satisfied me.
881 Therefore, I didn't see any safety or welfare problems with approving it, so
882 therefore I motion that we approve.

883

884 Mr. Mackey - Okay. It's been moved by Mr. Bell, and seconded by
885 Mr. Reid. Is there any more discussion?

886

887 Ms. Harris - Yes. I do want to say that when it comes to the
888 welfare of the community, I think that they have expressed that this is a problem
889 [distorted audio; unintelligible] activities that the sponsor, I think it's completely an
890 asset. But when it comes to this parking lot, I feel that it should be relocated. I
891 think that's the least they can do when you're dealing with a community that is so
892 close to the actual facility. I think they need to relocate the parking lot. Just revisit
893 the plans and relocate the parking lot. Still give the kids the playground. But, I
894 think it can be done. That's my concern.

895

896 Mr. Mackey - Okay.

897

898 Mr. Green - I have to agree with Ms. Harris. I, too, think that an
899 easy concession would be to relocate the parking lot to accommodate the needs
900 of the neighbors. I always pay close attention to when folks take their time to
901 come out and express concerns. If they're going to take their time to come out
902 and express their concerns in the way that they did, we need to take that into
903 consideration. And also folks need to recognize that that is a very historical
904 African-American neighborhood. And it appears that they may feel that they're
905 being encroached upon when there could be other alternatives. So I am not

906 going to support personally the expansion. I think that relocating the parking lot
907 would accommodate and make everybody happy. It might cost some money, but
908 we have to pay attention to neighbors.

909

910 Mr. Mackey - All right. Is there any other discussion. All right, the
911 motion before the Board is to approve this CUP2017-00035. All in favor say aye.
912 Those opposed say no. Mr. Reid, what was your vote?

913

914 Mr. Reid - Aye.

915

916 Mr. Mackey - Okay. The ayes have it three to two, so the motion is
917 carried.

918

919 After an advertised public hearing and on a motion by Mr. Bell, seconded by
920 Mr. Reid, the Board **approved** application **CUP2017-00035, JEWISH**
921 **COMMUNITY CENTER's** request for a conditional use permit pursuant to
922 Sections 24-12(b) and 24-52(a) of the County Code to expand a noncommercial
923 recreation facility at 5403 Monument Avenue (Parcel 770-736-3957) zoned
924 Agricultural District (A-1) (Brookland). The Board approved the conditional use
925 permit subject to the following conditions:

926

927 1. Only the improvements shown on the plans filed with the application may be
928 constructed pursuant to this approval. Any additional improvements shall comply
929 with the applicable regulations of the County Code. Any substantial changes or
930 additions to the design or location of the improvements shall require a new
931 conditional use permit.

932

933 2. Before beginning any clearing, grading, or other land disturbing activity, the
934 applicant shall obtain approval of an environmental compliance plan from the
935 Department of Public Works.

936

937 3. The parking lot, driveways, and loading areas shall be subject to the
938 requirements of Section 24-98 of Chapter 24 of the County Code.

939

940 4. Before beginning any clearing, grading, or other land disturbing activity, the
941 applicant shall submit a detailed landscaping and lighting plan to the Planning
942 Department for administrative review and approval. This shall include new
943 landscaping between the proposed parking lot and the rear (southern) property
944 line that is substantially similar to the landscaping at the rear of the existing
945 parking lot.

946

947 5. All landscaping shall be maintained in a healthy condition at all times. Dead
948 plant materials shall be removed within a reasonable time and replaced during
949 the normal planting season.

950

951 6. All exterior lighting shall be shielded to direct light away from adjacent property
952 and streets. Exterior lighting shall not exceed 20 feet in height.

953
954 7. The recreation center shall be operated on a nonprofit basis and be open only
955 to members and their guests.

956
957 8. Fire lanes shall be marked and maintained in accordance with the Fire
958 Prevention Code.

959
960 9. All traffic control signs shall be fabricated as shown in the Virginia Manual of
961 Uniform Traffic Control Devices for Streets and Highways.

962
963 10. All trash shall be in closed containers with regular pickups. The containers
964 shall be located only as shown on the approved plan and shall be properly
965 screened. The area shall be kept clean.

966
967 11. The only access to and from the property shall be to and from the existing
968 access point on Monument Avenue.

969
970 12. Noise at the property line shall not exceed 60 decibels.

971
972 13. An opaque wood privacy fence 7 feet tall shall be maintained along the
973 eastern property line, from the end of the existing fence near Monument Avenue,
974 to the property corner near Wythe Avenue. There shall be no gates or other
975 openings in the fence.

976
977 14. The existing buffer strip across the end of Monumental Avenue shall be
978 retained and any openings shall be filled with new plants.

979
980
981 Affirmative: Bell, Mackey, Reid 3
982 Negative: Green, Harris 2
983 Absent: 0

984
985
986 **[At this point, the transcript continues with the public hearing on the next**
987 **case.]**

988
989 **CUP2017-00036 WEST END ASSEMBLY OF GOD** requests a
990 conditional use permit pursuant to Section 24-116(d)(1) of the County Code to
991 allow a tent at 401 N Parham Road (Parcel 753-736-0655) zoned One-Family
992 Residence District (R-1)
993 (Tuckahoe).

994
995 Mr. Blankinship - Would everyone who intends to speak to this case
996 please stand and be sworn in. Raise your right hands, please. Do you swear the

997 testimony you're about to give is the truth, the whole truth, and nothing but the
998 truth so help you God? Thank you. Mr. Madrigal?

999

1000 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the
1001 Board, good morning.

1002

1003 Before you is a request to allow the installation of a temporary tent with lighting at
1004 an existing place of worship. West End Assembly of God produces two major
1005 theatrical performances each year to celebrate Easter and Christmas. Since
1006 2005, the on-site preparations for these productions have included the
1007 installation of a 900-square-foot temporary tent at the rear of the church used to
1008 store set pieces and equipment. The tent is placed adjacent to a building and
1009 loading and unloading area, which temporarily displaces approximately four
1010 parking stalls per production. Here you can see the tent, and the parking goes
1011 along here.

1012

1013 Because of the temporary displacement of parking and duration of the use, a
1014 CUP is required. The most recent approval in 2016 allowed the installation of a
1015 temporary tent for two consecutive years, but also prohibited exterior lighting as a
1016 condition of approval. With this request, the applicant would like to extend his
1017 approval and also be allowed to install lighting within the tent.

1018

1019 The site is zoned R-1 and is designated as semi-public on the 2026 future land
1020 use map. A place of worship is a principally permitted use in the R-1 District. The
1021 proposed tent is considered an accessory use of the church. As such, it is
1022 consistent with the existing church use, the Zoning Ordinance, and the
1023 Comprehensive Plan. The proposed tent will not significantly be in conflict with
1024 the on-site parking or circulation, and it is not visible from the public right of way.

1025

1026 The proposed tent will be visible by the adjacent neighbor to the rear of the
1027 church, in the Countryside Glen subdivision. Although visibility is partially
1028 obscured by an existing seven-foot-tall privacy fence and the trees along the
1029 shared property line, the tent and lighting will be visible from the second floor of
1030 the adjacent homes.

1031

1032 Because the tent is a temporary use and visibility is partially obscured by existing
1033 fencing and landscaping, staff is confident that the proposed use will not cause
1034 any lasting detrimental impacts. Also, staff is not aware of any complaints
1035 regarding the tent from previous years and has developed specific conditions of
1036 approval to help mitigate its impacts.

1037

1038 In conclusion, the proposed tent is consistent with both the Zoning and
1039 Comprehensive Plan designations of the property. Because of the tent's
1040 placement behind the church, it will not be visible from the public right of way and
1041 should not significantly impede on-site parking or traffic circulation. No

1042 substantial detrimental impacts are anticipated from the temporary tent and
1043 lighting. Based on these facts, staff recommends approval subject to conditions.
1044
1045 This concludes my presentation. I will attempt to answer any questions you may
1046 have.
1047
1048 Mr. Mackey - Thank you, Miguel. Do we have any questions from
1049 the Board or staff?
1050
1051 Ms. Harris - Yes. Mr. Madrigal, you will have interior and exterior
1052 lighting?
1053
1054 Mr. Madrigal - No. This is just for interior lighting of the tent.
1055
1056 Ms. Harris - So there will still be exterior lighting that we've had in
1057 the past?
1058
1059 Mr. Madrigal - No. There will be no exterior lighting.
1060
1061 Mr. Blankinship - Well it's exterior to the building; it's inside the tent.
1062
1063 Ms. Harris - I understand.
1064
1065 Mr. Blankinship - So it's visible to the neighbors.
1066
1067 Mr. Madrigal - Right. Basically what will end up happening is there
1068 will be a glow to the tent at night.
1069
1070 Mr. Blankinship - Right, exactly.
1071
1072 Ms. Harris - Yes, I can understand. Now the picture that we saw of
1073 the tent a few minutes ago on the screen, this is not the tent we're discussing.
1074
1075 Mr. Madrigal - This is the tent we are discussing, yes ma'am.
1076
1077 Ms. Harris - So it's already been constructed?
1078
1079 Mr. Madrigal - Yes it's there.
1080
1081 Ms. Harris - All right. And how close to the neighbors is the buffer?
1082
1083 Mr. Madrigal - Let's see here. It's quite a ways. They put the tent
1084 here where the cursor is, so it's probably a good maybe 20, 40, 60—maybe 80
1085 feet, roughly.
1086
1087 Ms. Harris - Okay.

1088
1089 Mr. Madrigal - From the property line back here.
1090
1091 Ms. Harris - The property itself from the houses, how far apart?
1092 What's the distance between there? I'm just comparing it to the case we just had.
1093 I'm asking how close to the community, to the residential community is the
1094 property for West End Assembly of God?
1095
1096 Mr. Madrigal - If you're looking at the parking lot, you can see the
1097 parking lot here. There is a landscaping strip between the parking stalls and the
1098 property line. I'm not sure what that distance is.
1099
1100 Ms. Harris - Okay. Thank you.
1101
1102 Mr. Blankinship - I would call it 140 feet from the nearest dwelling to the
1103 tent, if that's helpful.
1104
1105 Ms. Harris - Okay, thank you.
1106
1107 Mr. Mackey - All right. Are there any other questions for
1108 Mr. Madrigal?
1109
1110 Mr. Green - Just a point of clarification since I'm new. A lot of
1111 these will come up every year during Christmas and other times.
1112
1113 Mr. Madrigal - The productions? Yes, they do this every year for
1114 Christmas and Easter.
1115
1116 Mr. Green - And every year all of the groups have to come back
1117 and go through this process.
1118
1119 Mr. Blankinship - The issue here is the tent is so large that it requires a
1120 building permit, and the tent is not shown on their plan of development. So they
1121 could have gone through the plan of development process, amended that, and
1122 shown the tent there. And they could do that permanently. The upside to
1123 reviewing it every year or two—and actually these approvals are usually good for
1124 two years. They came back in between this year because of the lighting issue.
1125
1126 Mr. Green - Okay.
1127
1128 Mr. Blankinship - The advantage to the County in reviewing them every
1129 two years is that if a problem crops up, it could be revoked or additional
1130 conditions could be imposed. When they started doing this, there weren't any
1131 homes directly behind them. Those homes were built over the last five or ten
1132 years. So it has been helpful to us to be able to review it. But they could show it

1133 on their plan of development, and then they would not need to come here every
1134 year or two.

1135
1136 Mr. Green - So when we do these, they two have years, and then
1137 they have to come back.

1138
1139 Mr. Blankinship - Yes sir. You'll see in the conditions this year we have
1140 four specific periods of time, two Christmases and two Easters that this would
1141 apply to.

1142
1143 Mr. Green - Thank you.

1144
1145 Mr. Mackey - If there are no other questions, can we hear from the
1146 applicant? Thank you, Mr. Madrigal.

