

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 SEPTEMBER 23, 2021 AT 9:00 A.M., NOTICE HAVING BEEN**  
5 **PUBLISHED IN THE *RICHMOND TIMES-DISPATCH* SEPTEMBER 7, 2021 AND**  
6 **SEPTEMBER 13, 2021.**

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

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

21  
22  
23 Mr. Green - Welcome to the Thursday, September 23, 2021 Board of  
24 Zoning Appeals meeting. For those of you who are able to, please stand and join us in  
25 the Pledge of Allegiance.

26  
27 [Recitation of the Pledge of Allegiance]

28  
29 I will turn over the rest of the instructions to Mr. Blankinship who will now read our new  
30 rules. But one thing that you need to recognize is that once your case is heard, we vote.  
31 And once we vote that doesn't necessarily require you to stay around because in prior  
32 years individuals had to wait till the end and we voted as of law. We changed that. And  
33 we typically will take a 5-minute break at 10:00 a.m.

34  
35 Mr. Blankinship - All right. Good morning, Mr. Chair, members of the Board.  
36 Good morning also to those of you who are in the room with us today. There're also two  
37 remote options for participating in this meeting. There's a livestream on the Planning  
38 Department webpage, and we are hosting a video conference using Webex. I'd like to  
39 welcome everyone who is joining us remotely. If you wish to observe the meeting, but  
40 you do not intend to speak, welcome and thank you for joining us.

41  
42 For those of you on Webex, if you wish to speak, we need to know that in advance so we  
43 can connect you at the appropriate time. So if you are an applicant or if you have  
44 questions or comments on one of the cases, please press the chat button now. It's  
45 located in the bottom-right corner of the screen. And when the chat window opens, please

46 select Kristin Smith from the list of participants and let her know your name and which  
47 case you're interested in.

48  
49 The chat feature is only the thing used to identify speakers, so please do not type  
50 questions or comments into a chat, but please do send a chat to Kristin Smith now so we  
51 can organize the queue.

52  
53 So acting as secretary I will call each case. We will ask everyone in the room to stand  
54 and be sworn in. There are four conditional use permits and one appeal on this morning's  
55 agenda. For the conditional use permits a member of the Planning Department staff will  
56 give a brief presentation, then the applicant will speak, then anyone else who wishes to  
57 speak will be given the opportunity.

58  
59 We'll hear first from citizens in the room and then from those on Webex. After everyone  
60 has had a chance to speak, the applicant and only the applicant will have an opportunity  
61 for rebuttal.

62  
63 When we come to the appeal, that's a slightly different procedure for that case and the  
64 Assistant County Attorney will speak on behalf of the Planning Director and then the  
65 appellant will present their case. Each side will have a limit of 10 minutes, then anyone  
66 else who wishes to speak will be given the opportunity and everyone else other than the  
67 County Attorney and the appellant will have a time limit of three minutes. And, again, we  
68 will hear from citizens in the room first and then from those on Webex.

69  
70 This meeting is being recorded, so we will ask everyone who speaks to speak directly  
71 into the microphone on the podium in the back of the room there. We'll ask you to state  
72 your name and please spell your last name so we get it correctly in the record.

73  
74 And we have all five members, so I believe we are ready to call the first case.

75  
76 Mr. Green - Okay. Prior to that, I'd like to share with everyone this booklet  
77 that was given out by the Planning staff of certain changes that were adopted by the  
78 Board of Supervisors on June 22, 2021, which became effective September 1, 2021 that  
79 changed some of our authority and expanded some authority.

80  
81 I'm sure this is available on a website for those individuals who might want to see it.  
82 Typically, on some of the cases we had been a little more receptive, however, under the  
83 current rules now we have to be a little bit more stringent in how we look at them. And  
84 it's not reflection off of your case, but we're a body that follows the rules and Mr. Bell will  
85 certainly make sure we do that. So, we will now hear our first case.

86  
87 Mr. Blankinship - All right. That is conditional use permit 2021 number 12  
88 Greater Richmond Aquatics Partnership.

89  
90 **CUP2021-00012                    GREATER RICHMOND AQUATICS PARTNERSHIP**  
91 requests a conditional use permit pursuant to Section 24-4205 of the County Code to

92 expand a noncommercial recreation facility at 317 N Wilkinson Road (Parcel 792-753-  
93 8870) zoned One-Family Residence District (R-2A) (Fairfield).

94  
95 Mr. Blankinship - Mr. Madrigal, you can begin.

96  
97 Mr. Madrigal - Thank you, Mr. Secretary. Good morning, gentleman.

98  
99 The Commission - Good morning.

100  
101 Mr. Madrigal - Before you is a request to expand a non-commercial and  
102 recreational facility located in a one-family neighborhood. This is a returning case that  
103 was deferred from your May hearing. The subject property fronts on North Wilkinson  
104 Road near its intersection with Wilkinson Road. The Board originally approved a CUP for  
105 this facility in 1958. Since then several other use permits have been approved expanding  
106 the use of the property.

107  
108 The existing pools and recreation facility have served the neighborhood for 60 years and,  
109 like many other community pools, the demographics, use patterns, and economics no  
110 longer support the previous model of neighborhood families exclusively supporting and  
111 using a facility within the limited timeframe.

112  
113 Despite the volunteer board's best efforts, membership has diminished and the financials  
114 have fallen short year-over-year to the point that the facility has fallen into disrepair. As  
115 a way to rejuvenate and maintain the facility, the property owner intends to lease the  
116 property to Swim RVA, a non-profit organization that promotes health and fitness, water  
117 safety, sports tourism, and competitive swimming.

118  
119 Their plan includes replacing the existing 11,000-square-foot building with a new structure  
120 twice as large. The existing pools would be enclosed with temporary tents and heaters  
121 to support year-round use. The parking lot would be redesigned to improve traffic flow  
122 without reducing on-site parking.

123  
124 In addition to the physical improvements, Swim RVA intends to offer a year-round  
125 programming to include senior aerobics, swim lessons, and lifeguard training. The hours  
126 of operation would be expanded from or to 5:00 a.m. to 9:00 p.m. for outdoor activities  
127 and 5:00 a.m. to 11:00 p.m. for indoor activities.

128  
129 Swim team activities would continue up to six times a year. The hours of operation would  
130 be extended to midnight to accommodate swim meets. In March, the applicant held a  
131 virtual community meeting to inform the neighbors of their proposal. After the meeting,  
132 the county received 15 emails in support of this request and two in opposition. Almost all  
133 the support came from members of the recreation association. The opposition came from  
134 the president of the North Henrico Civic Association and one of the immediate neighbors  
135 adjoining the property.

137 In response to these concerns, the applicant decided to operate the pool in its traditional  
138 format from Memorial Day to Labor Day and resume their project after the end of this  
139 year's season.

