

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY NOVEMBER 18, 2021 AT 9:00 A.M., NOTICE HAVING BEEN**
5 **PUBLISHED IN THE *RICHMOND TIMES-DISPATCH* NOVEMBER 1, 2021 AND**
6 **NOVEMBER 8, 2021.**

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

13
14 **Member Absent:** Terone B. Green, Chair

15
16 **Also Present:** Benjamin Blankinship, Secretary
17 Paul M. Gidley, County Planner
18 R. Miguel Madrigal, County Planner
19 Rosemary Deemer, County Planner
20 Kuronda Powell, Account Clerk
21

22
23 **Mr. Johnson -** Good morning and welcome to the November 18, 2021
24 meeting of the Henrico County Board of Zoning Appeals. For those who are able, will
25 you please stand and join us in the Pledge of Allegiance?

26
27 [Recitation of the Pledge of Allegiance]

28
29 Thank you. Mr. Blankinship, will you now read our rules?

30
31 **Mr. Blankinship -** Good morning, Mr. Chair, members of the Board, ladies and
32 gentleman. Thank you for joining us this morning. I would also like to welcome everyone
33 who is joining us remotely on Webex. If you wish to observe the meeting, but you do not
34 intend to speak, welcome and thank you for joining us.

35
36 For those of you on Webex who wish to speak, we need to know that in advance so we
37 can connect you at the appropriate time. If you are an applicant or if you have questions
38 or comments on one of the cases, please press the chat button now. It's located on the
39 bottom-right corner of the screen. And when a chat window opens, please select Kristen
40 Smith from the list of participants and let her know your name and which case you are
41 interested in.

42
43 So, acting as secretary, I will call each case and we will ask everyone in the room who
44 intends to speak to that case to stand and be sworn in. Then a member of the Planning
45 Department staff will give a brief presentation and then the applicant will speak and then
46 anyone else who wishes to speak will be given the opportunity.

47
48 We will hear from citizens in the room first, and then from those on Webex, if there is
49 anyone. After everyone has had a chance to speak, the applicant and only the applicant
50 will have an opportunity for rebuttal.

51
52 This meeting is being recorded, so we will ask everyone who speaks to speak directly
53 into the microphone at the podium in the back of the room there. State your name and
54 please spell your last name, so that we get it correctly in the record. Once your case is
55 over, you are free to leave. There's no need for you to remain for the rest of the meeting.

56
57 I should mention that, under the Code of Virginia, in order for the Board to rule in favor of
58 an applicant, there must be three affirmative votes. We have one member absent today.
59 So if anyone would like to defer your case until next month, that may increase your
60 chances of getting three votes in favor. If we do have a case that ends in a 2 to 2 tie, it
61 will automatically be deferred to next month. So that is the process when we have a
62 member absent.

63
64 And with that, Mr. Chair, would you like me to call the first case?

65
66 Mr. Johnson - Yes. Would you please call the first case.

67
68 Mr. Blankinship - All right. We have two conditional use permits on this
69 morning's agenda. The first is conditional use permit 2021, number 29, Paul Adam
70 Huggins.

71
72 **CUP2021-00029 PAUL ADAM HUGGINS** requests a conditional use permit pursuant to
73 Section 24-4406 of the County Code to allow an accessory dwelling unit at 5040 White
74 Oak Place (WHITE OAK HILLS) (Parcel 858-702-9664) zoned Agricultural District (A-1)
75 (Varina).

76
77 Mr. Blankinship - Would everyone who intends to speak to this case please
78 stand and be sworn in? Is there anyone here to represent number 29? Mr. Huggins. Is
79 there anyone on Webex to represent case number 29?

80
81 Ms. Deemer - We have no one on Webex.

82
83 Mr. Blankinship - Mr. Chair, can I suggest that we just pass over that case and
84 see if somebody shows up later?

85
86 Mr. Johnson - Yes. We'll pass over it and come back to it later.

87
88 Mr. Blankinship - Maybe they're stuck in traffic or something.

89
90 Mr. Johnson - Okay.

91

92 Mr. Blankinship - All right. In that case, the second conditional use permit is
93 2021, number 30, The Rebkee Company.

94
95 **CUP2021-00030 THE REBKEE COMPANY** requests a conditional use permit pursuant
96 to Section 24-4502.D of the County Code to deposit soil as fill material at 12120 W Broad
97 Street (Parcel 733-765-4819) zoned Agricultural District (A-1) (Three Chopt).

98
99 Mr. Blankinship - Is there anyone here to represent that case? Would you
100 please stand and raise your right hand? Whoever's going to speak. Raise your right
101 hand, please. Do you swear the testimony you're about to give is the truth, the whole
102 truth, and nothing but the truth so help you God? Thank you. Mr. Gidley, you can begin.

103
104 Mr. Gidley - Thank you Mr. Secretary and good morning Mr. Chair and
105 members of the Board. The subject property is located at the northwest corner of West
106 Broad Street and North Gayton Road across from Strange's Florist.

107
108 As you can see, it is currently wooded and undeveloped except for a former dwelling.
109 There is a pending request on this property to rezone it from A-1 Agricultural to R-6C
110 General Residence District and B-2C Business District. And this would allow for a mixed
111 commercial and residential development.

