

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM
4 AND HUNGARY SPRING ROADS, ON THURSDAY APRIL 27, 2017 AT 9:00
5 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-
6 DISPATCH APRIL 10, 2017 AND APRIL 17, 2017.
7
8

Members Present: Dennis J. Berman, Chairman
William M. Mackey, Jr., Vice Chairman
Gentry Bell
Helen E. Harris
James W. Reid

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

9
10
11 Mr. Berman - Good morning. Welcome to the April 27, 2017
12 meeting of the Henrico Board of Zoning Appeals. For those who are able, please
13 stand and join us for the Pledge of Allegiance.
14

15 Our Board secretary, Mr. Blankinship, will now read you our rules.
16

17 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
18 ladies and gentlemen, the rules for this meeting are as follows: Acting as
19 secretary, I'll call each case. And as I'm speaking, the applicant is welcome to
20 come down toward the podium. We will then ask everyone who intends to speak
21 to that case to stand and be sworn in. Then a member of the staff will give a brief
22 introduction to the case. And then the applicant will present their case. After the
23 applicant has spoken, everyone who wishes to will have an opportunity to speak
24 to that case. After everyone has had an opportunity to speak, the applicant and
25 only the applicant will have an opportunity for rebuttal.
26

27 After the Board has heard each case, they will close that public hearing and
28 proceed to the public hearing on the next case. We have a total of 12 public
29 hearings on the agenda for this morning. So the fastest way to get through that
30 portion of the agenda, we have found, is to take all of the public hearings and
31 then go back through the agenda, and the Board will discuss and make their
32 decisions on each case at the end of the meeting. So if you wish to hear their
33 decision on a specific case, you can stay until the end of the meeting, or you can
34 check the Planning Department website—we usually get it updated within an

hour or so after the meeting—or you can call the Planning Department this afternoon.

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

All five members of the Board are here. We do have two requests for deferral, Mr. Chair, if you want me to go ahead and call those first.

CUP2017-00014 **DISCIPLESHP RVA** requests a conditional use permit pursuant to Section 24-52(e) of the County Code to allow a human care facility at 6089 Old Lafrance Road (Parcels 834-707-5482, 834-707-5834 and 834-708-8616) zoned Agricultural District (A-1) (Varina).

Mr. Berman - Very good. Do I hear a motion for deferral for this case?

Mr. Bell - I move that we defer it.

Mr. Berman - I have a motion from Mr. Bell. Do I hear a second?

Ms. Harris - Second.

Mr. Berman - Second from Ms. Harris. Any discussion? Do we call for anybody—if anybody here is present today who would like to speak in support of this application, please indicate so. Yes. Can you please come forward and be sworn in. Do you swear in?

Mr. Blankinship - Not necessarily since he's only speaking to the deferral.

Mr. Berman - Thank you. Can we have your name, sir, and can you please spell it?

Mr. Hooker - Randy Hooker. H-o-o-k-e-r. I'm just here representing the client.

Mr. Berman - Okay. Do you have anything that you wanted to mention regarding the deferral?

Mr. Hooker - If there are any questions, I'll be happy to answer them.

Mr. Berman - Okay. Thank you, Mr. Hooker. Does the Board have any questions?

81 Ms. Harris - You're going to defer it until the next meeting?

82
83 Mr. Hooker - Yes ma'am.

84
85 Ms. Harris - Okay. Thank you.