140  
141 With respect to the evaluation, staff has found the applicant's request to be consistent  
142 with both the zoning and comprehensive plan designations, especially since this use has  
143 been an integral part of the neighborhood for 60 years. Expansion of the facility's  
144 programing to year-round use will be a significant departure from past practice.

145  
146 While enclosing the pools will enable year-round activity, it significantly increases the  
147 intensity of the use and impacts the community even though it is technically in compliance  
148 with the original conditions.

149  
150 The early-morning hours would be another considerable impact on the neighborhood,  
151 deviating from their traditional hours of 8:00 a.m. to 10:30 p.m. Although the original CUP  
152 did not limit the pool hours, it would be unusual for a neighborhood pool to open earlier  
153 than 8:00 a.m. Their proposal to begin operations at 5:00 a.m. is a substantial deviation  
154 from their standard operations.

155  
156 Consequently, staff recommends a start time of 7:00 a.m., which would be consistent with  
157 the county's noise ordinance and a closing time of 9:00 p.m. for outdoor activities and  
158 11:00 p.m. for indoor activities. This would lessen the pool's impact from staff's  
159 perspective. Based on the virtual community meeting held in March, the president of the  
160 North Henrico Civic Association and an adjacent neighbor expressed concerns with the  
161 proposed year-round activity, early-morning hours, and increased traffic and noise.

162  
163 The applicant has been in communication with these folks and staff is hopeful these  
164 issues have been resolved. With respect to the 15 emails of support, only five included  
165 their home addresses. Staff has not been able to verify if the immediate neighbors are  
166 among the 10 remaining messages. Instead, they appear to be general members of the  
167 aquatic association.

168  
169 When assessing the adverse impacts of this proposal, a significant issue of concern is  
170 traffic. The applicant has proposed an additional site entrance off of Wilkinson Road.  
171 Based on the comments from reviewing agencies, no objections have been raised relative  
172 to adding the second entrance, while there have been comments relative to the design.

173  
174 As a result, staff has revised the suggested conditions of approval to allow a second  
175 entrance subject to the review and approval of respective county agencies.

176  
177 In conclusion, this recreation facility has served the community for 60 years, but changing  
178 demographics and economics threaten its continued existence. Swim RVA proposes to  
179 substantially improve the facilities and significantly expand the operations. This concept  
180 will keep the community pool viable but would also intensify the use by adding year-round  
181 activities, early-morning hours, and traffic implications.

182

183 If the applicant can achieve consensus with the neighbors on these issues, it would render  
184 the use compatible with the neighborhood, and staff would have no concerns  
185 recommending approval subject to conditions. Yesterday in the late afternoon staff did  
186 amass about five emails of support and four in opposition, plus a petition with 33  
187 signatures was submitted, and we provided a copy to you all of those signatures. That  
188 concludes my presentation and I'll try to answer questions if I can.

189  
190 Mr. Green - Thank you. Are there any questions from the Board to staff?  
191 Thank you.

192  
193 Mr. Madrigal - Thank you.

194  
195 Mr. Blankinship - Mr. Chair, I failed to follow my own instructions earlier. Would  
196 everyone who intends to speak to this case please stand and be sworn in? Nobody else  
197 is for this? All right. Do you swear the testimony you're about to give is the truth, the  
198 whole truth, and nothing but the truth so help you God? Thank you. All right. If you can  
199 give us your presentation.

200  
201 Mr. Geiger - Mr. Chairman, members of the Board, Secretary Blankinship,  
202 my name is Jeff Geiger here on behalf of Swim RVA the applicant of this conditional use  
203 permit.

204  
205 As staff indicated, we received a copy of the petition last night at 8:00 p.m. Given that  
206 communication from the community we would like to ask the Board for a deferral so that  
207 we can have another community meeting. It is our intent to reach out to those who signed  
208 the petition and to meet with them in person, hopefully at the site.

209  
210 If it's the Board's pleasure, we would appreciate a 30-day deferral. If it is into the Board's  
211 pleasure, we are prepared to move forward.

212  
213 Mr. Green - Is there a motion for a 30-day deferral?

214  
215 Mr. Pollard - I move that we honor his request and grant him a 30-day  
216 referral.

217  
218 Mr. Green - Is there a second?

219  
220 Mr. Reid - Second.

221  
222 Mr. Green - The motion was made by Mr. Pollard, seconded by Mr. Reid.  
223 All in favor say aye for a 30-day referral.

224  
225 On a motion by Mr. Pollard, seconded by Mr. Reid, the Board **deferred CUP2021-00012**  
226 **until the October 28, 2021, meeting** of the Board of Zoning Appeals.

229 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
 230 **Negative:** 0  
 231 **Absent:** 0

232  
 233  
 234  
 235  
 236  
 237  
 238  
 239  
 240  
 241  
 242  
 243  
 244  
 245  
 246  
 247

Mr. Green - Your deferral has been granted, sir.  
 Mr. Geiger - Thank you.  
 Mr. Blankinship - And that would be October the 28th.  
 Mr. Geiger - Thank you very much.  
 Mr. Green - You're welcome.  
 Mr. Blankinship - All right. The second case is conditional use permit 2021 number 20 Luke Manley.

**CUP2021-00020 LUKE MANLEY** requests a conditional use permit pursuant to Section 24-4404.A.1 of the County Code to build a detached garage in the side yard at 12610 Heather Grove Road (SHADY GROVE ESTATES) (Parcel 733-773-5413) zoned Agricultural District (A-1) (Three Chopt).

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

Mr. Gidley - Thank you, Mr. Secretary. Good morning, Mr. Chairman, and members of the Board.

The property is located at the western terminus of Heather Grove Road, which is just north of Kain Road. It contains a 3,314-square-foot dwelling on a 1.19-acre lot. The applicant purchased the property last year. There's a home across the street and it has a 24 by 40-foot garage connected to their home. And this is the home across the street. And you can see the garage here that's connected to it.

The applicant decided he liked that and wanted to build something to -- somewhat similar himself and so this is basically what he's proposing. Due to the well in his backyard, however, he has a 50-foot setback around the well and because of that he would like to construct his detached garage in the side yard. And that's shown right here on the plot plan.

You can see it's behind the 50-foot setback and its limitations, so the applicant would build this garage right here. If it's connected by a breezeway, 10 feet in width or greater,

272  
 273  
 274

275 it's considered attached. It would not need a use permit, but it would have to meet  
276 setbacks for the home. Because it cannot do that, the applicant's going to keep the  
277 breezeway under 10 feet in width, which makes this a detached garage. And, as a result,  
278 it only needs to be 5 feet off the property line.

279  
280 However, as you know, a conditional use permit is required for a detached garage in the  
281 side yard, thus today's application.

282  
283 Here's an elevation of the applicant's proposed garage. And a floor plan. And you see  
284 the breezeway is just barely under 10 feet in width at 9 feet, 11 inches. In evaluating this  
285 request, with regard to the comprehensive plan, the property is designated Rural  
286 Residential on the Land Use Plan and a one-family dwelling is consistent with this  
287 designation.