1147
1148 Mr. Madrigal - Thank you.

1149
1150 Mr. Bragg - Good morning. Pat Bragg. P-a-t, B-r-a-g-g.

1151
1152 We are essentially doing the same thing that we've done in all prior
1153 circumstances with both our Easter and Christmas productions, with the
1154 exception of—earlier on there wasn't, I believe, a restriction against the exterior
1155 lighting. That's a more recent event that was added to the conditions. So we're
1156 here to have us be allowed to do that. As we're doing our production, there's an
1157 overhead door that is at the rear of the building near the tent. During the
1158 production, we'll wheel some set pieces in when they're needed in the
1159 production, and others out under the tent. Once it gets dark, it's more difficult to
1160 do that safely. That's the reason for us requesting to have a light inside the tent.
1161 We would place one light at the very tip of the tent. And has been expressed
1162 before, there would be a possibility to see the glow of that light from the
1163 neighbors to the rear.

1164
1165 But I would also say that we partially block an existing exterior building light that
1166 is attached to the side of the building. So probably there would be less light
1167 getting to the property line under these circumstances.

1168
1169 Mr. Mackey - Thank you, Mr. Bragg. Are there any questions for
1170 Mr. Bragg? All right, thank you, Mr. Bragg. Is there anyone here who would like
1171 to speak in support of the application? Anyone who would like to speak in
1172 opposition? Okay, thank you. Can we move forward, please?

1173
1174 **[After the conclusion of the public hearings, the Board discussed the case
1175 and made its decision. This portion of the transcript is included here for
1176 convenience of reference.]**

1177
1178 Mr. Mackey - What is the pleasure of the Board?

1179

1180 Mr. Reid - I recommend that we approve CUP2017-00036 to
1181 allow the West End Assembly of God to have their tent at 401 North Parham
1182 Road subject to the conditions outlined by the staff.

1183

1184 Mr. Green - Second.

1185

1186 Mr. Mackey - All right. It's been moved that we approve and
1187 seconded by Mr. Green. Discussion?

1188

1189 Ms. Harris - Yes. I think West Assembly of God needs to be
1190 commended on what they do every year at Christmastime and as Easter time.
1191 They are very considerate of the neighbors. I think that they are good neighbors
1192 because they are considerate of their neighbors.

1193

1194 Mr. Mackey - Okay. Thank you, Ms. Harris. The motion is that we
1195 approve this CUP2017-00036. All in favor say aye. Those opposed say no. The
1196 ayes have it 5 to 0.

1197

1198 After an advertised public hearing and on a motion by Mr. Reid, seconded by
1199 Mr. Green, the Board **approved** application **CUP2017-00036, WEST END**
1200 **ASSEMBLY OF GOD** requests a conditional use permit pursuant to Section 24-
1201 116(d)(1) of the County Code to allow a tent at 401 N Parham Road (Parcel 753-
1202 736-0655) zoned One-Family Residence District (R-1) (Tuckahoe). The Board
1203 approved the conditional use permit subject to the following conditions:

1204

1205 1. One 900-square-foot tent, as shown on the plot plan filed with the application,
1206 may be installed pursuant to this approval. Any additional improvements shall
1207 comply with the applicable regulations of the County Code. Any substantial
1208 changes or additions to the design or location of the improvements shall require
1209 a new conditional use permit.

1210

1211 2. The tent shall be installed no earlier, and removed no later, than the following
1212 dates: October 1, 2017 to January 31, 2018; February 19, 2018 to April 6, 2018;
1213 October 1, 2018 to January 31, 2019; and March 11, 2019 to April 26, 2019.

1214

1215 3. The applicant shall obtain all necessary building permits prior to the
1216 installation of the tent on the property.

1217

1218 4. The only exterior lighting authorized by this approval shall be inside the tent.
1219 Any lighting inside the tent shall be turned off no later than 11:00 pm.

1220

1221 5. The tent opening shall be oriented southwest (towards the building) to avoid
1222 light glare onto adjacent homes.

1223

1224 6. Fire lanes shall be marked and maintained in accordance with the Fire
1225 Prevention Code.

1226

1227

1228 Affirmative: Bell, Green, Harris, Mackey, Reid 5

1229 Negative: 0

1230 Absent: 0

1231

1232

1233 **[At this point, the transcript continues with the public hearing on the next**
1234 **case.]**

1235

1236 Mr. Blankinship - That concludes the conditional use permit portion of
1237 this morning's agenda. We also five variances on the agenda. The first is
1238 VAR2017-00020, Wayne and Rebecca Pase.

1239

1240 **VAR2017-00020 WAYNE AND REBECCA PASE** request a variance
1241 from Section 24-94 of the County Code to build a one-family dwelling at 5739
1242 Pouncey Tract Road (Parcel 735-777-2917) zoned Agricultural District (A-1)
1243 (Three Chopt). The lot width requirement is not met. The applicants propose 80
1244 feet lot width, where the Code requires 150 feet lot width. The applicants request
1245 a variance of 70 feet lot width.

1246

1247 Mr. Blankinship - Mr. Chair, I do have a revised condition that I will pass
1248 out to you as Mr. Gidley gives his introduction.

1249

1250 Mr. Mackey - Thank you, Mr. Blankinship.

1251

1252 [Swearing-in was done later in the meeting right before the opposition spoke.]

1253

1254 Mr. Gidley - Thank you, Mr. Secretary, members of the Board.
1255 Good morning again.

1256

1257 The subject property is a 1-1/2-acre parcel located off Pouncey Tract Road, as
1258 you can see right here. It is a residual piece of land that was left following
1259 subdivision of a 71-acre parcel in 1988 that created the Granville Estates
1260 subdivision, which you can see up here to the north.

1261

1262 The applicants acquired the property in 1991. They would like to sell the property
1263 as a buildable lot. However, due to its shape, it does not meet the lot width
1264 requirement, which is 150 feet of lot width due to its A-1 zoning designation.

1265

1266 As you can see on the plat of the property, there is roughly 82 feet of lot width up
1267 on Pouncey Tract Road. This segment extends back 288 feet to where it
1268 becomes roughly 230 feet in width along this point. Because the property has
1269 only 82 feet of lot width at its 50-foot front yard setback, it does not meet the A-1

1270 requirement of 150 feet. It must be measured per code, at the front yard setback,
1271 which is in the definition of lot width. So, as a result of that this is where it's
1272 measured, rather than back here where they have additional width. Because of
1273 this, they need a variance for lot width in order to make it a buildable lot.
1274

1275 When we go to the evaluation for a variance, one of the two questions that must
1276 be met for a variance is, is the property unreasonably restricted by the Zoning
1277 Ordinance. In other words, is there a reasonable use for that property. As you
1278 can see, it's currently wooded. At 1-1/2 acres, timbering is not really a
1279 reasonable option or reasonable use for this property. The granting of a variance,
1280 however, would allow for a home to be built on the site. And that in turn would
1281 provide a reasonable use for the property and meet the first test for a variance.
1282 Because one of these two main tests is met, we're able to then move on to the
1283 five subtests, all of which must be met for a variance to be granted.
1284

1285 The first is was the property acquired in good faith by the owners. Yes, and they
1286 did not create the hardship as the condition existed prior to their purchase of the
1287 property.
1288

1289 The second subtest is the granting of a variance will not be a substantial
1290 detriment to adjacent or nearby property. I'm going to go into this in some detail.
1291 As I said, there were concerns raised by several of the neighbors to the rear of
1292 the property.
1293

1294 The existing development pattern in the area consists of one-family dwellings.
1295 However, there is a wide variety in dwelling size and type. The two adjacent
1296 properties are each one acre in size, and each contains a 600-square-foot home
1297 that was constructed in 1962. This is the house on the left. If you're looking
1298 across Pouncey Tract, the house on the right is here.
1299

1300 To the rear of the property is a residential subdivision known as Hardwick at
1301 Wyndham. The homes in this development that abut the property were all built in
1302 the mid 1990s, and they range in size from roughly 2,600 square feet to 3,400
1303 square feet. These are pictures of a couple of the homes behind the property.
1304

1305 As I said, the property owner would like to sell their property as a buildable lot.
1306 Any future home would likely be built towards the rear of the property. The
1307 reason for that is in the A-1 District, your two side yard setbacks added up would
1308 come to 50 feet. So at 82 feet of lot width here, that would only leave you 32 feet
1309 of width to place a 32-foot-wide home here. So we would expect the home to be
1310 built back here. As a result of that, any home should be reasonably compatible
1311 with the adjacent homes in Wyndham. We decided to do this by saying that they
1312 should at least met the proffered minimum square footage for the home, which is
1313 1,700 square feet, along with the requirement for a brick, stone, or Dryvit
1314 foundation on the building.
1315

1316 As I mentioned, drainage concerns have been raised by two residents to the rear
1317 of the property who live right here. The soils on this property requesting the
1318 variance up here in this area are partially hydric, which according to Public Works
1319 means they're poorly drained and subject to frequent flooding. Staff from the
1320 Department of Public Works subsequently met with the neighbors here in
1321 Wyndham and looked into the drainage issue. After your staff report was sent
1322 out, Public Works suggested the undisturbed buffer that was being
1323 recommended along the rear property line be increased to 40 feet. So that's your
1324 revised condition that you have today.

1325
1326 Mr. Mackey - Yes. For the record, that would be condition #5?
1327

1328 Mr. Gidley - Yes sir, that's correct.
1329

1330 Mr. Mackey - Okay, thank you.
1331

1332 Mr. Gidley - The reason they recommended that was to address
1333 the drainage concerns of the neighbors and to provide more of a natural area to
1334 limit any impact on the neighbors.
1335

1336 The third subtest of a general or reoccurring nature, because the property was a
1337 remnant from an earlier subdivision, amending the ordinance to address this is
1338 not really practical.
1339

1340 As far as the use, a single-family home is an allowed use in the A-1 District, so
1341 this is not a use variance.
1342

1343 And finally, a special exception or modification is not an option in this case.
1344

1345 In conclusion, the property is left over from the creation of the Granville Estates
1346 subdivision back in 1988. It is generally level, has public street frontage, and
1347 contains sufficient area to construct a dwelling. However, because the lot width is
1348 not met at the front setback line, there is no reasonable and beneficial use for
1349 this property absent a variance. Because of this, the first test is met.
1350

1351 The adoption of the recommended conditions, including the recommended 40-
1352 foot undisturbed buffer along the rear of the property line, would allow the five
1353 subtests—required also for a variance—to be met. As a result, staff can
1354 recommend approval of this request subject to the proposed conditions.
1355

1356 That concludes my presentation. I'll be happy to answer any questions you have.
1357

1358 Mr. Mackey - Thank you, Mr. Gidley. Are there any questions from
1359 the Board or from staff?
1360

1361 Ms. Harris - Yes. Mr. Gidley, condition #4 says that property or the
1362 dwelling will be served by public water. And in condition #8, they talk about the
1363 existing well on the property. So which will they be doing? Which will they be
1364 using, public water or will they be using the well?
1365

1366 Mr. Blankinship - Go to the plat.
1367

1368 Mr. Gidley - There is access, Ms. Harris, to public water. So we
1369 recommended they connect to public water for their drinking supply. Sewer is not
1370 readily available to the property. It actually runs—I believe it's out here in the
1371 street in Wyndham. And I was told they would need to get a significant easement
1372 from the property owners back in through here, which likely wouldn't occur. So as
1373 a result, they can hook up to public water without much trouble, but public sewer
1374 is really not available, so they would need a septic system for that.
1375

1376 Mr. Blankinship - Ms. Harris, there was a house on this property,
1377 apparently, many, many years ago. So you see the well towards the bottom of
1378 the screen there. There is an old existing well. We just want to make sure that
1379 that gets capped and closed off in a safe manner at the time this new house is
1380 constructed.
1381