86
87 Mr. Berman - Okay. No further questions? Is there anybody here
88 who wishes to speak to this application as well, the deferral? Hearing none,
89 there's a motion before the Board. All in favor say aye. Those opposed? There is
90 no opposition; that motion passes.
91

92
93 After an advertised public hearing and on a motion by Mr. Bell seconded by
94 Ms. Harris, the Board **deferred** application **CUP2017-00014, DISCIPLES**
95 **RVA's** request for a conditional use permit pursuant to Section 24-52(e) of the
96 County Code to allow a human care facility at 6089 Old Lafrance Road (Parcels
97 834-707-5482, 834-707-5834 and 834-708-8616) zoned Agricultural District (A-1)
98 (Varina).
99

100
101 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
102 Negative: 0
103 Absent: 0
104

105
106 Mr. Blankinship - The other one is VAR2017-00008.
107

108 **VAR2017-00008 CANAAN LAND COMPANY** requests a variance
109 from Sections 24-9 and 24-94 of the County Code to build a one-family dwelling
110 at 8415 Bronwood Road (PARHAM HILLS) (Parcel 755-749-4176) zoned One-
111 Family Residence District (R-3) (Three Chopt). The public street frontage
112 requirement and lot width requirement are not met. The applicant proposes 36
113 feet public street frontage and 62 feet lot width, where the Code requires 50 feet
114 public street frontage and 80 feet lot width. The applicant requests a variance of
115 14 feet public street frontage and 18 feet lot width.
116

117 Mr. Blankinship - Is there anybody here representing this application?
118 Is there anybody here in opposition to deferral of that application?
119

120 Mr. Berman - Hearing none, do I hear a motion for deferral?
121

122 Mr. Mackey - I move that we defer.
123

124 Mr. Berman - Thank you. We have a motion from Mr. Mackey.
125 Second?
126

127 Mr. Bell - Second.

128

129 Mr. Blankinship - Staff is pointing out that they requested a two-month

130 deferral, so that would be to June.

131

132 Mr. Berman - Does the motion still apply?

133

134 Mr. Blankinship - Yes.

135

136 Mr. Berman - Thank you, Mr. Mackey. And a second from Mr. Bell.

137 Any discussion? All in favor signify by saying aye. Those opposed? There is no

138 opposition; that motion passes. The two-month deferral carries.

139

140 After an advertised public hearing and on a motion by Mr. Mackey seconded by

141 Mr. Bell, the Board **deferred** application **VAR2017-00008, CANAAN LAND**

142 **COMPANY's** request for a variance from Sections 24-9 and 24-94 of the County

143 Code to build a one-family dwelling at 8415 Bronwood Road (PARHAM HILLS)

144 (Parcel 755-749-4176) zoned One-Family Residence District (R-3) (Three

145 Chopt).

146

147

148 Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
149 Negative:		0
150 Absent:		0

151

152

153 Mr. Berman - With that can we please call our first request.

154

155 Mr. Blankinship - Yes sir. CUP2017-00011, Ronnie's BBQ.

156

157 **CUP2017-00011 RONNIE'S BBQ** requests a conditional use permit

158 pursuant to Section 24-116(d)(1) of the County Code to hold a festival at 2097

159 New Market Road (Parcel 810-690-4480) zoned Business District (B-3) (Varina).

160

161 Mr. Blankinship - Would everyone who intends to speak to this case

162 please stand and be sworn in. Raise your right hands, please. Do you swear the

163 testimony you're about to give is the truth, the whole truth, and nothing but the

164 truth so help you God? Thank you. You all can be seated. Mr. Madrigal, if you'll

165 begin.

166

167 Mr. Madrigal - Good morning, Mr. Secretary, Mr. Chair, members of

168 the Board.

169

170 Before you is a request to hold a festival at a commercial site in the East End of

171 the County. The subject property was originally part of an 18-acre tract of land

172 purchased by the Carlton family in the mid 1940s. The remnant four-acre lot was

rezoned B-3 as part of the comprehensive rezoning of 1960. The site was originally known as Carlton's Country Store until the main building on the property was destroyed by fire in 1999. The remaining building on the property was converted to a restaurant, which now serves as the location for Ronnie's BBQ and Takeout Restaurant.