288  
289 With regard to the zoning ordinance, the property is zoned A-1 Agricultural District and is  
290 in compliance with the district's lot area and lot width requirement.

291  
292 As noted, a detached garage in the side yard is allowed with the approval of a conditional  
293 use permit by this board. With regard to its compatibility with the surrounding area, as  
294 you can see here, the surrounding area consists of single-family homes on large lots and  
295 several of these also contain detached accessory structures, so it would be consistent  
296 with the surrounding area.

297  
298 Finally, impacts on public health, safety, and welfare. The garage would not create any  
299 additional traffic or noise impact on nearby property and, as you can see here, the  
300 adjacent property in the area next door to where the garage would be is wooded, and so  
301 that lessens its impact. The other item lessening its impact was the fact that the lot is  
302 1.19 acres in area. So it's a pretty good-sized lot for a suburban lot.

303  
304 Finally, I would note there is a 16-foot drainage and utility easement that runs along the  
305 property line right here. Obviously, the garage cannot be within this easement, so the  
306 applicant is working with the county to relocate this easement onto the adjacent property.  
307 And, from what we understand, the adjacent property owner is onboard and okay with  
308 that. But there is a condition in your staff report saying that the easement needs to be  
309 relocated. Its infrastructure needs to be relocated and public utilities needs to be fully  
310 satisfied.

311  
312 In conclusion, while the proposed structure is rather large, the lot is over an acre in area  
313 and the adjacent acreage parcel is wooded. So long as the applicant is successful in  
314 relocating the drainage and utility easement, staff can recommend approval of this  
315 request subject to the conditions in your staff report. If you have any questions I will be  
316 happy to answer those. Thank you.

317  
318 Mr. Green - Are there any questions from the Board to staff? Hearing  
319 none, we'll move to the applicant.

321 Mr. Manley - Good morning. Thank you for having me. And I don't have a  
322 slide presentation, but I think the drawings kind of explain the situation. I'm just asking  
323 for a blessing to build a detached garage on the side yard giving the placement of my well  
324 on my property.

325  
326 We are working, as mentioned, with the County to move the easement. Currently the  
327 bank had to sign off on the trustee. The neighbor has signed off on that. We will be  
328 submitting that to the record room this week and it's my understanding from the County  
329 that as soon as they see that that has been recorded, that we would need to post bond  
330 and proceed with the moving of the utility pipe and easement.

331  
332 So I'm just asking for your blessing to allow a conditional use permit for this side garage.

333  
334 Mr. Green - Any questions from the Board to the applicant? Hearing none,  
335 as the Three Chopt representative, I move that we approve the conditional use permit  
336 subject to the conditions recommended by the staff. One, consistent with the  
337 comprehensive plan. Two, consistent with the A-1 zoning of the neighborhood. Three,  
338 similar to the garage across the street. And it will not adversely affect the health and  
339 safety or welfare. Do I hear a second?

340  
341 Mr. Pollard - I second.

342  
343 Mr. Green - A motion was made by myself, Mr. Green, seconded by Mr.  
344 Pollard. Any discussion? All in favor? Motion passed.

345  
346 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** case **CUP2021-**  
347 **00020 LUKE MANLEY's** request for a conditional use permit pursuant to Section 24-  
348 4404.A.1 of the County Code to build a detached garage in the side yard at 12610 Heather  
349 Grove Road (SHADY GROVE ESTATES) (Parcel 733-773-5413) zoned Agricultural  
350 District (A-1) (Three Chopt). The Board approved the request subject to the following  
351 conditions:

352  
353 1. This conditional use permit applies only to the location of the proposed detached  
354 garage in the side yard. All other applicable regulations of the County Code remain in  
355 force.

356  
357 2. This conditional use permit applies only to the garage and breezeway shown on the  
358 plot plan and building design filed with the application. Any additional improvements must  
359 comply with the applicable regulations of the County Code. Any substantial changes or  
360 additions to the design or location of the improvements will require a new conditional use  
361 permit.

362  
363 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
364 must obtain approval of an environmental compliance plan from the Department of Public  
365 Works.

366



413  
414 Mr. Gidley - Thank you, Mr. Secretary. The subject property contains 24  
415 acres of land and is located off of Elko Road. The applicant purchased the site in 2017  
416 and in 2019 he constructed an 1,800-square-foot, 3-bay garage on the property. And this  
417 is a picture of the garage right here.

418  
419 The applicant would like to construct a home on the property now in the cleared area  
420 that's to the rear of the existing garage. Behind me in this picture would be that garage.  
421 And this is the cleared area where the applicant would like to place his home. And you  
422 can note there are a number of trees around it that would screen it and give privacy.

423  
424 Because the garage would be located in the front yard, to the front of the home, a  
425 conditional use permit is required. Staff also noted on our site visit there is a 12 by 9-foot  
426 shed to the north of the existing garage. I believe I have a picture of this. This smaller  
427 shed right here. That was not included in the initial request, so the applicant will either  
428 need to remove it, place it behind the home once it's built, or include this as part of the  
429 conditional use permit as well.

430  
431 In evaluating this request, with regard to the comprehensive plan, the property is  
432 designated as Prime Agriculture and Environmental Protection Area. A one-family  
433 dwelling is consistent with the prime agriculture designation and the home and garage  
434 would be located within this designation.

435  
436 With regard to the zoning ordinance, the property is zoned A-1 Agricultural District. It's in  
437 compliance with the lot-width and lot-area requirements of the A-1 District.

438  
439 With regard to the compatibility of the use with the surrounding area. As you can see  
440 here, these are large lots consisting of several acres. The homes tend to be set back  
441 quite a bit from the road, as would this home here. So it's basically compatible with the  
442 surrounding area. And, again, it is screened by a lot of trees which also provide privacy.

443  
444 With regard to public, health, safety, and welfare. While the applicant could construct the  
445 home in front of the garage, his desire to place the home behind the garage is consistent  
446 with the setbacks of the adjacent homes. Again, they're set back quite a bit right here. It  
447 would also preserve the wooded buffer here, which provides privacy to both the  
448 applicant's property and the neighbors'. And this view is going up the driveway here and  
449 you can see this buffer here is quite effective at giving people privacy from Elko Road.  
450 So, staff does not anticipate a substantial detrimental impact from this request.

451  
452 In conclusion, the applicant would like to place the dwelling behind the existing garage.  
453 Staff agrees with him that his proposed location is more suitable compared to building the  
454 home in front of the garage. Both structures would be over 100 feet from nearby residents  
455 and so we do not anticipate any substantial detrimental impact.

456  
457 As a results, staff recommends approval subject to the conditions in your staff report. And  
458 if you have any questions, I'll be happy to answer those. Thank you.