1382 Ms. Harris - Okay.
1383

1384 Mr. Mackey - Any other questions for Mr. Gidley? All right, thank
1385 you, sir. Can we hear from the applicant, please?
1386

1387 Mr. Gidley - Thank you, Mr. Chairman.
1388

1389 Mr. Burton - Good morning. I'm Sonny Burton. S-o-n-n-y, B-u-r-t-
1390 o-n. I'm with Hometown Reality, and I'm representing Wayne and Rebecca Pase.
1391 The reason for the variance is to be able to market and sell their property as a
1392 buildable lot. Currently it's not acceptable based on how it's zoned. I think it's
1393 assessed for \$130,000 as it is, which really isn't true to the property value based
1394 on it not being a buildable lot.
1395

1396 When the owner bought the lot, he was going to build on it. Never built on it. He
1397 was going to give it to his children. One moved out of state, and one decided to
1398 build someone else in the county.
1399

1400 So basically he's just requesting the variance to allow it to be marketed and sold
1401 as a buildable lot. The owners are okay with the conditions the Board has already
1402 put forward, including the change from 20 feet to 40 feet in the rear of the lot.
1403

1404 That's all I have.
1405

1406 Mr. Mackey - Okay. Thank you, Mr. Burton. Do we have any
1407 questions?
1408
1409 Ms. Harris - Mr. Blankinship, were the neighbors behind this lot
1410 notified of this hearing?
1411
1412 Mr. Blankinship - Yes ma'am, they were.
1413
1414 Ms. Harris - Okay, thank you.
1415
1416 Mr. Mackey - Are there any other questions for Mr. Burton? If not,
1417 thank you, sir.
1418
1419 Mr. Burton - Thank you.
1420
1421 Mr. Mackey - Is there anyone here who would like to speak in
1422 support? All right. Is there anyone who would like to speak in opposition?
1423
1424 Mr. Blankinship - Was everybody sworn in? I didn't think so. Would
1425 everyone who intends to speak to this case please stand and be sworn in. I'm
1426 sorry. My oversight. Raise your right hands, please. Do you swear the testimony
1427 you're about to give is the truth, the whole truth, and nothing but the truth so help
1428 you God? Thank you.
1429
1430 Mr. Mackey - Sir in the back, you can come forward first.
1431
1432 Mr. Blankinship - Since we do have several speakers, let's please be
1433 careful of our time. And if a previous speaker has already said what you need to
1434 say, you can just acknowledge that it's already been said.
1435
1436 Mr. Mackey - Thank you, Mr. Blankinship.
1437
1438 Mr. Crone - How are you all doing today? My name is John
1439 Crone. It's J-o-h-n, C-r-o-n-e. My only concern with the property is—
1440
1441 Mr. Mackey - Excuse me, Mr. Crone. Can you spell that and slow
1442 down a little bit?
1443
1444 Mr. Crone - C-r-o-n-e.
1445
1446 Mr. Mackey - Okay, thank you.
1447
1448 Mr. Crone - I own a house next to the property there on the right-
1449 hand side, facing the property from the street. When I purchased that property, I
1450 made sure that I met all of the zoning codes. I took the time, came to the County,
1451 and made sure. Personally, I do not like the fact that they've had the property on

1452 the market for sale at one eighty knowing that it's not a buildable lot. I don't think
1453 that's ethical. And there is a well on the property, and the well is open. Very
1454 unsafe for when my grandchildren were playing at my house. Hey, he would be
1455 trespassing, but it's not—I feel like they bought the property, and now they're
1456 trying to—I believe in everybody making money, but you bought it knowing it
1457 wasn't buildable, and now you're trying to sell it as a buildable lot. I just don't
1458 appreciate that. That's all I have to say.

1459
1460 Mr. Mackey - All right.

1461
1462 Ms. Harris - Mr. Crone, did you ever try to purchase the parcel
1463 behind your lot?

1464
1465 Mr. Crone - No ma'am.

1466
1467 Ms. Harris - Okay. Thank you.

1468
1469 Mr. Mackey - All right. Thank you, Mr. Crone. We have others who
1470 would like to speak in opposition?

1471
1472 Mr. Stuckey - Good morning. My name is Mike Stuckey. M-i-k-e, S-
1473 t-u-c-k-e-y. My wife and I reside at 12304 Hardwick Court where the property—
1474 not that one, next door. Right there. We live there. We've been there almost ten
1475 years.

1476
1477 We are not in favor of this variance primarily because—well, for a couple of
1478 reasons, but mainly because, as was mentioned, the lot behind us is hydric, and
1479 it's very prone to flooding. It's very wet. Our backyard is also very wet. We put a
1480 French drain in, and it still remains wet. The mosquitoes in the summer are really
1481 bad. We're investigating ways to try to ease the wetness in our yard even more,
1482 hiring a company to come in and maybe drain it. We're really concerned that
1483 even with the 40-foot easement that that's going to cause a lot of increased
1484 drainage onto our property only exasperating the problem we already have.
1485 Obviously, that could definitely adversely affect the property value of our home
1486 by having that that lot developed that is there currently.

1487
1488 It is nice where we are right now. It's a nice wooded space back there. A house
1489 even just 40 feet off our property line would significantly harm our own personal
1490 backyard and our view and adversely hurt our property value.

1491
1492 Mr. Blankinship - Mr. Stuckey, how is the stormwater from your
1493 property handled?

1494
1495 Mr. Stuckey - In our yard right now?

1496
1497 Mr. Blankinship - Yes sir.

1498
1499 Mr. Stuckey - It's wet. We have dogs that come in and track mud
1500 into the house. We have Virginia Green that tried to plant grass in the back.
1501 We've had them come out seasonally and every year treat the yard. It is difficult
1502 to grow some grass back there. It's just wet. It is grassy, but it can muddy pretty
1503 easy. Our kids are grown and don't really run around the backyard that much.
1504 But still even with that lack of use it still remains quite wet.

1505
1506 Mr. Blankinship - Am I correct in thinking that you have storm sewer
1507 that runs along your side property line and out to the street?

1508
1509 Mr. Stuckey - Yes, yes. There's one in the back corner between our
1510 house and Valli and Jim's house, kind of off the property. It's recessed down in
1511 there. But it still does remain quite wet.

1512
1513 Mr. Blankinship - We have been working with the Department of Public
1514 Works to determine the best way to handle stormwater if this property is
1515 developed. I kind of anticipated that they were going to suggest connecting into
1516 that storm sewer, but that's not what they suggested. They suggested the 40-foot
1517 buffer I guess because the water wouldn't run downhill to hit your sewer.

1518
1519 Neither of us is a hydrology expert. But the 40-foot undisturbed buffer, how
1520 comfortable does that make you that any stormwater created by this new
1521 dwelling, if it's built, would not affect you?

1522
1523 Mr. Stuckey - It makes me very uncomfortable.

1524
1525 Mr. Blankinship - Okay.

1526
1527 Mr. Mackey - All right.

1528
1529 Mr. Green - Where exactly would the house be built, in that
1530 square section? So that person would come off Pouncey Tract and have a long
1531 drive?

1532
1533 Mr. Blankinship - The applicant has not given us a definite answer to
1534 that question. We've asked it, but it's not been answered. A small house could be
1535 built at the front of the property, up to 30 or 32 feet wide. We anticipate because
1536 of the cost of the property they won't build a small house, which means they
1537 would pretty much have to build it in that larger area to the rear.

1538
1539 Mr. Green - And we don't know what the house looks like.

1540
1541 Mr. Blankinship - No. This is totally speculative at this point. They want
1542 to sell the property, and so of course the buyer would be the one to select the
1543 exact location as well as the design. While you were on an emergency phone call

1544 there, we did mention that the conditions we have recommended on this
1545 incorporate the same conditions that apply in the zoning of the Wyndham section
1546 that backs up to it. So the square footage and the requirement for a brick
1547 foundation we're taking directly from those requirements. Now the houses built
1548 back there far exceed the proffered requirements, so we don't know what house
1549 would be built. But we know that it would meet the requirements that were
1550 imposed on the folks in Wyndham. Does that make sense?

1551
1552 Mr. Green - Yes. I'd just like to know what kind of house they're
1553 building back there because you'd like to see that. I live out in that area, and I've
1554 noticed that some of these houses that they're building are just not consistent
1555 with what should be out there.

1556
1557 Mr. Blankinship - We did ask that question. And were told that that
1558 information is not available because the property is being sold subject to this.

1559
1560 Mr. Green - I have a real concern. You would like things to be
1561 consistent. I'm right off Pouncey Tract, so I'll drive it, and I just see all kinds of
1562 things. There's another house back there built off Pouncey Tract that's just
1563 inconsistent with what should be there. At what point do we try to be consistent?

1564
1565 Mr. Blankinship - We tried to address that, as I said, by bringing forward
1566 the proffered requirements from Wyndham. That was the best answer we could
1567 come up with to that question.

1568
1569 Ms. Harris - Condition #2 kind of supports what we're proposing
1570 here.

1571
1572 Mr. Mackey - Yes. It has a minimum of 1,700 square feet, so we
1573 know it couldn't be any smaller than that. That's all we really can go by. And of
1574 course whatever they build would have to meet all the current building codes.
1575 And like we say, they can't build it too small and it can't be too big.

1576
1577 Mr. Green - They could put a 5,000-square-foot house back there.

1578
1579 Mr. Mackey - That's well within the Building Code. If they could fit it
1580 in there, then it's—

1581
1582 Mr. Stuckey - And at \$180,000 for the lot, somebody's probably
1583 going to want to build a really big house.

1584
1585 Mr. Green - Yes, exactly.

1586
1587 Mr. Mackey - We definitely take the concerns into consideration.
1588 But as we have said in the past, if it's within the ordinance, they have the right to
1589 build it.

1590
1591 Mr. Stuckey - Yes. And hopefully—we're greatly concerned about
1592 the drainage issues with the hydric soil. I'm not a person that would know
1593 something about that, but that's really concerning for us.

1594
1595 Mr. Mackey - Absolutely. All right. Any other questions for
1596 Mr. Stuckey? All right, thank you, sir.

1597
1598 Mr. Stuckey - Thank you.

1599
1600 Mr. Mackey - Is there anyone else who would like to speak in
1601 opposition?

1602
1603 Ms. Laneve - Good morning to all of you. My name is Valli Laneve,
1604 and I'll spell it for you. Valli, V-a-l-l-i, like Frankie Valli. Laneve, L-a-n-e-v-e. I live
1605 at 12308 Hardwick Court, and I'm here to speak on behalf of myself and my
1606 husband Jim.

1607
1608 Originally, our lot was identified as 9A, and our house was built by Heritage
1609 Homes, Mark Harris. We have lived in the home for 22 years. I'm probably the
1610 oldest and the longest residing resident of any of the properties—of any of the
1611 seven properties that surround the Pase home.

1612
1613 Our concern is that simply granting a variance will in fact adversely impact our
1614 property. I can speak firsthand to what I've experienced as a homeowner. I do
1615 think that it will continue. With the development of the Pase property, with the
1616 conditions of the soil, the elevation, it will continue to cause property—

1617
1618 In the 22 years I've lived there, that property has never, ever, ever been dry.
1619 There are three specific areas that are holding areas. I've never walked back
1620 there because it's trespassing, but I can tell you the water at times is very deep.
1621 When the water is back there, clearly mosquitoes breed. I'm allergic to mosquito
1622 bites, so we've had mosquito companies come out, kind of not letting them look
1623 over there. They've all said they will not spray our yard. So therefore, I generally
1624 garden in long pants, high boots, a coat, a turtleneck, and gloves so I won't
1625 continue to get bitten by mosquitoes.

1626
1627 There are three properties surrounding the Pase property that have septic tank
1628 systems. And there is a property on Pouncey Tract that currently does not have a
1629 functioning septic tank system. So we are concerned about a septic tank being
1630 put on the property. I can tell you that the Pase property does not significantly
1631 affect our swale or the easement in the back of the properties. It's the properties
1632 to the west.