112
113 This is Broad Street at the bottom of your screen right here. And, as you can see here,
114 the land slopes down from West Broad Street pretty steeply to a creek that runs along the
115 center of the property. In order to have commercial development along West Broad
116 Street, they will need to raise this up. And that would allow them to have a level building
117 pad on the site.

118
119 Normally this is done after rezoning and site-plan approval. In this case, however, the
120 applicant is requesting permission to begin site work ahead of time. One of the reasons
121 for this is they have another project they're working on, and in that case, they need to
122 remove a lot of soil. And it just made sense that, you know, they could go ahead and
123 remove that soil and bring it to this site where they do need soil. It just seemed to work
124 out best that way. And so it just seemed a logical proposal in that sense.

125
126 In order to move forward, however, they do need approval of a conditional use permit.
127 And that's right there before you today.

128
129 And this is a picture of what it would look like. You can see they'll bring in soil here and
130 this will create a much more level building pad.

131
132 In evaluating this request, the proposed mixed-use development would be consistent with
133 the Land Use Plan and the surrounding development. As you can see, you have
134 Strange's across on West Broad. Lidl. Wegmans out here to the west. There's a bank
135 and a car dealership over to the east here. So it is commercial in the general area.

136

137 As for the public's health, safety, and welfare, in the event the development is approved
138 the site will ultimately need to be filled with soil in order to accommodate the proposed
139 development. This inevitably involves extensive activity at the site. By beginning to work
140 earlier in the project, there is a risk economic conditions could change which, you know,
141 could result in a delay in the development. If this happened, we could be left with a large
142 clear-cut area at an important intersection. So, to address this, staff has suggested
143 conditions to provide for the restoration of the site if the work is not completed by a specific
144 date.

145
146 In conclusion, there is a pending rezoning request on the site for future development. The
147 Planning Commission recently recommended approval of the commercial component
148 where the fill activity would occur. While site preparation normally occurs after plan
149 approval, the BZA can approve a conditional use permit for this activity.

150
151 As noted, the site will ultimately have to be filled to accommodate the future development,
152 and staff has proposed conditions to ensure the site is not left in an incomplete manner.

153
154 Accordingly, we can recommend approval of this request subject to the conditions in your
155 staff report. This concludes my presentation. If you have any questions, I will be happy
156 to answer them. Thank you.

157
158 Mr. Johnson - Any questions for the Board?

159
160 Mr. Reid - I just wondered how much fill is required, out of curiosity?

161
162 Mr. Gidley - Quite a bit. As far as specific numbers, I'll let the applicant
163 answer that.

164
165 Mr. Reid - And when does the Planning Commission meet to take that
166 up?

167
168 Mr. Gidley - The Planning Commission just met last week I believe it was.
169 They recommended approval of the commercial part, which would be up front here where
170 the fill would go. Further back here there's a residential case. And then the back of this
171 site has another residential rezoning case. And my understanding is they wanted those
172 two cases to be better coordinated.

173
174 Mr. Reid - Thank you.

175
176 Mr. Gidley - Yes, sir.

177
178 Mr. Bell - We know this is a long ongoing project. And I forget, but the
179 use permit is for about two years and then we'll be doing it again. How long do you think
180 they'll be working in this area for this lot of land and there's a lot of road?
181

182 Mr. Gidley - They will need to come in and, as I said, clear the site and
183 raise it up. And then, ultimately, going to go ahead and construct the project. As far as
184 a time horizon, I'm going to defer to the applicant on that. Our main concern was that,
185 you know, you don't want it cleared and, work started, and somehow the economy
186 changes. I mean, we were hit with COVID, so you never know what happens. And then
187 the site's left as an eyesore so to speak. So that's why we proposed a condition saying,
188 by x date if it's not clear --

189
190 Mr. Blankinship - I think we proposed one year. This is not a situation like you
191 sometimes see where this will be going on for years and years. They're going to clear
192 this site, fill it, and develop it. So by the time they would come in for a renewal there
193 should be a commercial development on the property.

194
195 Mr. Johnson - Any other questions?

196
197 Mr. Johnson - The development years about how long do they do that?

198
199 Mr. Blankinship - As I said, I think this will be done by, well, we'll have the
200 applicant confirm that.

201
202 Mr. Bell - Okay.

203
204 Mr. Blankinship - But, you know, certainly within two years we don't anticipate
205 that there would be a renewal of this use permit.

206
207 Mr. Johnson - Okay. Hearing no other questions from the Board, may the
208 applicant come and take the podium in the back?

209
210 Mr. McNeal - Good morning. My name is Brian McNeal, last name is
211 spelled M-c-N-e-a-l. I work for the Rebkee Company. I'm here with David Ellington, our
212 Civil Engineer; and Dan Hargett, a principal at Rebkee. We're here to answer any
213 questions that you might have.

214
215 The two that I heard was approximately how much fill will be coming to the site. It's
216 approximately 60,000 yards. There is quite a topography change as you move across
217 that site. So as you get closer to that Wegman's site it's pretty significantly lower than the
218 Gayton portion of the site.