459  
460 Mr. Green - Are there any questions from the Board to staff?  
461  
462 Mr. Johnson - The little house that's next to it, do they want to keep it on the  
463 side?  
464  
465 Mr. Gidley - This little one here?  
466  
467 Mr. Johnson - Yes.  
468  
469 Mr. Gidley - We noticed it when we went out there. It was not mentioned  
470 in the initial application. So, as a result, technically that would be in front of the home, so  
471 the applicant will either need to include it in this conditional use permit, I guess just by  
472 noting it when he speaks, or he could remove it or relocate it behind the home.  
473  
474 Mr. Johnson - Okay.  
475  
476 Mr. Green - Any other additional questions? We'll now hear from the  
477 applicant. Thank you.  
478  
479 Mr. Gidley - Yes, sir.  
480  
481 Mr. Taylor - Good morning. My name's Michael Taylor. Last name T-a-y-  
482 l-o-r. I bought this property in 2017. It's a fairly large piece, 24 acres, but it consists  
483 mainly of a lot of wetlands down in a swampy area and there's about a 3-acre pond that  
484 I share with a neighbor as well.  
485  
486 The building site where I have my existing building and where I want to build my home, I  
487 can take advantage of the view of the pond. I didn't want to have an obstruction behind  
488 the house or impede upon the wetlands down there. So that's why we chose this area to  
489 build on.  
490  
491 As far as the small shed to the left of the existing building, I would like to include that as  
492 part of my conditional use permit and keep it where it is, if it's okay with the Board.  
493  
494 Mr. Green - Are there any questions from the Board to the applicant?  
495  
496 Mr. Johnson - So there's a pond right behind where you're proposing the  
497 house?  
498  
499 Mr. Taylor - Yes, sir. In the picture, you can see where what I would call  
500 the southernmost border, it splits the pond in half. I share it with Mr. Steve Frazier to your  
501 left. It's about a three-acre pond. It's a beautiful pond. Clear. It's a spring-fed pond. And  
502 where I'm placing the house, -- I'm elevating my house high enough where I can see out  
503 into the pond. And we had my engineer came out, we have an RPA buffer around the

504 pond. We can't build within the RPA. I've got that engineer-taped off to protect that area  
505 and just take advantage of the views there.

506  
507 Mr. Green - Are there fish on the pond?

508  
509 Mr. Taylor - Yes.

510  
511 Mr. Green - So we're invited to fish there like you are! I'm just joking. Are  
512 there any additional questions of the applicant? Is there a motion?

513  
514 Mr. Blankinship - Mr. Chair, there's no one else in the room to speak to this  
515 case. Is there anybody on Webex to speak to this case, Ms. Deemer?

516  
517 Mr. Green - Oh, I'm sorry.

518  
519 Ms. Deemer - We have no one on Webex for this case.

520  
521 Mr. Blankinship - Thank you.

522  
523 Mr. Taylor - Thank you. Mr. Chairperson, I do have letters from both my  
524 neighbors on the north and the south sides of my property. Mr. Frazier's been there 47  
525 years. Ms. Purcell's been there 35 to 40 years. I have a good relationship with them and  
526 they both wrote letters here that I can give to the Board that they recommend approval  
527 as well. So -- and they're the ones most directly impacted by this structure. So.

528  
529 Mr. Blankinship - We would like to add those to the file. Yes, please.

530  
531 Mr. Green - Hearing no other questions from the Board, is there a motion?

532  
533 Mr. Johnson - Since the property is agricultural and the garage there has  
534 been there before he decided to build on it as well. It would benefit both the applicant  
535 and the nearby residents. You have trees there that --

536  
537 Mr. Taylor - I'm sorry, I can't hear you, sir.

538  
539 Mr. Johnson - You have trees that also benefit both the residents as well as  
540 the property owner.

541  
542 Mr. Taylor - Yes, sir.

543  
544 Mr. Johnson - And I think that also having the carport where it is now, -- from  
545 Elko Road that is sloped, so it really is not in front of the house. It would be the side of  
546 the house as well. And, with that, I recommend that -- well, since it wouldn't have any  
547 impact on the neighbors and is also beneficial because the trees and all there that would  
548 keep everything -- keep the neighbors and the property owner from cutting trees, which  
549 also is a benefit.

550  
551 I move that we approve the conditional use permit subject to conditional recommended  
552 by staff and consistent with the Comprehensive Plan, it's consistent with the A-1 zoning,  
553 and the setback is similar to the adjoining houses as well and it will not adversely affect  
554 the health and safety and welfare.  
555

556 Mr. Blankinship - Mr. Johnson, does that include the small building as well as  
557 the large one?

558  
559 Mr. Johnson - And that the small building -- I think it would be okay where  
560 it's setting at now.  
561

562 Mr. Blankinship - Okay. Thank you.

563  
564 Mr. Johnson - I'll just leave it there.  
565

566 Mr. Green - A motion by Mr. Johnson. Is there a second?

567  
568 Mr. Bell - Second.  
569

570 Mr. Green - Bell?

571  
572 Mr. Pollard - Mr. Bell.  
573

574 Mr. Green - The motion was made by Mr. Johnson, seconded by Mr. Bell,  
575 any discussion among the Board? Hearing none, all in favor say aye. All opposed say  
576 nay. Granted.  
577

578 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved** case **CUP2021-**  
579 **00022 MICHAEL TAYLOR's** request for a conditional use permit pursuant to Section 24-  
580 4404.A.1 of the County Code to allow an accessory structure in the front yard at 7330  
581 Elko Road (WHITE OAK FARMS) (Parcel 856-695-4055) zoned Agricultural District (A-  
582 1) (Varina). The Board approved the request subject to the following conditions:  
583

584 1. This conditional use permit applies only to the location of the existing garage and shed  
585 in front of the proposed dwelling. All other applicable regulations of the County Code  
586 remain in force.  
587

588 2. This conditional use permit applies only to the improvements shown on the plot plan  
589 and building design filed with the application. Any additional improvements must comply  
590 with the applicable regulations of the County Code. Any substantial changes or additions  
591 to the design or location of the improvements will require a new conditional use permit.  
592

593 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
594 must obtain approval of an environmental compliance plan from the Department of Public  
595 Works.

596  
597 4. Approval of this request does not imply that a building permit will be issued. Building  
598 permit approval is contingent on Health Department requirements, including, but not  
599 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well  
600 location.

601  
602 5. Prior to the issuance of a building permit for the proposed home, the applicant must  
603 ensure the existing garage satisfies the requirements of the Building Inspections  
604 Department.

605  
606 6. The applicant must obtain a building permit for the proposed home by September 25,  
607 2023, or this conditional use permit will expire. If the building permit is cancelled or  
608 revoked after that date due to failure to diligently pursue construction, this conditional use  
609 permit will expire at that time.