1633
1634 We also know that when builders build property—and I can speak for this, and I
1635 know you understand this—they have a tendency to do what is the cheapest for

1636 them and the construction of the home. I concurrently say—I will tell you that I
1637 had that experience with Jeff Soden. Our builder put in a foundation pump, a
1638 huge one. I have pictures of it. In fact, when the grounds people came out, they
1639 were surprised to see it. When they lifted it up, the cover actually says “sewer.”
1640 It’s a heavy, heavy lid. And when you look down into it, it’s a significant pump.

1641
1642 Grange Mark Harris said our property was to drain directly into the culvert. I have
1643 not found any documentation. I have lived there for 22 years. So my property is
1644 not—my water issues are not my backyard; it’s the easement, the eight-foot
1645 buffer. So Jeff Soden saw the cover, and he decided that he was going to drain
1646 the property adjacent to me into my foundation pump, which is run by electricity.
1647 Over the 22 years, I have replaced that pump two times. I had Attorney
1648 Cauthorne, we had S&B Surveyors come out and look at the drainage. Yes, I
1649 understand I am at the lowest point, but it still does not give anybody the right to
1650 intentionally drain their property, their water onto my property. So I solved the
1651 problem by putting in a triangle garden. What was happening is the muck from
1652 the debris was going down into the pump, and it looked like a geyser. So I do
1653 know that when we grant and builders do things, it can cause issues with
1654 homeowners.

1655
1656 The problem with the swale is that we have privacy fences. Our house was
1657 bought with a privacy fence behind it. The easement is on my side. It is
1658 graduated down. It does go to the culvert. However, what the privacy fences
1659 have done is flow the water into the swale. What it does is it breaks apart my
1660 privacy fence. I’ve had to replace every single panel over the 22 years. Yes, I
1661 understand I’m at the lowest point. Yes, I know I have to maintain it; yes I have to
1662 do all of those things. But there is a time when you have to say—after \$15,000
1663 the problem still exists. Plus we also put in a French drain to try to ease the water
1664 because I had standing water. Grass does not really grow. It’s a requirement in
1665 Wyndham that you have to have grass, so we try our best.

1666
1667 This is not in the conditions of Wyndham, but we also built a small retaining wall.
1668 What’s happening is, the water’s coming under the fence and pushing the dirt
1669 out, which means it goes into the swale. And poles that are holding the fence up
1670 become weaker and weaker and weaker. Roy Hunley, when he was alive,
1671 decided that he was tired of the water standing on the back of his property, and I
1672 understand that all too well. That was back into where the septic tank field was.
1673 So what he did is dig a ditch parallel to my fence across the Pase property to the
1674 culvert or whatever you want to call the thing, the water stop. That really caused
1675 problems. It worked for a while, but with leaves and debris that get into it, it’s also
1676 kind of made the water pool and still keep coming under the fence.

1677
1678 So when other people go on vacation, I go in my backyard and reset the bricks,
1679 put dirt back up again, clean out the swale. So I think serious consideration in
1680 allowing a home to be built on that really is drainage. People have said that

1681 there's always been water there, but I do think it's time that something's done to
1682 effectively drain the water off these properties.
1683
1684 Mr. Mackey - Okay. Does anything have a question for
1685 Ms. Laneve?
1686
1687 Ms. Harris - Yes. Would you point out your property for us, please,
1688 on this map?
1689
1690 Ms. Laneve - Oh no. I believe it is this one.
1691
1692 Mr. Blankinship - That's you, yes.
1693
1694 Ms. Harris - Okay, thank you.
1695
1696 Ms. Laneve - It's identified as 9A on the paperwork that I
1697 purchased. But I think it said number 3 or something else up on this map.
1698
1699 Mr. Green - The problem you all are having is the drainage. So if
1700 that issue, the water, was dealt with, would you still have a probably with the
1701 house being built?
1702
1703 Ms. Laneve - I don't think you can definitively say that the water will
1704 be taken care of. I remember the first time they came out. They said, "Oh, this
1705 thing can hold 90,000 gallons of water an hour," or whatever the amount is. And
1706 yet there is still standing water, and drainage is still a problem. Like I said, I don't
1707 know, I'm not an engineer. They came out and talked pitch and flow and all this
1708 other stuff. But my thing is there's still water. And you're not supposed to have
1709 water—according to what I understand, after 48 hours it's supposed to be gone.
1710 Therefore, we put the French drain in, but the water is still there.
1711
1712 Mr. Reid - Were you aware of all the water problems when you
1713 bought the property, Ms. Laneve?
1714
1715 Ms. Laneve - At the time, I was relatively new to Richmond, and I
1716 had a day to find a house. I'm not kidding you. I did not want to live in a planned
1717 community; however, my husband and a realtor looked all summer, all the fall. I
1718 had one day to look at a house. And clearly the other two were not right for us.
1719 But I love our home, I love our neighbor, I love our neighborhood. It's just that I
1720 don't want to find myself in a house that has so many problems with water that
1721 the day comes to put the "for sale" sign up, and it doesn't sell. I think that could
1722 be a reality with another property.
1723
1724 Ms. Harris - Ms. Laneve, is your house served by public water?
1725
1726 Ms. Laneve - Yes.

1727
1728 Ms. Harris - Okay, thank you.
1729
1730 Ms. Laneve - Both by public water and sewer.
1731
1732 Ms. Harris - Thank you.
1733
1734 Mr. Mackey - All right. Are there any other questions for
1735 Ms. Laneve? All right, thank you, ma'am.
1736
1737 Ms. Laneve - Thank you very much. Have a wonderful day.
1738
1739 Mr. Mackey - Thank you. You too. Is there anyone else who would
1740 like to speak in opposition? All right, thank you. Can we call our next case,
1741 please?
1742
1743 **[After the conclusion of the public hearings, the Board discussed the case**
1744 **and made its decision. This portion of the transcript is included here for**
1745 **convenience of reference.]**
1746
1747 Mr. Mackey - Is there a motion?
1748
1749 Mr. Green - You all recommended approval of this?
1750
1751 Mr. Blankinship - Yes, staff recommended approval with the 40-foot
1752 undisturbed buffer to mitigate stormwater issues.
1753
1754 Mr. Green - This is the issue that the individuals—
1755
1756 Mr. Blankinship - Yes, yes. The stormwater problems. I was really
1757 hoping for a stronger recommendation from our Department of Public Works, but
1758 that's their professional judgment, and I feel like we have to—
1759
1760 Mr. Mackey - Mr. Green, for the record, I forgot to add condition 5
1761 was amended from a 20-foot-wide area to a 40-foot-wide area buffer. We need to
1762 put that in for the record.
1763
1764 Mr. Green - Since you all tend to defer to the person from that
1765 area, and I'm Three Chopt, I would request that we deny this request.
1766
1767 Mr. Mackey - Is there a second? Okay. Since there is not a second,
1768 we would need another motion. All right, I move that—
1769
1770 Ms. Harris - Excuse me. I'll second that motion just to get some
1771 discussion on it.
1772

1773 Mr. Mackey - Okay. All right. So it's been moved by Mr. Green and
1774 seconded by Ms. Harris that we deny. Discussion?

1775
1776 Ms. Harris - Your motion was to do what, Mr. Green?

1777
1778 Mr. Green - To deny. The reason I would like to see it denied is
1779 because there seems to be some fundamental problems out in that area that the
1780 County needs to address before you even think about putting another house up
1781 there. If folks are spending that kind of money to address water issues, the
1782 County needs to come in and see what's really going on. If they could alleviate
1783 that problem, then that possibly would help and not create more of an issue with
1784 that.

1785
1786 I understand that everybody has a right to sell a house and land. But I also
1787 believe that when neighbors come out—and we had a number of neighbors
1788 come out to express concerns—you have to be considerate and cognizant of
1789 their wishes. Lord knows if I was sitting out there and took my time to do that, I
1790 would hope that you all would listen. I don't live there; they live there. They
1791 understand. They see those conditions. They know on a daily basis what they
1792 have to deal with.

1793
1794 And in Three Chopt especially I'm concerned with the proliferation of houses just
1795 being thrown and put up everywhere without any real rhyme or reason. Every
1796 day I drive and I see something just thrown up there. I want to make sure that if
1797 that property is sold and a dwelling is put there, that we don't have the problem
1798 with that property that we're seeing with other properties. Sometimes you just
1799 need to slow down and solve one or two of the other problems first, listen to the
1800 neighbors. One of the persons talked about their property value and the impact
1801 that that might have. Well that's a legitimate, valid concern. And if someone has
1802 spent \$15,000 to remediate the problem that the County hasn't helped them with,
1803 the least we could do is be somewhat considerate of their concerns and wait.

1804
1805 Mr. Mackey - All right. Any other discussion?

1806
1807 Ms. Harris - Yes. I think all of the neighbors have the drainage
1808 problem in common. The whole neighborhood has a drainage problem, and this
1809 is not the only locality in Henrico County that has drainage problems. And
1810 definitely we need to resolve that. But when I see a 70-foot-lot-width variance, it
1811 concerns me. This is like a flag lot, I believe. We had rules against flag lots long
1812 ago that seem no longer to be honored. But nevertheless, when I drove by and I
1813 saw this little narrow strip of land in the middle of these other homes, I was
1814 concerned before I even got to the meeting that we were going to try to stick a
1815 house back there.

1816

1817 I think that the neighbors behind have done a very good job in establishing a
1818 well-built, well-preserved community. I think we can at least give them neighbors
1819 who are trying to conform to code.

1820

1821 Mr. Mackey - Okay.

1822

1823 Mr. Green - And also the other thing I'd like to say this is why we
1824 need to be careful because these subdivisions, these areas are being built, and
1825 then you begin to see all of these problems with drainage and other things. I think
1826 we're just too quick to just throw houses and things up without consideration of
1827 parking and drainage and other things.

1828

1829 I'm squarely in the middle of Three Chopt off Pump Road. Everybody knows it's
1830 disastrous as you drive up and down Broad Street. That could have been better
1831 planned. But because folks are so anxious to sell and make money and buy
1832 things that it's creating all kinds of problems. I think we need to be cognizant of
1833 that.

1834

1835 Mr. Mackey - All right. Thank you, Mr. Green. Is there any other
1836 discussion? The motion on the floor is to deny CUP2017-00020. All in favor say
1837 aye. Those opposed say no. The ayes have it 4 to 0.

1838

1839 Mr. Blankinship - Four to zero?

1840

1841 Mr. Mackey - Yes, I didn't vote.

1842

1843 After an advertised public hearing and on a motion by Mr. Green seconded by
1844 Ms. Harris, the Board **denied** application **VAR2017-00020, WAYNE AND**
1845 **REBECCA PASE's** request for a variance from Section 24-94 of the County
1846 Code to build a one-family dwelling at 5739 Pouncey Tract Road (Parcel 735-
1847 777-2917) zoned Agricultural District (A-1) (Three Chopt). The lot width
1848 requirement is not met.

1849

1850 Affirmative: Bell, Green, Harris, Reid 4

1851 Negative: 0

1852 Absent: 0

1853 Abstain: Mackey 1

1854

1855 **[At this point, the transcript continues with the public hearing on the next**
1856 **case.]**

1857

1858 **VAR2017-00021 EMERALD LAND DEVELOPMENT, LLC** requests a
1859 variance from Section 24-95(b)(8) of the County Code to build a one-family
1860 dwelling at 701 Beverstone Road (SILVER SPRING FARMS) (Parcel 832-725-
1861 1389) zoned Agricultural District (A-1) (Varina). The lot width requirement is not

1862 met. The applicant proposes 129 feet lot width, where the Code requires 150 feet
1863 lot width. The applicant requests a variance of 21 feet lot width.