219
220 And the timing of construction, our plan is to submit a Plan of Development for full
221 construction on this as soon as we get Board of Supervisor's approval. We anticipate
222 being on the December 14th Board of Supervisor's agenda for approval. And if I can get
223 David to start between December 14th and Christmas, I will. I'll beat January. And just
224 as soon as we get approval of that, we'll start construction.

225
226 So as was mentioned, all going well, we do anticipate getting started on construction
227 before there would be a need to redo this conditional use permit.

228
229 Mr. Blankinship - Is this speculative development, or do you have a client that
230 you're building for?
231

232 Mr. McNeal - No. We have a client that we're building for and that client is
233 actually the property owner. So that's a very good question and a very interesting point
234 for your consideration today. Is that there is no real-estate transaction that's pending on
235 the zoning. The current property owner is the tenant that will develop this and we're just
236 a fee-for-service developer for them.
237

238 Mr. Johnson - Okay. Any other questions? Is there any else -- anyone else
239 that's want to speak in favor of the -- of this? If not, is there anyone speaking in
240 opposition? None?
241

242 Mr. Blankinship - Is there anyone on Webex?
243

244 Ms. Deemer - No, sir. We have no one on Webex.
245

246 Mr. Johnson - Okay. If that's it, then the public hearing now is closed. Is
247 there a motion?
248

249 Mr. Reid - Mr. Chairman, I move we approve the conditional use permit
250 subject to the conditions recommended by staff. This is consistent with the
251 Comprehensive Plan. The owner is in the process of rezoning the property. The property
252 will be filled to prepare it for development, and it will not adversely affect health, safety,
253 or welfare.
254

255 Mr. Pollard - I'll second it.
256

257 Mr. Bell - I'll second the motion.
258

259 Mr. Johnson - It's been motioned by Mr. Reid and seconded by Mr. Pollard.
260 Is there any other discussion? If not, all voting for say yea. All opposed say no. Motion
261 passed. All four votes in favor.
262

263 On a motion by Mr. Reid, seconded by Mr. Pollard, the Board **approved** application
264 **CUP2021-00030 THE REBKEE COMPANY'S** request for a conditional use permit
265 pursuant to Section 24-4502.D of the County Code to deposit soil as fill material at 12120
266 W Broad Street (Parcel 733-765-4819) zoned Agricultural District (A-1) (Three Chopt).
267 The Board approved this request subject to the following conditions:
268

269 1. This conditional use permit authorizes the placement of fill material on the site as shown
270 on the "Broad and Gayton Early Land Disturbance Plan" by Kimley-Horn, dated
271 9/28/2021. (The plan may be amended during review and approval by Henrico County.)
272 All other applicable regulations of the County Code remain in force. Any substantial
273 changes to the plans will require a new conditional use permit.

- 274
275 2. Before beginning any clearing, grading, or other land disturbing activity, the applicant
276 must submit a financial guaranty in the amount of \$37,000 guaranteeing that the land will
277 be restored as shown on the Phase II Erosion and Sediment Control Plan. In the event of
278 termination of that financial guaranty, this permit will be void and excavation must cease.
279 Within 180 days of termination, the applicant must restore the land as provided above.
280 Termination of the financial guaranty will not relieve the applicant from the obligation to
281 indemnify the County of Henrico for any breach of the conditions of this use permit.
282
- 283 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant
284 must obtain approval of an environmental compliance plan from the Department of Public
285 Works.
286
- 287 4. Other than the two temporary entrances shown on the plans, there must be no land
288 disturbance within 35 feet of the right-of-way of West Broad Street or North Gayton Road
289 until a landscape plan is approved as part of any future development.
290
- 291 5. If filling and grading stops for a period longer than three months, the applicant must
292 grade the disturbed area of the site to a slope no steeper than 3:1 and establish
293 permanent vegetative cover on all disturbed land.
294
- 295 6. This conditional use permit will expire November 21, 2022.

296
297

298 Affirmative:	Bell, Johnson, Pollard, Reid	4
299 Negative:		0
300 Absent:	Green	1

301
302

303 Mr. Blankinship - All right. I have not seen anybody come into the room for the
304 other conditional use permit, so we'll continue on to the variances. There are three
305 variances on this morning's agenda. The first is variance 2021, number 28. This was
306 deferred from last month. Kenneth L. Sheffield.

307
308 **VAR2021-00028 KENNETH L. SHEFFIELD** requests a variance from Sections 24-
309 4306.E.1 and 24-6402.A.2 of the County Code to build a one-family dwelling at 104 S Elm
310 Avenue (HIGHLAND SPRINGS) (Parcel 821-724-3964) zoned One-Family Residence
311 District (R-4) (Varina). The lot width requirement and the public street frontage
312 requirement are not met. The applicant proposes 35 feet lot width and 35 feet public street
313 frontage, where the Code requires 50 feet lot width and 50 feet public street frontage. The
314 applicant requests a variance of 15 feet lot width and 15 feet public street frontage.

315
316 Mr. Blankinship - Would everyone who intends to speak to this case, please
317 stand and be sworn in. We are not off to a great start this morning. Okay. We'll pass
318 that one by as well, Mr. Chair.