610

611

612 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5

613 **Negative:** 0

614 **Absent:** 0

615

616

617 Mr. Taylor - All right. Thank you, sir. Thank you for your time.

618

619 Mr. Blankinship - All right.

620

621 Mr. Green - Mr. Blankinship.

622

623 Mr. Blankinship - Yes, sir.

624

625 Mr. Green - I apologize and go back. The first case, I didn't know if there  
626 were any individuals on Webex that were willing to speak for or against. And if there  
627 were, I apologize for not recognizing them and I won't make that mistake again.

628

629 Mr. Blankinship - Thank you, Mr. Chair.

630

631 Mr. Green - But were there?

632

633 Mr. Blankinship - I'm attempting to use my phone to stay in contact with our  
634 Webex team, and I'm afraid we may have missed somebody, or deprived somebody of  
635 the opportunity to speak in opposition to the deferral. But at least it is just a deferral, and  
636 they will have an opportunity to speak again next month. But, yes, I acknowledge that as  
637 well.

638

639 Mr. Green - So I apologize for that and trust that Mr. Blankinship will kick  
640 me under the table or remind me not to do that again. Thank you. Moving on to our next  
641 case, please.

642  
643 Mr. Blankinship - Yes, sir. Conditional use permit 2021 number 23 Brenda  
644 Womble.

645  
646  
647 **CUP2021-00023 BREANDA WOMBLE** requests a conditional use permit  
648 pursuant to Section 24-4404.A.1 of the County Code to allow a carport to remain in the  
649 front yard at 114 Meroyne Drive (Parcel 824-717-4952) zoned One-Family Residence  
650 District (R-3) (Varina).

651  
652 Mr. Blankinship - Would everyone who intends to speak to this case, please  
653 stand and be sworn in? Ma'am, would you raise your right hand? Do you swear the  
654 testimony you're about to give is the truth, the whole truth, and nothing but the truth so  
655 help you God? Thank you. Mr. Madrigal.

656  
657 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the Board.  
658  
659 Before you is a request to allow a car port in the front yard of a single-family dwelling.  
660 The subject property is located at the southeast corner of West Union Street and Meroyne  
661 Drive in West Sandston.

662  
663 The property is triangular in shape, is over 32,000-square-feet in area, and is improved  
664 with a one-story, 1,700-square-foot home with open parking built in 1962. The applicant  
665 purchased the property in February of 2019.

666  
667 In July of this year the County received a complaint regarding a metal carport in the front  
668 yard of the subject lot. A code enforcement inspector verified the complaint and contacted  
669 the property owner regarding the code requirements on the carport. She subsequently  
670 applied for a building permit followed by a conditional use permit in an attempt to keep  
671 the carport at its present location.

672  
673 Although the lot meets the minimum lot-area and lot-width requirements of the R-3  
674 District, the carport does not comply with minimum setbacks. The required front-yard  
675 setback is 35 feet and the street side yard setback is 10 feet under the new code. The  
676 carport is located approximately 13 feet from the front property line and 6 feet from the  
677 side street property line, so it's rather close.

678  
679 Under Article 4 of the zoning ordinance, the single-family dwelling is allowed as a principle  
680 use in an R-3 District. A detached accessory structure is allowed as an accessory use.  
681 If it's located in the side yard, it may be approved by way of a conditional use permit. In  
682 this case the carport was constructed without the benefit of required permits.

683  
684 Additionally, the carport is substantially out of character as compared to the other  
685 properties on both sides of the street on this block and the block further north. None of  
686 the properties have detached accessory structures that violate the front yard setback.  
687

688 The location of the structure is also inconsistent with the established development pattern  
689 at this intersection. The three other corner lots have open and unobstructed yards at their  
690 street corners.

691  
692 Furthermore, the carport presents a safety issue in regard to traffic visibility, as it violates  
693 the site-distance triangle that we apply at corner lots.

694  
695 In conclusion, the applicant had a carport built on the property without County review and  
696 the necessary permit. The structure is prominently located on the street corner in  
697 violation of minimum setbacks. The location of the carport presents a potential traffic  
698 safety concern as it blocks visibility. It is inconsistent with the general development  
699 pattern along Meroyne Drive and at the subject intersection. It is also architecturally  
700 inconsistent with the applicant's home and the surrounding dwellings, creating an adverse  
701 impact.

702  
703 Based on these findings, staff recommends denial of the applicant's request. We have  
704 not received any letters or emails in support or in opposition to this.

705  
706 This concludes my presentation. I'll be happy to answer any questions.

707  
708 Mr. Green - I have a question. When individuals go out and purchase  
709 carports and these sheds and -- I know they sometimes have to go through their  
710 homeowner's association. Wouldn't the individual who is installing the carport check to  
711 make sure -- or shouldn't they check to make sure that the necessary permits have been  
712 granted?

713  
714 Mr. Madrigal - They should, but a lot of times they just don't. So I think a lot  
715 of times what happens is they'll approach a customer and they'll say, Hey, you know, if  
716 you want to get a permit, it's probably going to be an additional charge. So, it's up to you,  
717 but we put these everywhere in the counties, and there haven't been any issues. That's  
718 my guess as to what the normal conversation is.

719  
720 But, again, each situation is different. And I would probably defer that question to the  
721 applicant.

722  
723 Mr. Green - Okay. Are there any other questions from the Board to staff?

724  
725 Mr. Reid - I have one. Would it be possible to put it up in the side yard  
726 where it fits?

727  
728 Mr. Madrigal - This is the site map. So the house fronts on Meroyne Drive.  
729 So, you know, all of this area here in front of the house probably wouldn't work. Maybe  
730 back here might work.

731  
732 Mr. Blankinship - You were asking about the Union Street side.

733

734 Mr. Reid - But on the Union Street side.  
735  
736 Mr. Madrigal - On Union Street, they unfortunately have already an existing  
737 structure here, so they'd have to just measure it out, see if it would meet code. Because  
738 it would have to be 10 feet away from the house and then at least 3 to 5 feet away from  
739 the side property line, 6 feet from this structure here.  
740  
741 Mr. Reid - Okay.  
742  
743 Mr. Madrigal So, you know, I guess the answer would be maybe.  
744  
745 Mr. Blankinship - It would be more compatible just because you can see there's  
746 a detached structure right across West Union Street there. So it would at least be similar  
747 to what the neighbors have.  
748  
749 Mr. Madrigal - Right, right. But, if you can see here, they've got their garage  
750 back here behind.  
751  
752 Mr. Johnson - Also, in addition to that, I've been out there looking at this.  
753 Where it's at now, is it any way that the distance from the house is a thing like a little porch  
754 or something on the back end of it? Any way for the driveway to get around to the back?  
755  
756 Mr. Madrigal - So based on where the carport's at now, this is Meroyne, this  
757 is Union, there's that enclosed porch that you were talking about. So, you know, they've  
758 got what essentially what works out to be their back yard -- enclosed by fence. So, they'd  
759 have to open that up and then somehow place that structure in the back.  
760  
761 Mr. Green - Right. Are there any other additional questions from the  
762 Board of staff? Hearing none, we'll now move to the applicant. Please state your name  
763 and spell it.  
764  
765 Ms. Womble - Good morning. My name is Brenda Womble, W-o-m-b-l-e.  
766 You gave a good question. When I purchased this carport, I didn't have any clue about  
767 the code or anything. But, as you can see, I have an unusual lot. I can't put it in the back  
768 because that won't meet the code either, because I don't have enough room in the back  
769 yard. Okay.  
770  
771 All my space is to the right of the house. That will make sense. I'm disabled. I put it up  
772 to be closer to protect my vehicle and for me also, like, for the winter and stuff like that,  
773 by me being disabled, I can use the side porch step when I get out my vehicle. I have  
774 lights inside the carport also that helps me for my safety and everything like that. But I  
775 didn't have any idea. If I had known I just wouldn't have put it up. But, like I said, the way  
776 my property is, it wouldn't make sense for me to put it on the right. Because, number one,  
777 I don't have a driveway on the right. And then that would be too far from the house for  
778 me to have a carport.  
779