1864
1865 Mr. Blankinship - Mr. Chair, we again have a revised condition for you.
1866 Would everyone who intends to speak to this case please stand and be sworn in.
1867 Oh, the applicant is not here. In that case, Mr. Chairman, I recommend that
1868 someone make a motion to defer this case to the December 21st meeting.

1869
1870 Mr. Green - So moved.

1871
1872 Mr. Mackey - We have a motion to defer to the December 21st
1873 meeting. Is there a second?

1874
1875 Ms. Harris - Second.

1876
1877 Mr. Mackey - All in favor say aye. Those opposed say no. There is
1878 no opposition; that motion passes.

1879
1880 After an advertised public hearing and on a motion by Mr. Green, seconded by
1881 Ms. Harris, **VAR2017-00021, EMERALD LAND DEVELOPMENT, LLC**, has
1882 been deferred until the December 21, 2017 meeting.

1883
1884
1885 Affirmative: Bell, Green, Harris, Mackey, Reid 5
1886 Negative: 0
1887 Absent: 0

1888
1889
1890 Mr. Blankinship - All right, moving right along.

1891
1892 **VAR2017-00022 RYAN HOMES** requests a variance from Section 24-
1893 94 of the County Code to allow a one-family dwelling to remain at 5113
1894 Shimmering Place (MEREDITH BRANCH ESTATES) (Parcel 758-765-8952)
1895 zoned One-Family Residence District (R-3C) (Brookland). The front yard setback
1896 is not met. The applicant proposes 37 feet front yard setback, where the Code
1897 requires 40 feet front yard setback. The applicant requests a variance of 3 feet
1898 front yard setback.

1899
1900 Mr. Blankinship - Would everyone who intends to speak to this case
1901 please stand and be sworn in. Raise your right hands, please. Do you swear the
1902 testimony you're about to give is the truth, the whole truth, and nothing but the
1903 truth so help you God? Thank you. Mr. Madrigal?

1904
1905 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the
1906 Board.

1907

1908 Before you is a variance request to allow a one-family dwelling to remain in
1909 place. The subject property is in the Meredith Branch Estates subdivision,
1910 located across the street from Hungary Creek Middle School. The subject lot is
1911 located at the southeast edge of a cul-de-sac and is 13,391 square feet in area.

1912

1913 In May of this year, Ryan Homes requested a building permit to construct a
1914 4,941-square-foot two-story residence with an attached two-car garage. In late
1915 June, a building permit was issued for the proposed dwelling. The approved site
1916 plan indicated a 41.3-foot front building setback to the front corner of the
1917 attached garage. In October, a final building inspection revealed the house did
1918 not meet the required 40-foot front yard setback. An as-built survey indicated that
1919 a portion of the home was 37.4 feet from the front property line. The applicant
1920 has indicated that the governing proffers associated with the subdivision are
1921 overly restrictive, highlighting the minimum house size and garage requirement.

1922

1923 The development site was rezoned from A-1 to R-3C in 2006. The adopted
1924 proffers required a minimum finished house size of 3,000 square feet and a two-
1925 car garage per residence. The interior dimensions of the garage were required to
1926 be no smaller than 24 feet wide by 20 feet deep exclusive of interior stairs or
1927 built-in mechanical equipment. Since the original rezoning, the proffers have
1928 been amended twice. In July of 2015, the Board of Supervisors approved revised
1929 proffers that required 50 percent of all homes to provide a side- or rear-load
1930 garage. The interior dimensions remain the same. In August of 2017, the Board
1931 again approved a second request for revised proffers that allowed 50 percent of
1932 all homes to have a standard garage size of 20 feet by 19 feet deep. The
1933 resulting changes required half the homes in the development to have a larger
1934 garage size and the remaining half to have a standard garage size essentially.

1935

1936 The applicant has indicated that the proffered garage requirements compelled
1937 them to make several modifications to the house design, which resulted in
1938 confusion and ultimately led to a house-siting error.

1939

1940 After reviewing the project timeline, it appears that the home was positioned on
1941 the lot based on a site plan with a smaller building footprint. Although the plans
1942 were later modified to meet code and proffered requirements, the house
1943 placement had already occurred based on an inaccurate and unapproved site
1944 plan. The house placement was never readjusted based on the approved plans,
1945 which resulted in a 2.7-foot front yard setback encroachment and the need for a
1946 variance.

1947

1948 With respect to the threshold question, state code provides that a variance shall
1949 be granted if one of two situations arise: when strict application of the code
1950 unreasonably restricts the utilization of the property or a variance alleviates a
1951 hardship due to a physical condition of the property or improvements thereon at
1952 the time of the effective date of the ordinance.

1953

1954 Relative to the first part of the question, the applicant argues that the garage
1955 dimension is overly burdensome or restrictive. However, the larger garage
1956 requirement has been in effect since the adoption of the proffers in 2006.
1957 Furthermore, the recent proffered amendments allow for more flexibility in the
1958 design and size of the garage. In any case, the code and adopted proffers do not
1959 unreasonably restrict the use of the property.

1960
1961 With respect to the second part of the threshold question, the only unique
1962 physical feature of the property is that it is located at the outer edge of a cul-de-
1963 sac. Its location affords it a slightly deeper lot and the ability to fit a larger house
1964 on the lot as compared to other lots in the subdivision. The applicant's argument
1965 that the minimum house and garage size requirements contributed to the front
1966 yard setback violation is difficult to understand, especially since they built a
1967 5,000-square-foot home on a lot with more than adequate room for required
1968 setbacks.

1969
1970 The proffered garage requirements may have caused some confusion, but
1971 ultimately the house placement occurred in error, as evidenced by contrasting
1972 the approved site plan to the as-built plan. Based on the evidence, the physical
1973 features of the property do not appear to contribute to the current situation faced
1974 by the applicant.

1975
1976 Relative to the five subtests, item one asks whether the property was acquired in
1977 good faith and that any existing hardship is not self-imposed. The hardship
1978 appears to be self-inflicted as demonstrated by the evidence. The approved site
1979 plan shows a 41.3-foot front yard setback to the proposed dwelling and attached
1980 garage. At final inspection, it was determined that the front yard setback was
1981 actually 37.4 feet. The overall design and footprint of the home had not changed
1982 from plan approval as evidenced by comparing the two site plans. Because the
1983 rear yard setback increased in dimension, it is evident that the home was
1984 incorrectly situated on the lot. Although this appears to have occurred in error,
1985 the resulting situation is self-inflicted. Whether the error occurred deliberately or
1986 unintentionally, case law dictates that a hardship created by the applicant or their
1987 contractors provides no basis for granting a variance.

1988
1989 Item two asks whether the granting of the variance will result in a substantial
1990 detrimental impact on adjacent or nearby property. Because of the lot's location
1991 on a cul-de-sac, the front yard encroachment may not be discernible as
1992 compared to other homes on the cul-de-sac. From a visual perspective, there
1993 would be no detrimental impact.

1994
1995 Item three asks whether the request is of a general or recurring nature more
1996 appropriately handled by a code amendment. Because principal building
1997 setbacks are unambiguous and are determined at the onset of a residential
1998 development, there are no legislative solutions to this situation. Absent a

1999 variance, the applicant will have to either remove the offending portion of the
2000 building or move the entire structure back to meet setbacks.

2001
2002 With respect to items four and five, they have been addressed as outlined in the
2003 staff report.

2004
2005 In conclusion, because the subject lot is of adequate size and dimensions and
2006 has no deficiencies as compared to other lots in the subdivision, it is difficult to
2007 find cause to grant the variance. The adoptive proffers have been in place since
2008 2006. Although they've amended twice, each modification has resulted in less
2009 stringent garage requirements and more design options. Comparing the
2010 approved site plan to the as-built plan, the difference in front and rear setbacks
2011 suggest the house was sited incorrectly. Again, whether this occurred
2012 deliberately or unintentionally, the result is a self-inflicted hardship. As such, the
2013 situation affords no basis for special treatment or relief from the zoning
2014 requirements as evidenced by case law.

2015
2016 Although no detrimental impacts are anticipated, if relief is granted it could be
2017 construed as the granting of a special privilege and the establishment of a
2018 negative precedent. This is especially significant since the code and adoptive
2019 proffers do not unreasonably restrict the use of the property.

2020
2021 Approval of the variance request comes down to a question of equity and
2022 principle of law, especially since the home could have been built without violating
2023 required setbacks. Based on the facts of the case, staff recommends denial.

2024
2025 This concludes my presentation. I'll be happy to answer any questions.

2026
2027 Mr. Mackey - Mr. Madrigal, I have one quick question just for
2028 clarification. No one lives in this house yet.

2029
2030 Mr. Madrigal - No. It's a brand new home, and it's constructed. They
2031 were waiting for final inspection to get their C of O.

2032
2033 Mr. Mackey - Okay. And I have one other kind of question to get
2034 clarification. On the building permit, how does it get from the point to where they
2035 laid a foundation to the final inspection, and then they realized that it doesn't
2036 have the setback?

2037
2038 Mr. Madrigal - Ultimately, the house placement is the responsibility
2039 of the property owner and the contractor. They initially sited the house based on
2040 this unapproved plan, which you can see is dated 5/31.

2041
2042 Mr. Mackey - Okay.

2043

2044 Mr. Madrigal - My understanding is that they went off the rear
2045 property line. I'm sure the applicant can fill you in more on that. They laid it out
2046 based on the rear setback, not the front. Again, this was an approved site plan. In
2047 the plan review process, they modified the site plan to meet both code and the
2048 adopted proffers and whatever expectation the client had as well. This is the plan
2049 that ultimately got approved. Nobody ever went back and moved the siting of the
2050 house based on these dimensions. I think that's where the error occurred. Again,
2051 it's up to the applicant and the contractor to verify that. When the final inspection
2052 was requested, part of the requirement is that they conduct a final survey to
2053 make sure that all setbacks are met and they unfortunately discovered that it did
2054 not meet the setback.

2055
2056 Mr. Mackey - Okay. Thank you for the explanation, Mr. Madrigal. I
2057 know Mr. Bell has a question.

2058
2059 Mr. Bell - On the one that was approved with the corrected
2060 setback, when was that done? Do you know?

2061
2062 Mr. Madrigal - The approved site plan?

2063
2064 Mr. Bell - Yes.

2065
2066 Mr. Madrigal - That was June 15th.

2067
2068 Mr. Bell - And the completed building plan.

2069
2070 Mr. Madrigal - The building plan that went with it was approved on
2071 June 29th.

2072
2073 Mr. Bell - So for roughly two months they would have been
2074 working on this, and wouldn't they have been looking at this again and again?

2075
2076 Mr. Madrigal - I'm sorry; I'm missing the point of your question.

2077
2078 Mr. Bell - I guess my point is they had ample time in between to
2079 look at it, didn't they?

2080
2081 Mr. Madrigal - Yes. From our standpoint, sure.

2082
2083 Mr. Bell - That was my point. It wasn't just two days or three
2084 days. That condition existed for 45 to 50 days.

2085
2086 Mr. Madrigal - Right.

2087
2088 Mr. Bell - Okay.

2089

2090 Mr. Madrigal - Right. Because they placed the house based on this
2091 plan, May 31st. they got approval of their site plan on June 15th. They got their
2092 house plans—I think there were some modifications that occurred to the house
2093 plans as a result of some trusses and a couple other issues. The building plans
2094 actually got approved on the 29th of June. Then they got busy working on it. And
2095 then they finished off in October, and they requested on October 6th their final
2096 building inspection. And that's when this came up.

2097
2098 Mr. Mackey - All right. Are there any other questions? Oh, I'm sorry.
2099 I apologize.

2100
2101 Mr. Bell - I have a couple more.

2102
2103 Mr. Mackey - Excuse me.