319

320 Mr. Bell - It's close to the holidays.
321
322 Mr. Johnson - There's no one on Webex?
323
324 Mr. Blankinship - There is no one on Webex.
325
326 Mr. Johnson - Okay.
327
328 Mr. Blankinship - Scooting right along. Variance 2021, number 5, Liberty
329 Homes of Virginia, Incorporated.
330

331 **VAR2021-00005 LIBERTY HOMES OF VA, INC.** requests a variance from Section 24-
332 6402.A.2 of the County Code to build a one-family dwelling at 13 Masonic Lane
333 (WINDSOR PLACE) (Parcel 808-722-6901) zoned One-Family Residence District (R-4)
334 (Fairfield). The total lot area requirement is not met. The applicant proposes 5,000 square
335 feet lot area, where the Code requires 6,000 square feet lot area. The applicant requests
336 a variance of 1,000 square feet lot area.
337

338 Mr. Blankinship - Would everyone who intends to speak to this case please
339 stand and be sworn in? Raise your right hand, please. Do you swear the testimony
340 you're about to give is the truth, the whole truth, and nothing but the truth so help you
341 God? Thank you. Mr. Madrigal.
342

343 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board,
344 good morning, gentleman.
345

346 Mr. Johnson - Good morning.
347

348 Mr. Bell - Morning.
349

350 Mr. Madrigal - Before you is a request to construct a single-family dwelling
351 on a substandard lot located in a one-family zoning district.
352

353 The subject property is located mid-block on the east side of Masonic Lane between Nine
354 Mile Road and First Street. It consists of two 25-foot-wide lots that are part of the Windsor
355 Place Subdivision recorded in 1921.
356

357 The property is vacant and contains a portion of an asphalt driveway serving the adjacent
358 home at 50 Masonic Lane. And you can see the portion of the driveway here in the photo.
359 The subject parcel is located on the block face consisting of six other properties fronting
360 on Masonic Lane. Of these four are 50-foot-wide. And the remaining two are 75 to 100-
361 feet-wide.
362

363 As you can see here, the subject lot is located between the two wider lots. The corner lot
364 at First Street and Masonic Lane was granted a variance for a substandard lot width, and

365 lot area, last year. And obtained a building permit to construct a 2-story, 1,400-square-
366 foot home. And you can see the somewhat finished product here on the screen.

367
368 All of the other lots are improved with single-family dwellings built in the late '30s and
369 early '40s.

370
371 In June 1958 Mr. and Mrs. Blackwell purchased the house at 50 Masonic Lane. A few
372 years later, in '63, they acquired 13 Masonic Lane. Mr. Blackwell passed away in '75. In
373 '84 Ms. Blackwell sold 13 Masonic Lane to her son, Robert. Two years later, in '86, she
374 sold her home at 50 Masonic Lane. Her son has entered into a contract to sell 13 Masonic
375 Lane to Liberty Homes. They would like to build a 2-story, 1,400-square-foot home, on
376 the subject property.

377
378 With respect to the threshold question, the applicant has met two of the three items for a
379 variance. As a result, this variance can be approved by the Board if it finds that the
380 applicant meets all five of the required subtests. Relative to these tests, the applicant's
381 request appears to satisfy all five items that's outlined in the staff report. As such, this
382 case meets all legal requirements for the granting of a variance. Absent of variance the
383 property cannot be developed. And this would constitute an unreasonable restriction on
384 the utilization of the property approaching a taking.

385
386 In addition, the lot was platted in 1921 prior to the County's adoption of a zoning
387 ordinance. The lack of lot area is a hardship that existed at the time of the adoption of
388 the first ordinance, and subsequent amendments. The property owner and applicant did
389 not contribute to the hardship situation and the development of property would not result
390 in a detrimental impact to adjacent and nearby property.

391
392 Based on these facts, staff recommends approval of this request subject to conditions.
393 The applicant has submitted an alternate house plan just to ensure that the house will fit
394 on the lot within required setbacks. He handed that to me this morning and I've given it
395 to you -- the secretary -- so -- for you all to see.

396
397 If you have any questions, I'll be happy to answer them.

398
399 Mr. Johnson - Oh. There we go.

400
401 Mr. Madrigal - The house width on that is a couple feet narrower than the
402 original proposal. So it can fit on the lot. So it's just an alternate in case the original plan
403 falls short.

404
405 Mr. Bell - That's the part? Okay.

406
407 Mr. Blankinship - It's very similar.

408
409 Mr. Johnson - Okay. Are there any other questions from the Board? No
410 questions from the Board?