780 I don't have room in the backyard. That wouldn't work either. And there is another carport  
781 on Early Street that is detached like that. And I just thought it was okay to just put it up  
782 there.

783  
784 Mr. Green - Are there any questions from the Board to the applicant?  
785 Hearing none, is there a motion?  
786

787 Mr. Blankinship - Let me just state for the record, there is no one else in the  
788 room or on Webex.

789 Mr. Green - Oh. I'm sorry.

792 Mr. Blankinship - To speak at the public hearing.

794 Mr. Green- Okay. Hearing none, is there a motion?  
795

796 Mr. Johnson - What is happening here is that because of the location of the  
797 garage in the front, and the new regulations we have now also indicate that nothing should  
798 be in the front yard. And also, trying to get to the back and then there's no space back  
799 there. And also there is the 10 feet setback from the Union side which is not large enough  
800 to put a carport.

802 With that, I move that we deny the conditional use permit. It is not consistent with the  
803 surrounding neighborhood and no other homes in the neighborhood have a carport in the  
804 front yard.

806 The carport is metal siding and the home is brick --- and the traffic hazard because of the  
807 blocking of the vision of this intersection also is impacted. And, also, you're not supposed  
808 to have a lighting there.

810 I motion we deny.

812 Mr. Green - There a second? Is there a second? I will second it. The  
813 motion was made by Mr. Johnson, seconded by Mr. Green. Is there any discussion?  
814

815 Mr. Johnson - I know because of your condition. But, still, there is -- to put a  
816 carport there we can't do that based on our regulations.

818 Mr. Green - Mr. Reid? The motion was made by Mr. Johnson to deny.  
819 Seconded by myself, Mr. Green. We've had discussion. All in favor say aye. Opposed.  
820 It has been denied.

822 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **denied** case **CUP2021-**  
823 **00023 BRENDA WOMBLE's** request a conditional use permit pursuant to Section 24-  
824 4404.A.1 of the County Code to allow a carport to remain in the front yard at 114 Meroyrn  
825 Drive (Parcel 824-717-4952) zoned One-Family Residence District (R-3) (Varina).

826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
70

<b>Affirmative:</b>	<b>Bell, Green, Johnson, Pollard, Reid</b>	<b>5</b>
<b>Negative:</b>		<b>0</b>
<b>Absent:</b>		<b>0</b>

Mr. Blankinship - That completes the conditional use permits for this morning. There are no variances on this morning's agenda.

There is one appeal, which is Appeal 2021 number 1 A&FI, LLC.

**APL2021-00001 A&FI, LLC** appeals an administrative decision regarding the property at 3740 Charles City Road (Parcel 827-702-8810) zoned Agricultural District (A-1) (Varina). Code Section: 24-2104.C.

Mr. Blankinship - Will everyone who intends to speak to this case please stand and be sworn in? Raise your right hands, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God? All right. Thank you. Mr. Murphy, if you would go first.

Mr. Murphy - Mr. Blankinship, do we have the PowerPoint up here?

Mr. Richard Booker - (indiscernible)

Mr. Green - So you will be requesting a deferral?

Mr. Booker - Yes, sir.

Mr. Green - Can we take two to three minutes for you all to confer to see if you would be receptive to that?

Mr. Murphy - Yes, we can talk about this.

Mr. Green - Okay.

Mr. Murphy - I'll go talk to him.

Mr. Green - We'll give you two minutes.

Mr. Blankinship - Normally when that happens, the motion then --

[Break in audio]

871 Mr. Booker - May it please the Board, we discussed the matter. This would  
872 still be A&FI, LLC's motion for a deferral. I understand there's a 90-day window in which  
873 this case must be heard and that the next time the Board meets would be outside of that  
874 window. However, I'm still not prepared to go forward today and I'd ask the Board  
875 members to consider granting that deferral. We're happy to waive any statutory  
876 timeframes on our end if necessary.

877

878 Mr. Green - What's the 90-day limit? Could you brief us?

879

880 Mr. Blankinship - Yes. There is a requirement under state law that any  
881 application or appeal that is brought before the Board must be heard within 90 days.

882

883 Mr. Green - Within.

884

885 Mr. Blankinship - Yes.

886

887 Mr. Green - So we can hear it within 90 days.

888

889 Mr. Blankinship - When they originally filed, they filed a statement that they  
890 intended to appeal, but there was no grounds for appeal. Which the code also requires.  
891 And as you've seen in the County Attorney's letter, that's one response of theirs is that  
892 this appeal is not timely filed, because they never stated grounds of appeal. But let's hear  
893 from Mr. Murphy.

894

895 Mr. Madrigal - For the minutes he has to identify himself.

896

897 Mr. Blankinship - Oh, okay. We'll get that. Mr. Murphy, what's the County's  
898 position here?

899

900 Mr. Murphy - Yes. My name's Ryan Murphy. I'm assistant County Attorney  
901 with the County Attorney's office. My office represents the Director, Mr. Emerson. Our  
902 position is that there was a notice of appeal filed. It was not a proper notice of appeal.  
903 The appeal was not properly perfected. And our position would be that any arguments  
904 that A&F I now presents have not been presented in a timely fashion to the Board, and  
905 as a result, the Board should not consider them.

906

907 This is consistent with appellate practice in the courts of Virginia. If an appellate does not  
908 notice its arguments, those arguments are waived and that is now the situation that we  
909 have here.

910

911 So, therefore -- and also given that Virginia Code 15.2-2312 requires Boards of Zoning  
912 Appeals to render decisions within 90 days of an application or an appeal. It's my office's  
913 position that the deferral should be denied and that we should go forward.

914

915 Mr. Green - Okay. Let's go forward. Would that be a problem for  
916 members of the Board, if we move forward with the request, based on the information we  
917 have from the county attorney? So, we'll move forward.