2104
2105 Mr. Bell - Go back to that picture of the house where you have
2106 two garages.

2107
2108 Mr. Madrigal - I have a better picture of the garage.

2109
2110 Mr. Bell - All right. For my information, where on this picture—in
2111 other words, the three-foot foundation encroachment is located where as we look
2112 at this picture?

2113
2114 Mr. Madrigal - Their front setback would—I mean I'm just guessing,
2115 but it would be approximately where the cursor is.

2116
2117 Mr. Bell - So it's off of the garage.

2118
2119 Mr. Madrigal - Yes.

2120
2121 Mr. Bell - Okay. So if they had to move or repair, that would
2122 have to go out three feet.

2123
2124 Mr. Madrigal - Come back.

2125
2126 Mr. Bell - Come back three feet.

2127
2128 Mr. Madrigal - Right, right. Here's a picture of the garage. This is the
2129 front face or plane of the house, and you can see how far the garage projects,
2130 basically a couple of feet. But at this corner, that's where it's violating the setback
2131 requirement. You can see that is 37.4 feet there. It follows the cul-de-sac line
2132 here. As it comes down this way, it increases in dimension. How much of that, I
2133 really don't know; they didn't provide that information. But it would be removing a
2134 portion of that structure to meet the code requirement.

2135

2136 Mr. Bell - All right. Thank you.
2137
2138 Mr. Mackey - Are there any other questions?
2139
2140 Mr. Green - I'm just trying to understand this. In simple English,
2141 explain to me what is going on. They built the house.
2142
2143 Mr. Madrigal - Bottom line, they put the house in the wrong spot.
2144
2145 Mr. Green - Who did?
2146
2147 Mr. Madrigal - The engineer. The contractor's engineer.
2148
2149 Mr. Green - Okay. But then you also said the applicant—I guess
2150 that's the person who's buying the house.
2151
2152 Mr. Madrigal - The property owner in this case, which is Ryan
2153 Homes.
2154
2155 Mr. Green - Oh.
2156
2157 Mr. Blankinship - Yes. The builder is still the owner and still the
2158 applicant.
2159
2160 Mr. Green - Okay. So they made the mistake.
2161
2162 Mr. Madrigal - Yes.
2163
2164 Mr. Green - So no one bought the house.
2165
2166 Mr. Madrigal - Well it's under contract. What they want to do is they
2167 want to get the final certificate so that way they can go ahead and proceed with
2168 the sale. But we can't issue a Certificate of Occupancy because there is a
2169 setback violation because of their error.
2170
2171 Mr. Green - So they're going to have to knock the house down or
2172 take out a big section of the house.
2173
2174 Mr. Madrigal - Well if the variance is denied, they would either have
2175 to remove that portion of the garage that violates the setback or push the house
2176 back.
2177
2178 Mr. Green - How noticeable is this? Have neighbors paid any real
2179 attention to this? When I look at it, I can't see anything.
2180

2181 Mr. Madrigal - Right. That was item number 2 in our findings is that it
2182 might not be discernible from standing on the street looking at it. You can see
2183 here you really can't tell. So from a visual perspective, there isn't a detrimental
2184 impact. The detrimental impact really comes in in that they had a lot that exceeds
2185 the standard-size lot, for the most part, in that subdivision, so it's bigger than
2186 most, and it could fit the house. But even with that, they still violated the setback
2187 because of their error.

2188
2189 Mr. Green - I thought the County would go out periodically and
2190 check things. So at what point should the County have gone out and noticed that
2191 something was amiss?

2192
2193 Mr. Madrigal - There's a whole series of inspections that occur to
2194 make sure that the building meets minimum building code. But ultimately, the
2195 placement of the house is not verified because it's ultimately the responsibility of
2196 the property owner and/or contractor, who are one in the same from the
2197 perspective of law.

2198
2199 Mr. Green - I'm curious to see what the contractor says. They just
2200 made a mistake or what?

2201
2202 Mr. Madrigal - It seems like it, yes. Essentially, they based the house
2203 placement on a site plan that had not been approved.

2204
2205 Mr. Mackey - Okay. All right. If there are no further questions for
2206 Mr. Madrigal, we'll hear from the applicant. Thank you, sir.

2207
2208 Mr. Madrigal - Thank you.

2209
2210 Mr. Kiester - Good morning. My name's Chad Kiester. C-h-a-d-, K-
2211 i-e-s-t-e-r.

2212
2213 Mr. Mackey - "Kiester," one more time please, sir?

2214
2215 Mr. Kiester - K-i-e-s-t-e-r.

2216
2217 Mr. Mackey - Thank you, sir.

2218
2219 Mr. Kiester - I am representing Ryan Homes and our customer that
2220 has a signed a contract on the home.

2221
2222 As mentioned, we did submit for the building permit on May 8th. A few days later,
2223 as it was being reviewed by Planning and Zoning, the permit was failed due to
2224 not meeting the garage proffer. We submitted the permit originally under the
2225 assumption of a 20-by-24 garage, not anticipating or understanding the

2226 interpretation of 24 feet wide. We had submitted other permits in the community
2227 where we met the 20-by-24.

2228
2229 With a front entry garage, the orientation of a front entry garage, we were able to
2230 meet the width of 24 feet wide, 20 feet deep. With this particular home and the
2231 options selected with the customer, which is also part of the proffered
2232 requirement, which is 50 percent of all garages to be side-loaded. In keeping with
2233 the proffer, we did offer a side-load garage in this situation, which was then found
2234 to be failed by Planning and Zoning, requiring that now we need 24 feet wide
2235 from the entrance of the garage, meaning the garage door opening.

2236
2237 In that situation we started making plan revisions. The garage now had to be
2238 stretched forward or towards the street to meet that. We have CAD operators,
2239 the folks that need to draw the plans, and they needed to complete that work and
2240 then relay that on to our engineer. Our engineer works with all of our plans, and
2241 it's pretty straightforward. The current proffer at 19-by-20, we meet that all day
2242 long with our products. In this case, with all of the reengineering and redesigning
2243 with steel beams and headers and such to carry that load and to meet that
2244 requirement, there were a few weeks of reengineering to come up with a design
2245 that we could build.

2246
2247 Once that was done, it was sent to the engineer. And there was a site plan on
2248 May 31st that was completed. The error started here. The engineer took the
2249 garage and pulled it into the house, meaning he increased the dimensions of the
2250 garage within the house, within the structure in error. Meaning he didn't pull it
2251 forward.

2252
2253 I just wanted to show you, it helps explain. I just kind of highlighted the site plan
2254 on 5/31. What should have been done is the highlighted yellow area. But he
2255 pulled the house. The dimensions didn't change; he just pulled the garage back,
2256 if that makes sense.

2257
2258 Mr. Mackey - I thought the garage was too close to the road?

2259
2260 Mr. Kiester - That's how it was built, that's correct. This site plan,
2261 which was completed to be sent back in, was done in error, it's incorrect. He took
2262 the garage, and instead of pulling it more towards the street, he took the
2263 dimension and pulled it back. So it didn't move the whole house back. It was
2264 within the house, the dimensions.

2265
2266 In essence, our plans, our blueprints, did not match the site plan, which was
2267 discovered. And then at that point we arrive at June 15th where the site plan was
2268 revised once again and resubmitted. Now prior to June 15th on June 7th, our
2269 engineer arrived on site to stake the property. We do a lot of preliminary
2270 stakeouts. It's in anticipation of the permit being completed and moving forward.
2271 So the home was staked out on June 7th. Of course at that point it's incorrect.

2272 You show the difference in the two site plans. I think it's 48 feet and—sorry—and
2273 at 52 feet. I'm looking at the rear setback right here of 52 feet here. Meaning that
2274 when they built the home, they pulled it forward over the front setback. So at that
2275 point, our contractor is following what the engineer has laid out for him, as he
2276 should. And it was placed in error.

2277
2278 Very difficult situation just getting through that permitting process from early May
2279 until June 29th. Multiple revisions, multiple plans just to conform to what have
2280 been since amended proffers. And there was obviously a lot of confusion there. I
2281 would not deny that there are multiple errors starting with the engineer and then
2282 follow through on his work.

2283
2284 I've looked at the home multiple times. As far as an impact on the community, the
2285 existing homeowners, we have neighbors within that cul-de-sac, the streetscape,
2286 I really see no impact or detriment to the community itself. Where we are now is
2287 we have an individual family that has a signed contract that was scheduled to
2288 close and move into their home around the middle of October. At this point, it's at
2289 an undetermined time in regards as to when they can be placed in their home.
2290 Unfortunately, they were not able to be available today, but I do have a signed
2291 letter that they had written to us. I don't know if I would be able to share that
2292 information.

2293
2294 Mr. Mackey - Sure.
2295
2296 Mr. Kiester - The homeowner's name is Tarig (T-a-r-i-g), Ahmed
2297 (A-h-m-e-d).

2298
2299 Board members, my name is Tarig Ahmed, and I purchased a Ryan
2300 Home at 5113 Shimmering Place, Glen Allen, Virginia, 23060. I
2301 understand that my home is under review for rezoning. My family
2302 and I expected to move into our home in late October. However,
2303 due to the rezoning variance request, our move has been delayed
2304 for an undetermined amount of time. Unfortunately, I cannot be
2305 present at today's meeting, but wanted to present to the Board and
2306 general public my plea for approving this variance so that we can
2307 move into the home.

2308
2309 We are currently renting on a day-to-day basis. Our current lease
2310 term ended yesterday. But due to the graciousness of our landlord,
2311 they're extending it until we can determine our next step.
2312 Meanwhile, they are currently seeking a new renter, so we could be
2313 asked to leave at any point. We also have to pay a premium for the
2314 short-term timeframe.

2315
2316 I have four children enrolled currently in the school zoned for
2317 Meredith Branch, Echo Lake Elementary, Glen Allen Elementary,

2318 one in Hungary Creek Middle School, and one in Glen Allen High
2319 School. I transport them daily at different times, from our current
2320 rental, which is about 20 minutes one direction. I understand that
2321 this would be something I would have to do for a couple of months
2322 when they started school, but to extend this further also affects my
2323 business. It usually takes me about two hours in the morning and
2324 the afternoon to get them to and from and school. If we're able to
2325 move into our new home, my children will be within a mile of all
2326 their schools and able to take the bus.

2327
2328 I have two businesses that are also currently affected by this. I
2329 transport mentally challenged children to a day support school that I
2330 run that is designed to help them learn to function in society and
2331 everyday life. I also transport medically challenged individuals to
2332 their medical facilities. I have to bring additional help with this
2333 because of the time challenges, which is a financial burden on my
2334 company. Mornings and afternoons are also the primary times I
2335 have to transport these individuals.

2336
2337 Lastly, the financing for the loan on my new home expires at the
2338 end of the month. After discussing our current situation with the
2339 lender, we would run the risk of not being able to close on our new
2340 loan if it is delayed. Our interest rate is currently locked within the
2341 current rates, and we may not qualify for financing which would
2342 leave us with finding a place to rent for a family of six within this
2343 school district, which is not very easy on short notice.

2344
2345 I thank you for your time today in listening to my plea to allow us to
2346 move into our new home. If the variance is not passed, this would
2347 present a tremendous hardship to both my family and business. I
2348 respectfully request your help in the matter.

2349
2350 Signed Tarig Ahmed.

2351
2352 Mr. Green - What's the cost of the fix?

2353
2354 Mr. Kiester - Because of the cul-de-sac, the setback here is
2355 running on an angle. So it would be the removal of approximately 2-1/2 feet of
2356 the front of the garage, the roof system, the garage slab, which is a structural
2357 slab because it is a basement home site, meaning that it's supported with grade
2358 beams and rebar. It's tens of thousands of dollars. I'm just shooting off the hip.
2359 Probably much greater than that. We would have to essentially tear the entire
2360 garage down to the existing home, tear up the garage slab, which again is a
2361 structural slab. It's not just four inches of concrete. And then move forward from
2362 there. And it would aesthetically change the entire look of that home. And
2363 aesthetically, I can't speak to how awkward it would be in regards to streetscape.