411
412 Mr. Pollard - The applicant.
413
414 Mr. Johnson - Yes. Any applicant? We will hear from you.
415
416 Mr. Rempe - Good morning, Mr. Chairman, Board Members, and staff. My
417 name is Mark Rempe. We'd like to thank staff for their time on the application and the
418 work on the application. We concur with the staff's findings that the tests had been met
419 on the variance. We agree to the conditions set forth in the application and we'd like the
420 Board to move to approve the variance.
421
422 Mr. Johnson - I like the way they have been working with the Board as well.
423 And that seems real great.
424
425 Mr. Pollard - Questions.
426
427 Mr. Johnson - Any questions for the applicant? No other questions? Are
428 there any opposed to the --
429
430 Mr. Pollard - Anyone to speak in favor?
431
432 Mr. Johnson - None in favor? None?
433
434 Mr. Pollard - None to speak in favor? I don't see any but should be all right.
435
436 Mr. Johnson - Yeah.
437
438 Mr. Pollard - Anybody to speak against?
439
440 Mr. Blankinship - And there is still no one on Webex?
441
442 Ms. Deemer - That is correct.
443
444 Mr. Johnson - Okay.
445
446 Mr. Pollard - And I neglected to ask the applicant. I'm sorry. I'm jumping
447 out of order. But you are familiar with the conditions and agree with all of them?
448
449 Mr. Rempe - Yes, sir.
450
451 Mr. Pollard - I move that we approve the variance subject to the conditions
452 recommended by the staff. There is no other reasonable use for the property without the
453 variance. The lot was platted in 1921. Before the county adopted the zoning ordinance.
454 There was no detrimental impact because the houses on both sides on both sides are
455 located farther away from this lot. And the other tests are met as the staff indicated. And
456 so I move that we approve this variance.

457
 458 Mr. Johnson - It's been motioned by Mr. Pollard.
 459
 460 Mr. Bell - I move that Mr. Pollard's recommendation is approved.
 461
 462 Mr. Johnson - Okay. It's been seconded by Mr. Bell. Any other discussion?
 463 All in favor, aye? All opposed say nay. Approved.
 464
 465 Mr. Pollard - Ayes have it.
 466
 467 Mr. Johnson - The ayes have it.
 468

469 On a motion by Mr. Pollard, seconded by Mr. Bell, the Board **approved** application
 470 **VAR2021-00005 LIBERTY HOMES OF VA, INC.'s** request for a variance from Section
 471 24-6402.A.2 of the County Code to build a one-family dwelling at 13 Masonic Lane
 472 (WINDSOR PLACE) (Parcel 808-722-6901) zoned One-Family Residence District (R-4)
 473 (Fairfield). The Board approved this request subject to the following conditions:
 474

- 475 1. This variance applies only to the minimum lot area requirement for one dwelling only.
 476 All other applicable regulations of the County Code remain in force.
 477
- 478 2. This variance applies only to the improvements shown on the plot plan and building
 479 design filed with the application as amended by these conditions. Any additional
 480 improvements must comply with the applicable regulations of the County Code. Any
 481 substantial changes or additions to the design or location of the improvements will require
 482 a new variance.
 483
- 484 3. The front setback must be 35-36 feet. A front porch may project up to eight feet into
 485 the front yard setback subject to Table 8308 of the Zoning Ordinance.
 486
- 487 4. Any dwelling on the property must be served by public water and sewer.
 488
- 489 5. Prior to requesting a certificate of occupancy, the applicant must improve the property's
 490 frontage of Masonic Lane to the satisfaction of the Department of Public Works, including
 491 curb and gutter and necessary storm drainage improvements.
 492
- 493 6. The applicant must obtain a building permit for the proposed dwelling by November 20,
 494 2023, or this variance will expire. After that date, if the building permit is cancelled or
 495 revoked due to failure to diligently pursue construction, this variance will expire at that
 496 time.
 497

498
 499 **Affirmative:** Bell, Johnson, Pollard, Reid 4
 500 **Negative:** 0
 501 **Absent:** Green 1
 502

503
504 Mr. Blankinship - All right. The last case before we go back to catch the ones
505 we have passed over is variance 2021, number 31, East Coast Realty Investments, LLC.

506
507 **VAR2021-00031 EAST COAST REALTY INVESTMENTS, LLC** requests a variance from
508 Sections 24-3105.G.1, 24-4306.E.1 and 24-6402.A.2 of the County Code to build a one-
509 family dwelling at 48 Loudon Street (PROVIDENCE PARK ANNEX) (Parcel 792-737-
510 7641) zoned General Residence District (R-5) (Fairfield). The front yard setback, public
511 street frontage requirement, lot width requirement and total lot area requirement are not
512 met. The applicant proposes 14 feet front yard setback, 35 feet public street frontage, 35
513 feet lot width and 3,620 square feet lot area, where the Code requires 35 feet front yard
514 setback, 50 feet public street frontage, 50 feet lot width and 6,000 square feet lot area.
515 The applicant requests a variance of 21 feet front yard setback, 15 feet public street
516 frontage, 15 feet lot width and 2,380 square feet lot area.

517
518 Mr. Blankinship - Would everyone who intends to speak to this case, please
519 stand and be sworn in? Raise your right hand, please. Do you swear the testimony
520 you're about to give is the truth, the whole truth, and nothing but the truth so help you
521 God? Thank you. Mr. Gidley.

522
523 Mr. Gidley - Thank you, Mr. Secretary, the subject property is located just
524 south of the Richmond Raceway in the Providence Park Annex Subdivision. This
525 subdivision was recorded back in 1916, which is prior to the adoption of the first zoning
526 ordinance in Henrico County, which was in 1933.

527
528 As you can see here, the eastern side of Loudon Street consists of 12 lots, each of which
529 is only 35 feet in width. With one exception all of the home on this side of the street are
530 each located on one lot. The homes across the street are in another subdivision, actually,
531 and they back up on Loudon Street but front on Conway Street.