918  
919 Mr. Blankinship - All right. Mr. James, have we got the PowerPoint loaded yet?  
920 Oh, great. Perfect, thank you.

921  
922 Mr. Murphy - So some background for the Board of Zoning Appeals. Again,  
923 my name is Ryan Murphy, Assistant County Attorney, the County Attorney's office. And  
924 we're representing Mr. Emerson, the Director, on this appeal.

925  
926 A&FI, LLC is the owner of property at 3740 Charles City Road and 6736 Beulah Road.  
927 This property is zoned A-1 Agricultural. The tax cards are attached to the letter that my  
928 office submitted as exhibit A.

929  
930 In 2015 A&FI obtained CUP2014-00034. That conditional use permit is attached to the  
931 Exhibit B to the letter. That conditional use permit permitted A&FI to conduct extractive  
932 operations at the property. Those operations were to be discontinued by January 22,  
933 2017 and the permit also required restoration of the property by January 22, 2018.

934  
935 On May 25 County Inspector James Rice visited the property. The gate was opened. He  
936 entered the property via the driveway and he observed a great deal of discarded debris,  
937 mostly lumber, some tires, insulation, concrete. The debris was stacked into a dumpster  
938 and also scattered about the property. He also observed that the disturbed areas of the  
939 property had not been covered by vegetation and that stockpiles of soil remained in the  
940 area on the property as well.

941  
942 Based on those observations the Director issued an NOV, a notice of violation, on June  
943 2, 2021. The NOV is attached to your letter as exhibit C. The NOV recited that the  
944 Director had determined that illegal dumping was occurring on the property. It recited  
945 that Section 24-6 requires compliance with all provisions of the zoning ordinance. It noted  
946 that section 24-52 and section 24-116 require conditional use permits for extractive  
947 operations and landfills and dumping -- or dump areas respectively. It also noted that the  
948 permit had expired on January 22, 2017 that the landowner had been previously notified  
949 of that expiration in January of 2018.

950  
951 And, finally, it cited that Section 24-103(g) requires the property to be restored when the  
952 permit is expired.

953  
954 Now, on appeal, the standard of review provides that the Board must determine whether  
955 the Director was correct in his determination. And by law there is a presumption of  
956 correctness that the appellant is required to rebut by the preponderance of the evidence.

957  
958 So, we have some questions for the BZA. I put them up here on the slide. Break this  
959 case down to four questions. I'll just recite them to you. But. Did A&FI satisfy the  
960 preconditions for perfecting an appeal to the Board? May A&FI allow dumping or

961 landfilling at the property? May A&FI conduct extractive operations at the property? And  
962 may A&FI fail to restore the property as required by CUP2014-00034 and Henrico Code  
963 Section 24-103.

964  
965 Now going to the first question, my office's position is that the NOV is final and  
966 unappealable. We discussed this earlier, but the requirements of the State code and the  
967 County code and also the Board's rules require an appeal to state the notice of grounds.  
968 Therefore, the letter that was submitted by A&FI did not contain any grounds for an  
969 appeal. And that's left my office and also yourselves essentially flying blind here. We  
970 don't know what their arguments are, we don't know why they disagree, and lacking that,  
971 it's difficult for you to consider and limit discussion to relevant issues. So, we submit that  
972 that was not properly perfected.

973  
974 And as appellant practice occurs in the courts of Virginia, any arguments that they would  
975 present have been waived and we suggest that you not consider them. But, more  
976 importantly for purposes of the standard of review, because they have not submitted any  
977 grounds of appeal or any evidence in support of an appeal, they have necessarily failed  
978 to overcome the presumption of correctness that attaches to the Director's decisions.

979  
980 Moving to the substance. As noted, Inspector Rice observed great deals of lumber,  
981 concrete, insulation, some tires dumped on the property. He went back on a subsequent  
982 date, observed evidence that the dumping was continuing.

983  
984 Now in the A-1 Agricultural District, the permitted principal and accessory uses are  
985 inclusive. Anything that is not listed is therefore prohibited or it requires a conditional use  
986 permit. Dumping, planned filling, extractive uses, are not specifically permitted as a  
987 principal or accessory use. Therefore, they require a special use permit or they are  
988 prohibited.

989  
990 In this case, 24-52(d) authorizes applicants to obtain conditional use permits for extractive  
991 operations. 24-116(d) authorizes applicants to obtain conditional use permits for landfills  
992 or dumping operations. There are no active conditional use permits at this property,  
993 therefore the dumping activities that are observed and the extractive operations may not  
994 occur at this property. And we submit that the Director was correct in his determination  
995 that those activities that are occurring at the property are not permitted.

996  
997 And, finally, the A&FI must restore the property as required by Henrico Code 24-103 and  
998 CUP2014-0034. These are the relevant sections of 24-103. Requires a plan of operation  
999 to be submitted and approved by the Board. Back in 2015 A&FI did so. That plan of  
1000 operation required topsoil to be spread back out over the property and required  
1001 permanent vegetative cover over the property.

1002  
1003 As noted, the inspector observed that the disturbed area remains uncovered by  
1004 vegetative cover, and there are berms consisting of topsoil that were removed in  
1005 preparation for the extractive operations. So, the applicant has not complied with 24-103.  
1006 And, in addition, the conditional use permit incorporated those provisions into paragraphs

1007 26 and 27 required the restoration to be complete January 22, 2018. That has obviously  
1008 not been done. So, and we submit that that is also a violation, and the Director was  
1009 correct.

1010  
1011 These are the paragraphs 26 and 27 in the permit. As noted, the site was required to be  
1012 covered with five inches of topsoil and vegetative cover, and that has not occurred.

1013  
1014 So, I conclude with the requested findings of the Board. I submit that all of the answers  
1015 to the questions that I proposed earlier to you are, No. And I also offer a proposed motion  
1016 for your consideration.

1017  
1018 I suggest that for all the reasons stated in the letter from the County Attorney, the Board  
1019 finds that, one, the appeal was not properly perfected and, two, the decision of the  
1020 Director was correct. Accordingly, the Board affirms and upholds the Director's decision.

1021  
1022 If there are any questions, I'm happy to answer them.

1023  
1024 Mr. Green - Are there any questions from the Board to the County  
1025 Attorney?

1026  
1027 Mr. Johnson - Also, when the ones that were supposed to have been taking  
1028 care of, the facility, aren't they supposed to keep the gates locked. And also make sure  
1029 that no one is bringing in things that is not --

1030  
1031 Mr. Murphy - That would be one way to prevent illegal dumping. As noted,  
1032 the inspector observed that the gate was open on the day that he went by, May 25th. I  
1033 acknowledge that there were other days when the gate was closed, but at least on this  
1034 occasion it was open and there was evidence that there was dumping occurring at the  
1035 property.