2364
2365 Mr. Bell - All of us, I'm sure, have great sympathy for the buyer.

2366
2367 Mr. Kiester - Certainly.

2368
2369 Mr. Bell - But we do have things we have to look at, and a lot of
2370 them we can't change. That deals with the Code of Virginia 15.2.-2309 in this
2371 situation. What has happened throughout the whole building process addresses
2372 a lot of these things that cause us to be very limited in our choices of what we
2373 want to do and what we really have to do.

2374
2375 Mr. Kiester - I completely understand. In my fourteen years
2376 experience in this career, this is the first instance of this matter. We have many
2377 checks in place, like I said, building our typical product. The uniqueness of
2378 having to make all of these adjustments in our plan obviously created some
2379 difficulties there. And the lack of a foundation check or foundation certification
2380 required by the County or conducted in this manner certainly would have caught
2381 it at an opportune time prior to the structure going vertical, which also plays into
2382 this as well.

2383
2384 Mr. Green - With all due respect, I can appreciate what the law
2385 says. If it was that emphatic, then we would just follow the law. The fact that
2386 we're here where we can grant an exception, I think we have to take that into
2387 consideration. You can always cite the law and use that as the excuse. But if
2388 that's the case, then I don't need to be here trying to make a decision if in fact
2389 we're just going to fall back to what the law states. I think that there's an
2390 exception to every rule. That's why we're here to hear potentially if we're going to
2391 grant the exception. But if we're just going to follow the law, then just tell me the
2392 law to follow and we'll just vote to reject everything. When I was put here, I was
2393 under the impression that we would have challenges like this, and we would use
2394 our better judgment to potentially grant situations and changes if necessary.

2395
2396 Mr. Mackey - That point is well taken.

2397
2398 Ms. Harris - I have a question of Mr. Kiester here. We have this
2399 picture before us. I did drive through the neighborhood, and you're right, you
2400 cannot tell the difference. You cannot tell that it's 2.6 feet off. Looking at this
2401 picture, what will be scaled back? I know you said the front of the garage. But
2402 would it affect the front of the house?

2403
2404 Mr. Kiester - The porch is actually within the front setback. So we
2405 would have to remove all of the garage portion, this is the three windows to the
2406 left of the front porch, that entire foundation and roof system. So pretty much
2407 everything from the front left corner that you're looking at near that light all the
2408 way to the right where the porch begins. We couldn't just clip a corner, of course,
2409 because that would look very awkward and not be usable. So we would have to

2410 take that entire section, remove the roof system. The home would have to be
2411 reengineered, redesigned, new architecture.

2412
2413 Ms. Harris - All right, thank you.

2414
2415 Mr. Mackey - Are there any other questions for Mr. Kiester? If not,
2416 is there anyone who would like to speak in support? Anyone who would like to
2417 speak in opposition? All right. Thank you, Mr. Kiester.

2418
2419 Mr. Kiester - Thank you.

2420
2421 **[After the conclusion of the public hearings, the Board discussed the case**
2422 **and made its decision. This portion of the transcript is included here for**
2423 **convenience of reference.]**

2424
2425 Mr. Mackey - What is the pleasure of the Board?

2426
2427 Mr. Bell - I move that we approve this.

2428
2429 Mr. Green - Second.

2430
2431 Mr. Bell - I had several problems with the house, and I think
2432 Miguel hit all the reasons. I know there is no detrimental impact or anticipated to
2433 the adjacent properties. But if relief is granted, it could be construed as the
2434 granting of special privilege and establishment of a negative principle.

2435
2436 Mr. Mackey - Okay, I need to stop you. You said that you were
2437 making a motion to approve the variance?

2438
2439 Mr. Bell - No.

2440
2441 Mr. Mackey - I think that's what you said.

2442
2443 Mr. Green - Yes, you said you wanted to approve.

2444
2445 Mr. Mackey - You said you wanted to approve the variance.

2446
2447 Mr. Blankinship - That's what I understood as well.

2448
2449 Mr. Bell - I'm sorry. I want to recommend that we deny it. That's
2450 what I'm—

2451
2452 Mr. Green - Then I withdraw my second.

2453
2454 Mr. Mackey - You're making a motion to deny the variance?

2455

2456 Mr. Bell - Yes.

2457

2458 Mr. Mackey - Okay. Is there a second? Second. Now is there
2459 discussion.

2460

2461 Mr. Green - Yes. I have to really look at what is happening with
2462 the family. A family put a contract on a house. The family has stipulated that their
2463 terms will potentially run out at the end of the month. It's going to cause a severe
2464 hardship on that family for something that was not any fault of their own. When
2465 you really look at the property, you're only talking about three feet. I don't really
2466 see any problems. There is not one neighbor or one person in that subdivision
2467 that came and complained about it. I think had it not been brought out, I don't
2468 think anybody would have really paid any real attention.

2469

2470 So my concern is the hardship that that's going to pose on that individual family.
2471 Now he and his family may have to go through the whole loan process again as
2472 well as a rental situation. For three feet, it's just—where's our compassion on
2473 granting this exception? Like I said, I understand the rules, the law says, but the
2474 virtue of us sitting here allows us to grant that exception. We're not doing this
2475 across the board. This is not happening. It seems to be like there was one
2476 incident. Somebody made a mistake. Had the person not put a contract on the
2477 house, then I would be apt to have the builder go back and do what's necessary.
2478 But since a contract in good faith has been put on the house—you have this guy
2479 who has kids in the school system and needs to complete the school, and have
2480 to try to find another house, and we're coming upon Christmas and Thanksgiving,
2481 this is just going to be a stressful time. I don't want to see those kids stressed
2482 out.

2483

2484 Ms. Harris - I have a comment too. I am going to vote that we
2485 approve this variance because I really believe that that's why we're here when
2486 we're run into cases like this that don't conform to the ordinance or the code. But
2487 there are a lot of circumstances that we need to consider. For example, the
2488 Board of Supervisors made some changes in this case. I know we hold the
2489 homeowner responsible for what the contractor does, but even a homeowner
2490 could overlook a two-foot difference. You drive by there, and you see no
2491 difference. It's a nice community, and most of the homes look alike. If they
2492 changed this, it's going throw that neighborhood, that cul-de-sac off. So I think
2493 you have to not only be compassionate, buy exercise a little common sense, and
2494 realize why we're here.

2495

2496 Mr. Green - Thank you, Ms. Harris.

2497

2498 Mr. Mackey - I have a comment. I think we all are compassionate
2499 for all the applicants. Sometimes there's very little room for us to use such
2500 common sense. This case, in my opinion, is bound by a legal statute. I do
2501 understand if they make a change to the house it will change it a little bit, but the

2502 garage is already sticking out three feet or so beyond the base of the house. So if
2503 they just brought it back it would be even with the house. For that reason, I think
2504 we need to take into the consideration the statute or the law. That's my reason
2505 for seconding the motion to deny. Is there any other discussion?
2506
2507 Mr. Green - Yes. If it's so cut and dry, why are we here?
2508
2509 Mr. Mackey - Sometimes it is cut and dry.
2510
2511 Mr. Green - If it's that cut and dry, why are we here? We're here
2512 because, as Ms. Harris clearly articulated, there are times for us to bring in other
2513 factors.
2514
2515 Mr. Mackey - Sometimes there are, I agree.
2516
2517 Mr. Green - So if it's that cut and dry, then it never should have
2518 been brought to us. But obviously there must be some exception there that
2519 allows us to hear and decide on this case.
2520
2521 Mr. Mackey - All right, is there any discussion? The motion is to
2522 deny the variance. All in favor of the denial say aye. All that are opposed to the
2523 denial say aye.
2524
2525 Mr. Blankinship - It's two to three. So that motion has failed, which
2526 means that the Board has taken no action at this point. At this point the Board
2527 has taken no action. There was a motion, the motion failed, so no action has
2528 been taken. There would need to be a new motion.
2529
2530 Mr. Green - I move that we grant the variance.
2531
2532 Ms. Harris - Second the motion.
2533
2534 Mr. Mackey - Discussion?
2535
2536 Ms. Harris - I think we've already discussed it.
2537
2538 Mr. Mackey - All right. All in favor? All opposed? The ayes have it,
2539 three to two.
2540
2541 Ms. Harris - Thank you, Mr. Blankinship. I would have missed that
2542 one completely.
2543
2544 Mr. Mackey - I don't know how we got mixed up, but we did.
2545
2546 Mr. Blankinship - That's my job.
2547

2548 Ms. Harris - Yes it is.

2549

2550 Mr. Blankinship - You all have to do all the hard work.

2551

2552 After an advertised public hearing and on a motion by Mr. Green, seconded by
2553 Ms. Harris, the Board **approved** application **VAR2017-00022, RYAN HOMES'**
2554 request for a variance from Section 24-94 of the County Code to allow a one-
2555 family dwelling to remain at 5113 Shimmering Place (MEREDITH BRANCH
2556 ESTATES) (Parcel 758-765-8952) zoned One-Family Residence District (R-3C)
2557 (Brookland). The Board approved the variance subject to the following
2558 conditions:

2559

2560 1. This variance applies only to the front setback requirement for a one-family
2561 dwelling only. All other applicable regulations of the County Code shall remain in
2562 force.

2563

2564 2. Only the improvements shown on the plot plan dated October 6, 2017, and as
2565 modified by the conditions may be constructed pursuant to this approval. Any
2566 additional improvements shall comply with the applicable regulations of the
2567 County Code. Any substantial changes or additions to the design or location of
2568 the improvements will require a new variance.

2569

2570

2571 Affirmative: Bell, Green, Harris 3

2572 Negative: Mackey, Reid 2

2573 Absent:

2574

0

2575

2576 **[At this point, the transcript continues with the public hearing on the next**
2577 **case.]**

2578

2579 Mr. Mackey - We're going to take a quick 5- to 7-minute recess.

2580

2581 [Board takes a 5- to 7-minute recess.]

2582

2583 **VAR2017-00024 SANDRA J. ROSIERE** requests a variance from
2584 Section 24-9 of the County Code to build a one-family dwelling at 7490 Doran
2585 Road (Parcel 822-692-3483) zoned Agricultural District (A-1) (Varina). The public
2586 street frontage requirement is not met. The applicant proposes 0 feet public
2587 street frontage, where the Code requires 50 feet public street frontage. The
2588 applicant requests a variance of 50 feet public street frontage.

2589

2590 Mr. Blankinship - Would everyone who intends to speak to this case
2591 please stand and be sworn in. Raise your right hands, please. Do you swear the
2592 testimony you're about to give is the truth, the whole truth, and nothing but the
2593 truth so help you God? Thank you. Mr. Madrigal?

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Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board, before you is a request to build a one-family dwelling in an agricultural district. The subject property and surrounding areas are shown on the 2026 Future Land Use Map as Suburban Residential. It's been zoned agricultural as long as the County has had zoning.

The property was originally part of a 14-acre tract purchased by the Cutright family in 1949. In 1960 when the current Zoning Ordinance was adopted, there was one dwelling on the property. In 1984, a lot was divided along Doran Road and sold to a builder who then built the dwelling at 7474 Doran Road. Since then, three additional homes have been constructed on the property, each lot created by family division, and each lot was granted a variance. The subject lot is a two-acre parcel created by family division in 1998. In 2001, a variance was granted to build a one-family dwelling, but it has since expired. The applicant acquired the property in August of this year, and she would like to build a house on the lot.