532
533 As far as the east side of the street where the property is located, a dwelling was
534 constructed on the property back in 1937. In 1988 it burned down, however, and since
535 this time, the lot has been vacant.

536
537 An investment firm recently acquired the property and would like to place a home on it.
538 Due to the small size of the lot, however, variances are needed for the lot area, lot width,
539 public street frontage, and front-yard setback.

540
541 On the latter one, specifically, they are requesting permission to locate the home in line
542 with the other homes on the block. Normally you'd have a 35-foot front-yard setback.
543 But, as you can see here, these two adjacent homes are located much closer to the street,
544 so they are proposing a front-yard variance just to bring it in line with those homes.

545
546 And you see the main dwelling here. A front porch right here. And the steps coming off
547 the front porch as well.

548

549 It's somewhat similar to a case we had, I believe it's off Horsepen, maybe five or six
550 months ago where they were doing infill development and wanted to be even with the
551 existing homes.

552
553 As far as reviewing this request, as you know, one of the three threshold tests must be
554 met. Staff believes two are met in this case. First, due to the small lot, there is no ability
555 to make use of it. So there is no reasonable beneficial use of the property. Both of the
556 adjacent lots are built on, so the applicant cannot acquire additional land from any of
557 those lots. So they're really left with a variance as their only option.

558
559 Second, as noted, the lot was created prior to the first zoning ordinance. And even once
560 that was adopted, it was still a buildable lot until the adoption of dimensional standards in
561 1945, which rendered the lot no longer buildable. As a result, there is a physical hardship
562 relating to the property that existed prior to the effective date of the zoning ordinance.

563
564 Moving on to the five subtests, all five need to be met. As noted in your staff report, staff
565 believes those are met. Looking briefly at detrimental impact, normally building on a lot
566 this small would be a concern. But, again, the lots on this side of the street, that's how
567 they developed. So this is really just a continuation of that developmental pattern. In
568 addition, a new home would provide needed investment in this community and would be
569 a benefit in that regard as well.

570
571 So staff believes the threshold tests are met along with the five required subtests.

572
573 So, in conclusion, absent of variance a home may not be constructed on the property,
574 leaving it with no reasonable use. Which could constitute a regulatory taking. In addition,
575 the lot was platted prior to the first zoning ordinance so, as noted, this is a condition that
576 existed prior to the adoption of the ordinance. All five subtests are met. Accordingly, staff
577 recommends approval of this request subject to the conditions in your staff report.

578
579 If you have any questions, I will be happy to answer those. Thank you.

580
581 Mr. Johnson - Any questions of the Board?

582
583 Mr. Bell - Real quickly, has there been any complaints that you know
584 of?

585
586 Mr. Gidley - No, sir. I have not heard anything.

587
588 Mr. Johnson - And this seemed to be consistent with the surrounding homes
589 as well.

590
591 Mr. Gidley - Yes, sir. This is looking south the next three homes. As you
592 can see, they are all built close together and up towards the street. And then the
593 elevations -- there would be a second floor up here and that would be different with the

594 ones to the south. The home on the left -- well, that's one floor, too. So that's a little bit
595 of a difference here.

596
597 Mr. Blankinship - But you have that similar look in the front porch there.

598
599 Mr. Gidley - Yes. And the area hasn't had a lot of investment, so having
600 someone come and wanting to build a new home, I think, overall that would be a positive
601 for the community having new money come in.

602
603 Mr. Johnson - Okay. No other questions. We'll now hear from the applicant.

604
605 Mr. Blankinship - Come around. Tell us your name, please.

606
607 Mr. Juiz - First name is Dimas, last name is Juiz, J-u-i-z.

608
609 Mr. Blankinship - Thank you. And can you just give a brief explanation of how
610 you came to find this lot and why you're building on it?

611
612 Mr. Juiz - Yes, sir. We are a small development company in Richmond.
613 We go to different counties buying building lots to mostly do affordable housing. We did
614 in Richmond, and we looked in Chesterfield. And in Richmond we came to the Board to
615 ask the kind of same situation and we worked on Manchester with the same kind of
616 situation Manchester.

617
618 And we had this feedback, too, from the community. The way we seek the housing so I
619 can match the architecture and whatnot. Everybody was so happy with it. So we feel
620 that we can do the same thing in Henrico.

621
622 And we come across this lot three or four months ago. And when we think that it will give
623 an opportunity to do some good deed to the community, it's that then street. And I think
624 every time we come in and put a brand-new house it brings value to that neighborhood.
625 To that block. That happened in Manchester. Now everybody look into Manchester now
626 because we did one. And now we work another two and the value of the property just
627 went up because of that. So we are happy with that result and same time we keep the
628 affordable housing so people can actually buy it.

629
630 Mr. Johnson - That's good. Are there any other questions for the applicant?

631
632 Mr. Reid - I'm just curious. And so you don't have a buyer yet for the
633 property?