1036  
1037 Mr. Green - Are there any other questions from the Board to the County  
1038 Attorney? My observations are -- which are technical, which I think we have to really take  
1039 into consideration. And I know that the gentleman was here to ask for a deferral. But  
1040 technically the letter for the grounds of appeal was not properly executed, one. A special  
1041 conditional use permit was not asked for, two. And failure to restore occurred, three. As  
1042 such, I'm just going to ask the Board that we move directly to a motion.

1043  
1044 Mr. Johnson - And one more thing.

1045  
1046 Mr. Green - Okay, sir.

1047  
1048 Mr. Johnson - Is that there was several times that permits were asked to be  
1049 -- they was asked to get permits and there was at least three times that your permits was  
1050 expired because they didn't do what they are supposed to have been doing. That the  
1051 county had sent something to them, -- in violation.

1053 Mr. Blankinship - Well, yes. As you know, Mr. Johnson, these permits are  
1054 typically approved for two years.  
1055  
1056 Mr. Johnson - Right.  
1057  
1058 Mr. Blankinship - And we do expect applicants to come back every two years.  
1059 And they did that in 2012 and 2014 and then they stopped.  
1060  
1061 Mr. Johnson - Then they -- yes.  
1062  
1063 Mr. Blankinship - They've not been back since.  
1064  
1065 Mr. Johnson - That's what I noticed here.  
1066  
1067 Mr. Green - So I'm going to ask that the Board just --  
1068  
1069 Mr. Murphy - In the interest of fairness I'd suggest that we let the  
1070 representative here speak on their behalf.  
1071  
1072 Mr. Green - Okay, but he was ready for a deferral.  
1073  
1074 Mr. Murphy - Okay.  
1075  
1076 Mr. Green - Okay.  
1077  
1078 Mr. Blankinship - And begin by giving us your name and spelling it, please.  
1079  
1080 Mr. Booker - Richard Booker, R-i-c-h-a-r-d B-o-o-k-e-r on behalf of Kevin  
1081 Lake and for A&FI, LLC. And at this point I would renew my motion for deferral. I did  
1082 forget to enlighten the Board with some pertinent information. The principle of this matter  
1083 is currently -- or was out of town on business and would be required to quarantine for 14  
1084 days. So, I would not have been able to put on any evidence in defense of A&F I at this  
1085 stage regardless of whether or not my client was available because of the quarantine  
1086 status.  
1087  
1088 And then I have also asked the Board members to consider allowing us to amend the  
1089 appeal to comply with any requirements. And I don't have any evidence or anything other  
1090 than that request for a deferral or leave to amend the pleadings.  
1091  
1092 Mr. Pollard - What's your argument for appeal?  
1093  
1094 Mr. Booker - I don't have any factual arguments at this time?  
1095  
1096 Mr. Green - Nothing in general? Just an idea of what the --  
1097  
1098 Mr. Booker - I just came here to ask for a deferral.

099  
1100 Mr. Pollard - Okay.  
1101  
1102 Mr. Booker - The client's not available to -- that's --  
1103  
1104 Mr. Blankinship - In terms of the client not being available, Mr. Chair, I would  
1105 mention that in the notice letter it clearly states that you can join this meeting by Webex.  
1106  
1107 Mr. Green - Through Webex. Yes.  
1108  
1109 Mr. Johnson - Yes.  
1110  
1111 Mr. Green - I'd like to make a motion for the -- anybody have a question?  
1112  
1113 Mr. Johnson - No.  
1114  
1115 Mr. Green - I'd like to motion that for the reasons stated in the letter from  
1116 the County Attorney, the Board finds that, one, the appeal was not properly perfected as  
1117 stated in code, and that the decision of the Director was correct. Accordingly, the Board  
1118 affirms and upholds the Director's decision. Is there a second?  
1119  
1120 Mr. Bell - Second.  
1121  
1122 Mr. Johnson - Second.  
1123  
1124 Mr. Green - All right. The motion was made by myself. Seconded by Mr.  
1125 Bell. Is there any discussion among the Board? Hearing none, all in favor of denying the  
1126 appeal say aye. All those opposed like sign. Done.  
1127  
1128 On a motion by Mr. Green, seconded by Mr. Bell, the Board **denied the appeal** and  
1129 **affirmed the decision of the Director of Planning.**  
1130  
1131  
1132 **Affirmative: Bell, Green, Johnson, Pollard, Reid 5**  
1133 **Negative: 0**  
1134 **Absent: 0**  
1135  
1136  
1137 Mr. Green - We're affirming and upholding the Director's decision, sir.  
1138  
1139 Mr. Booker - Thank you, sir.  
1140  
1141 Mr. Murphy - Thank you, members of the Board.  
1142  
1143 Mr. Green - You had the -- you had it.  
1144

1145 Mr. Blankinship - He wanted it.  
1146  
1147 Mr. Green - Oh. I'm sorry.  
1148  
1149 Mr. Blankinship - Mr. Chair, can we proceed to the minutes of the August 26th  
1150 meeting?  
1151  
1152 Mr. Green - Yes. Has everyone had the opportunity to review the  
1153 minutes? Are there any recommended changes to the minutes?  
1154  
1155 Mr. Johnson - Motion to approve the minutes of August 26, 2021.  
1156  
1157 Mr. Green - Is there a second?  
1158  
1159 Mr. Reid - Second.  
1160  
1161 Mr. Pollard - Second.  
1162  
1163 Mr. Green - A motion was made by Mr. Johnson, seconded by Mr. Reid.  
1164 All in favor say aye. Minutes have been approved.  
1165  
1166 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved the minutes**  
1167 of the August 26, 2021 Board of Zoning Appeals meeting.  
1168  
1169  
1170 **Affirmative: Bell, Green, Johnson, Pollard, Reid 5**  
1171 **Negative: 0**  
1172 **Absent: 0**  
1173  
1174  
1175 Mr. Blankinship - Mr. Chair, I don't have any new business, but I do have one  
1176 item of interest to let you know about. During the month of December, the County is going  
1177 to be renovating this room. Some of the computer equipment, some of the audio-visual  
1178 equipment is going to be replaced, so we will probably not be able to hold our meeting in  
1179 this room for December, so we will be selecting an alternative location and we'll let you  
1180 know that as soon as we can.  
1181  
1182 Mr. Green - Yes, sir.  
1183  
1184 Mr. Blankinship - In October and November we'll be right here.  
1185  
1186 Mr. Green - Is there a motion to adjourn the meeting?  
1187  
1188 Mr. Johnson - So moved.  
1189  
1190 Mr. Green - Is there a second?

1191  
1192  
1193  
1194  
1195  
1196  
1197  
1198  
1199  
1200  
1201  
1202  
1203  
1204  
1205  
1206  
1207

Mr. Pollard - Second.

Mr. Green - Motioned has been made and seconded. Meeting adjourned.  
Thank you. We'll see you next month.



per Mr. Terone B. Green, Chair



Mr. Benjamin W. Blankinship, Secretary