With respect to the threshold question, in 1960 when the street frontage requirement was adopted, the 14-acre tract had public street frontage. There are now five dwellings on the tract. The subject two-acre lot was created by family division in 1998. Because it was a family division, it was exempt from the subdivision requirements at the time, but did obtain a variance. The new owner cannot make a reasonable use of the property without a variance, as it is too small for any other permitted use except a dwelling. Based on the previous variance, the applicant had reasonable expectation that she would be allowed to build a dwelling on the lot.

Relative to the five subtests, item number one, the applicant acquired the property earlier this year in good faith reliance on a variance that was approved in 2001, but which expired in 2002. The applicant did not create the hardship situation because the property had already been divided before she acquired it.

Item number two, the prevailing land use pattern in the immediate area is one-family dwellings on lots of one to two acres in size. The construction of one additional dwelling should not have a detrimental impact. This will be the fourth dwelling to be served by a private drive, and the proposed home will be approximately 400 feet from Doran Road. Staff recommends the property owners served by the private road join together in establishing a formal maintenance agreement and share the maintenance costs equally.

Item number three, the Board hears an average of 16 variances from the public street frontage requirement each year. In 2015, the Board of Supervisors adopted new regulations for family divisions largely as a way of reducing variance requests. Under these new standards, a property owner who wishes to subdivide a new parcel without public street frontage would have to submit a family division for review and approval, and a variance would not be necessary.

2640 Because the subject lot was created in 1998, after the public street frontage
2641 requirement was adopted but before the new family subdivision regulations were
2642 in place, a variance is the only option for this lot.

2643
2644 With respect to items four and five, those items have been addressed as outlined
2645 in the staff report.

2646
2647 In conclusion, the two-acre parcel cannot be used for any reasonable beneficial
2648 use without a variance. A prior variance request was granted in 2001, and the
2649 circumstances have not changed since that time. There should be no substantial
2650 detrimental impacts from the proposed dwelling. For these reasons, staff
2651 recommends approval subject to conditions.

2652
2653 Mr. Mackey - Thank you, Mr. Madrigal. Are there any questions?

2654
2655 Ms. Harris - Mr. Madrigal, when was that last variance? I see the
2656 number. When was that last variance approved?

2657
2658 Mr. Madrigal - I believe that was 2001.

2659
2660 Ms. Harris - 2001. But it doesn't have the same number as the
2661 one that you have in the background. You have A-134-01. And the one in 2001
2662 was A-042-01.

2663
2664 Mr. Blankinship - Those were two different variances that were
2665 approved in the same year.

2666
2667 Ms. Harris - Two different variances in the same year. Okay.

2668
2669 Mr. Blankinship - The 7492 Doran Road, A-042-01, that is the house
2670 that was built the farthest west on this property. And the other was approved for
2671 this lot, but was not built.

2672
2673 Ms. Harris - Okay, thank you.

2674
2675 Mr. Blankinship - Yes ma'am.

2676
2677 Mr. Mackey - Any other questions for Mr. Madrigal? All right, thank
2678 you, sir. Can we hear from the applicant?

2679
2680 Ms. Rosiere - Good morning, I'm Sandra Rosiere. R-o-s-i-e-r-e.

2681
2682 Mr. Blankinship - You pronounce that **Rose-a-re**?

2683
2684 Ms. Rosiere - Yes.

2685

2686 Mr. Blankinship - I apologize for butchering it. I wasn't even close.
2687
2688 Ms. Rosiere - Most everybody does. But that's all right.
2689
2690 I purchased this land because it's going to be my final retirement home. I'm a
2691 28-year Army veteran, and I work for the Department of Homeland Security now,
2692 which is a commute from Spotsylvania up to DC every day. I'm tired of doing
2693 that. I need a home with no stairs, and that's what I plan on putting on this
2694 location. For me and my elderly dogs. They don't like stairs either. So this was
2695 the perfect location, and it's nice, flat ground.
2696
2697 I have also gotten in contact with all the other residents on this road, introduced
2698 myself already. Starting to get to know them. And the niece of the property owner
2699 in front of me that is connected to Doran Road, is going to help me get in contact
2700 with her cousin that has been maintaining the road, so that I can start to get a
2701 covenant together for the maintenance of the road. So I am trying to be proactive
2702 so that we can take care of the road together and everybody pay their fair share.
2703 So I'm doing what I can to bring everybody together and work on the road.
2704
2705 Mr. Mackey - Are there any questions for Ms. Rosiere?
2706
2707 Ms. Harris - Ms. Rosiere, how did you learn about this property?
2708 You're not related to any of the family.
2709
2710 Ms. Rosiere - No, I'm not related to any of the family. When I began
2711 looking for a plot of land, I looked up in the Fredericksburg/Spotsylvania area,
2712 and none was available. I did find a small tract, and I was requiring an easement
2713 from somebody else, and I was negotiating that for about a month. The
2714 gentleman said no, and so I said fine. I started looking again, and this one just
2715 happened to come up when I put in the Richmond area. My daughter, who is 27,
2716 had lived down here for a little while, so Henrico looked fine. This one came up at
2717 the right time. I came and looked at it, and it was flat. I love that. I didn't have to
2718 do a whole lot as far as improving the land. I knew that I would have to do well
2719 and septic for it, which is not a big deal for me. I've lived in the country almost all
2720 of my life, so I knew what it entailed, and I knew the expenses. So I'm not getting
2721 into anything that is going to overwhelm me.
2722
2723 Ms. Harris - Okay, one other question. Have you seen the
2724 conditions?
2725
2726 Ms. Rosiere - Yes I have.
2727
2728 Ms. Harris - So you noticed that condition 5 requires you to get the
2729 permit to have legal access to the property. You knew that was required.
2730
2731 Ms. Rosiere - There is already access to the road, for the easement.

2732
2733 Ms. Harris - Yes. But do you have permission to use it?
2734
2735 Mr. Blankinship - Yes. We received a letter from an attorney just the
2736 other day on that subject.
2737
2738 Ms. Rosiere - Yes. In fact, I emailed it, but here's this.
2739
2740 Mr. Blankinship - That came after your packets were mailed.
2741
2742 Ms. Rosiere - Yes. I had my land lawyer draw up an opinion that
2743 shows from the original division of the property there was a 50-foot easement
2744 that goes all the way down to the furthest home. You'll see the confusion
2745 between a 30-foot easement and a 50-foot easement. My lawyer had drawn up
2746 the opinion that says both of those easements are still in effect, and I have rights
2747 to that road.
2748
2749 Ms. Harris - Okay, thank you.
2750
2751 Mr. Mackey - All right. Does anyone else have any questions for
2752 Ms. Rosiere? Thank you for your service, Ms. Rosiere.
2753
2754 Ms. Rosiere - Thank you.
2755
2756 Mr. Blankinship - And for your patience with us this morning.
2757
2758 Mr. Mackey - Is there anyone here who would like to speak in
2759 support of the application? Anyone who would like to speak in opposition? Okay.
2760
2761 That's our last case of the day, so I guess we'll move on to our motion portion.
2762
2763 Mr. Blankinship - As we're going through the motions, would you please
2764 bring up a photo of each site just to refresh the memories of which one we're
2765 talking about? There was one change on 35, which had to do with the fence, the
2766 very last condition. And then on variance 20, there was the change from 20 to 40
2767 feet of undisturbed buffer. And then on 21, which was deferred, there was also a
2768 change. But we didn't discuss it because the case was deferred.
2769
2770 Mr. Mackey - And 35 was the buffer?
2771
2772 Mr. Blankinship - Yes, the very last condition having to do with a fence
2773 that was required in 1972 that was never built.
2774
2775 Mr. Mackey - Okay. All right.

2776 [After the conclusion of the public hearings, the Board discussed the case
2777 and made its decision. This portion of the transcript is included here for
2778 convenience of reference.]

2779
2780 Mr. Mackey - What is the pleasure of the Board?
2781

2782 Ms. Harris - I move that we approve this variance. Variances have
2783 been granted on this property before, even though they were not followed
2784 through on. I think it would enhance the community for them to build another
2785 house. And there are only five houses on that common ground or that easement.
2786 I believe that this would be an asset to the neighborhood.

2787
2788 Mr. Green - Second.
2789

2790 Mr. Mackey - It's been moved by Ms. Harris and seconded by
2791 Mr. Green. Is there any discussion? I think this addition would be a good
2792 improvement to that portion of the County. I think it's a good idea to go ahead
2793 and grant this variance and allow it without the street frontage.
2794

2795 Mr. Green - I'd like to thank her for coming to Henrico and jumping
2796 all of those other counties.

2797
2798 Mr. Mackey - Absolutely.
2799

2800 Mr. Green - You could have come to Three Chopt.
2801

2802 Mr. Mackey - She said she was a country girl. All right. The motion
2803 is to approve VAR2017-00024. All in favor say aye. Those opposed say no.
2804 There is no opposition; that motion passes. The ayes have it 5 to 0.
2805

2806 After an advertised public hearing and on a motion by Ms. Harris, seconded by
2807 Mr. Green, the Board **approved** application **VAR2017-00024, SANDRA J.**
2808 **ROSIERE's** request for a variance from Section 24-9 of the County Code to build
2809 a one-family dwelling at 7490 Doran Road (Parcel 822-692-3483) zoned
2810 Agricultural District (A-1) (Varina). The Board approved the variance subject to
2811 the following conditions:

2812
2813 1. This variance applies only to the public street frontage requirement for one
2814 dwelling only. All other applicable regulations of the County Code shall remain in
2815 force.
2816

2817 2. Only the improvements shown on the plot plan and building design filed with
2818 the application may be constructed pursuant to this approval. Any additional
2819 improvements shall comply with the applicable regulations of the County Code.
2820 Any substantial changes or additions to the design or location of the
2821 improvements will require a new variance.

2822
2823 3. Approval of this request does not imply that a building permit will be issued.
2824 Building permit approval is contingent on Health Department requirements,
2825 including, but not limited to, soil evaluation for a septic drainfield and reserve
2826 area, and approval of a well location.

2827
2828 4. Before beginning any clearing, grading, or other land disturbing activity, the
2829 applicant shall submit an environmental compliance plan to the Department of
2830 Public Works.

2831
2832 5. The applicant shall present proof with the building permit application that a
2833 legal access to the property has been obtained. The driveway shall be improved
2834 with a durable asphalt or compacted gravel surface at least 10 feet wide with 12
2835 feet of horizontal clearance and 14 feet of overhead clearance to provide access
2836 for police, fire, emergency medical services, and other vehicles. The owners of
2837 the property, and their heirs or assigns, shall accept responsibility for maintaining
2838 access to the property.

2839
2840
2841 Affirmative: Bell, Green, Harris, Mackey, Reid 5
2842 Negative: 0
2843 Absent: 0

2844
2845
2846 Mr. Mackey - Next we will have the approval of the minutes from
2847 the October 26, 2017 meeting.

2848
2849 Ms. Harris - I move that the minutes be approved as presented.

2850
2851 Mr. Mackey - Is there a second?

2852
2853 Mr. Bell - Second.

2854
2855 Mr. Mackey - The motion that the minutes be approved as
2856 presented has been properly moved and seconded. All in favor say aye. Those
2857 opposed say no. The ayes have it 5 to 0.

2858
2859 On a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved as**
2860 **submitted the Minutes of the October 26, 2017**, Henrico County Board of
2861 Zoning Appeals meeting.

2862
2863
2864 Affirmative: Bell, Green, Harris, Mackey, Reid 5
2865 Negative: 0
2866 Absent: 0

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Mr. Mackey -

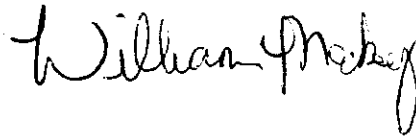
Is there any other business, Mr. Blankinship.

Mr. Blankinship -

No sir.

Mr. Mackey -
adjourned. Thank you.

Seeing as there is no more business, this meeting is



William M. Mackey
Chairman



Benjamin Blankinship, AICP
Secretary