634
635 Mr. Juiz - Correct. But as soon as we did for Manchester, for example,
636 as soon as we put -- we got the plans approved, we put it on the market, we got a buyer.
637 Because people got interest in getting new house for the same kind of price for an old
638 house. And people trying -- looking for inclusion in different areas. I was shocked to see
639 that when we proposed that in the Manchester area, we've got a lot of good feedback and

640 people was willing to move out of the county into the city. So we were shocked to see
641 that, but it happened. So that was a good feedback we had from them.

642
643 Mr. Pollard - Yeah. Affordable housing has gotten scarce.

644
645 Mr. Blankinship - You won't have any trouble selling it. I'm pretty confident.

646
647 Mr. Juiz - The house plan, we make to be functional. Roofs are
648 functional. A good-sized house. And not huge to not match the surround housing. So if
649 you look at our house plan, it looks like a one-floor house, but it's actually a two-floor
650 house.

651
652 Mr. Pollard - Thank you.

653
654 Mr. Johnson - Okay. Are there any other questions? If not, does anyone
655 want to speak in opposition on the Webex?

656
657 Mr. Blankinship - Is there anyone on Webex?

658
659 Ms. Deemer - No. We have no one on Webex.

660
661 Mr. Johnson - Okay. Thank you, sir.

662
663 Mr. Juiz - Thank you.

664
665 Mr. Johnson - The public hearing is now closed and a motion would be in
666 order. What is the pleasure of the Board?

667
668 Mr. Pollard - I move that we approve the variance subject to the conditions
669 recommended by the staff. There is no other reasonable use for the property without the
670 variance. The lot was platted in 1916 before the county adopted a zoning ordinance. The
671 lot is the same size as the others on Loudon Street. The house will be consistent with
672 the development pattern. And the other tests are met, as stated in the staff report.

673
674 Mr. Johnson - There's a motion by Mr. Pollard.

675
676 Mr. Reid - Second.

677
678 Mr. Johnson - And seconded by Mr. Reid. Is there any other discussion? If
679 not, all in favor vote yea. All opposed nay. Motion passed with four yeas.

680
681 On a motion by Mr. Pollard, seconded by Mr. Reid, the Board **approved** application
682 **VAR2021-00031 EAST COAST REALTY INVESTMENTS, LLC's** request for a variance
683 from Sections 24-3105.G.1, 24-4306.E.1 and 24-6402.A.2 of the County Code to build a
684 one-family dwelling at 48 Loudon Street (PROVIDENCE PARK ANNEX) (Parcel 792-737-

685 7641) zoned General Residence District (R-5) (Fairfield). The Board approved this
686 request subject to the following conditions:

687
688 1. This variance applies only to the lot area, lot width, public street frontage, and minimum
689 front yard setback requirements for one dwelling only. All other applicable regulations of
690 the County Code remain in force.

691
692 2. This variance applies only to the plot plan by Frederick A. Gibson & Associates, P.C.
693 revised October 14, 2021 (Project #2109-07 PL) and building design titled "48 Loudon
694 St." by River Mill Development dated 10-13-2021. Any additional improvements must
695 comply with the applicable regulations of the County Code. Any substantial changes or
696 additions to the design or location of the improvements will require a new variance.

697
698 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must
699 obtain approval of an environmental compliance plan from the Department of Public
700 Works.

701
702 4. Any dwelling on the property must be served by public water and sewer.

703
704 5. The applicant must obtain a building permit for the proposed dwelling by November 20,
705 2023, or this variance will expire. After that date, if the building permit is cancelled or
706 revoked due to failure to diligently pursue construction, this variance will expire at that
707 time.

708
709

710 Affirmative:	Bell, Johnson, Pollard, Reid	4
711 Negative:		0
712 Absent:	Green	1

713
714

715 Mr. Blankinship - All right, Mr. Chair, no one has come into the room and no one
716 has joined us on Webex, so I presume we are not going to have an applicant for 29 --
717 Conditional Use Permit 29.

718
719 **CUP2021-00029 PAUL ADAM HUGGINS** requests a conditional use permit pursuant to
720 Section 24-4406 of the County Code to allow an accessory dwelling unit at 5040 White
721 Oak Place (WHITE OAK HILLS) (Parcel 858-702-9664) zoned Agricultural District (A-1)
722 (Varina).

723
724 Mr. Blankinship - This was the first time that that has been advertised for public
725 hearing, and we have no idea why the applicant is not here. So my recommendation to
726 you would be to defer that to next month's meeting.

727
728 Mr. Johnson - Okay. I would motion that we would defer this one to next
729 month's meeting. That's applicant 29. Do you --

730

731 Mr. Pollard - Yes. I'll second the motion.
 732
 733 Mr. Johnson - It's been motioned and is there a second?
 734
 735 Mr. Blankinship - Mr. Pollard seconded. You made the motion. Mr. Pollard
 736 seconded.
 737
 738 Mr. Johnson - Okay. Thank you. All in favor. All opposed. It's in the positive.
 739

740 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **deferred** application
 741 **CUP2021-00029 PAUL ADAM HUGGINS's** request for a conditional use permit until the
 742 December 16, 2021 public hearing.
 743

745	Affirmative:	Bell, Johnson, Pollard, Reid	4
746	Negative:		0
747	Absent:	Green	1

748
 749
 750 Mr. Blankinship - The other case, Mr. Chair, is a little different. It's variance
 751 2021, number 28.
 752

753 **VAR2021-00028 KENNETH L. SHEFFIELD** requests a variance from Sections 24-
 754 4306.E.1 and 24-6402.A.2 of the County Code to build a one-family dwelling at 104 S Elm
 755 Avenue (HIGHLAND SPRINGS) (Parcel 821-724-3964) zoned One-Family Residence
 756 District (R-4) (Varina). The lot with requirement and the public street frontage requirement
 757 are not met. The applicant proposes 35 feet lot width and 35 feet public street frontage,
 758 where the Code requires 50 feet lot width and 50 feet public street frontage. The applicant
 759 requests a variance of 15 feet lot width and 15 feet public street frontage.
 760

761 Mr. Blankinship - There are two differences. One is that that was deferred
 762 already from last month.
 763

764 Mr. Johnson - Right.
 765

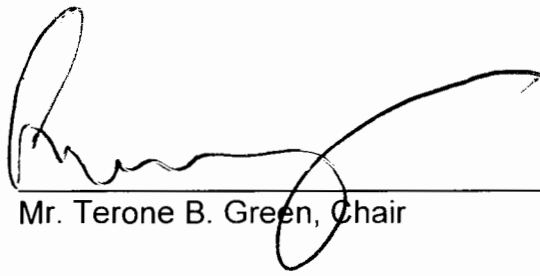
766 Mr. Blankinship - And the statute provides that we're required to act on a case
 767 within 90 days unless the applicant requests that we take longer. We have not had a
 768 request from the applicant to defer. We thought we might have a request from the
 769 applicant to withdraw this case. Because, as was stated in the staff report, some new
 770 information was discovered as we were, you know, continuing to research. And it's really
 771 almost a case where you don't have any authority to act because it's really a subdivision
 772 issue rather than a zoning issue. So my suggestion would be that you go ahead and put
 773 this one out of its misery with an action to deny rather than carry it on another month.
 774

775 Mr. Pollard - Which one is this?
 776

777 Mr. Blankinship - This is 28. Variance number 28, Kenneth L. Sheffield.
778
779 Mr. Johnson - Yes. This is the second time it came up, and we didn't have -
780 - they wasn't present at that time as well. And, also, there is several things that conflict
781 as well. And you didn't ever get anything from the lawyers that you asked questions for
782 either.
783
784 Mr. Blankinship - That is correct.
785
786 Mr. Johnson - I would make a motion that we deny this request.
787
788 Mr. Bell - I second the motion.
789
790 Mr. Johnson - It's been motioned and seconded. All in favor say yea. All
791 opposed nay. No opposed. It's all in the positive. Thank you.
792
793 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **denied** application
794 **VAR2021-00028 KENNETH L. SHEFFIELD's** request for a variance from Sections 24-
795 4306.E.1 and 24-6402.A.2 of the County Code to build a one-family dwelling at 104 S Elm
796 Avenue (HIGHLAND SPRINGS) (Parcel 821-724-3964) zoned One-Family Residence
797 District (R-4) (Varina).
798
799
800 **Affirmative:** Bell, Johnson, Pollard, Reid 4
801 **Negative:** 0
802 **Absent:** Green 1
803
804
805 Mr. Blankinship - We did distribute minutes for the October meeting.
806
807 Mr. Johnson - And we have the minutes for October 18, 2021 minutes. Has
808 everybody had a chance to look through them?
809
810 Mr. Reid - Yes. Move to approve.
811
812 Mr. Pollard - Second.
813
814 Mr. Johnson - Moved by Mr. Reid, second by Mr. Pollard. All in favor say
815 aye. All opposed say no. The minutes are approved.
816
817
818 **Affirmative:** Bell, Johnson, Pollard, Reid 4
819 **Negative:** 0
820 **Absent:** Green 1
821
822

823 Mr. Blankinship - All right. Thank you, Mr. Chair.
 824
 825 Mr. Johnson - Thank you, Mr. President.
 826
 827 Mr. Blankinship - Mr. Chair, there's actually no new business, but I did want to
 828 remind you. I mentioned this last month, but it is now official. This room will be under
 829 construction at the time of our December meeting.
 830
 831 Mr. Johnson - Yes.
 832
 833 Mr. Blankinship - So we'll be meeting at the Newbridge Learning Center on Nine
 834 Mile Road in Highland Springs. I gave you a printout of an email that has the address.
 835 You have any other questions about that, please let me know.
 836
 837 Mr. Pollard - All right. Motion to adjourn.
 838
 839 Mr. Johnson - And that will be at the normal time as well?
 840
 841 Mr. Blankinship - Our normal 9:00 meeting.
 842
 843 Mr. Johnson - Okay. Thank you. Motion that the Board --
 844
 845 Mr. Pollard - I motion that we adjourn.
 846
 847 Mr. Johnson - Second. Motion seconded. All in favor.
 848
 849
 850 **Affirmative: Bell, Johnson, Pollard, Reid 4**
 851 **Negative: 0**
 852 **Absent: Green 1**

853
 854
 855 Mr. Johnson - All right.
 856



 Mr. Terone B. Green, Chair



 Mr. Benjamin W. Blankinship, Secretary