Capitalizing on the synergy of the Virginia Capital Trail, the applicant would like to hold a one-day barbecue festival on May 20, 2017. The event will consist of five to six food vendors, in addition to Ronnie's BBQ, and a beer garden supplied by Browns Distributing. Amplified music will be provided by way of a mobile DJ station in addition to family-friendly games and activities. This will be a paid admission event with ticket prices costing between 20 to 25 dollars. A ticket will entitle customers to have three samples of barbecue at the event. Additional food will be available for purchase separately. Beer will be sold in accordance with ABC regulations. Part of the proceeds from the event will benefit the Richmond Elite AAU Youth Basketball program. This will be the first special event to be held at this location.

The property is zoned B-3 and is designated as commercial concentration on the Land Use Plan. Setup for the festival will begin at 6 a.m. the day of the event. The festival will run from noon until 7 p.m. with ticket sales stopping at 5 p.m. Breakdown will occur immediately after the event and will run until about 9 p.m.

The site has paved parking for approximately 70 vehicles with space for about 120 vehicles on a grass field adjacent to a paved parking area. An overflow parking area should be specified by the applicant in case the available onsite parking becomes full.

The festival will occur in an approximately 2-1/2-acre area on the lot. The festival will be concentrated under a 4,000-square-foot tent surrounded by the food vendors.

Security and traffic control will be provided by private security. Because this is a first-time event at the site, there is no history to draw upon regarding potential impacts. Staff's primary concern is overall public safety during the event. This encompasses traffic, building code requirements, fire, food, and sanitary facilities. The proposed conditions of approval refer to those requirements and recommendations of those agencies responsible with oversight for those specific matters. Additionally, the sale of beer raises concerns about disorderly conduct and behavior during the event.

Lastly, the concerns of neighbors must be taken into consideration. Staff has already been contacted by a neighbor in opposition to the event over concerns of traffic, noise, and related issues. Because this will be an outdoor event with amplified music and paid admission, a music and festival permit will also be required of the applicant.

219
220 In conclusion, the subject site has been zoned and used for commercial activity
221 since prior to 1960. The property is large enough to accommodate the proposed
222 festival and has ample areas for parking. Its location adjacent to Capital Trail and
223 National Battlefield Park provides a natural tie-in with tourist-related activities.
224 Staff is confident that the one-day event will not have any lasting substantial
225 detrimental impacts provided the applicant complies with County and State
226 requirements to ensure a safe and successful event. For these reasons, staff
227 recommends approval of the request subject to conditions.

228
229 This concludes my presentation.

230
231 Mr. Berman - Thank you, Mr. Madrigal. Any questions for
232 Mr. Madrigal from the Board? Very good. Can we hear from the applicant,
233 please?

234
235 Mr. Darryl Logan - Ladies and gentlemen, good morning. My name is
236 Darryl Logan. Last name is L-o-g-a-n. This is my father Ronald Logan.

237
238 Mr. Ronald Logan - Last name is Logan, L-o-g-a-n.

239
240 Mr. Darryl Logan - If you guys have any questions, we'll be glad to
241 address them. All the questions and the concerns that were brought up, we've
242 addressed them. We've also talked to Mr. Moffett with the Police Department.

243
244 Mr. Berman - Very good. Thank you. Are there any questions for
245 the applicant from the Board?

246
247 Ms. Harris - Yes, I have a question. Are you familiar with the
248 neighbor or neighbors who are opposed to this event?

249
250 Mr. Darryl Logan - We are familiar with all of our surrounding neighbors.
251 I'll be honest. I didn't necessarily know that anybody had opposed it. They hadn't
252 made it aware to us. We would have addressed the issue. So I would say no. We
253 do know our neighbors, but I don't know who actually opposed this. No ma'am.

254
255 Ms. Harris - Have you had any complaints in the past about noise
256 or traffic?

257
258 Mr. Darryl Logan - None whatsoever. No ma'am. Good smells, but
259 nothing about noise.

260
261 Mr. Berman - Any other questions for the applicant?

263 Mr. Mackey - Yes, Mr. Chairman, I have a few questions. Good
264 morning, gentlemen. My first question, which location will you be using for your
265 overflow parking?
266

267 Mr. Darryl Logan - Good question. We've talked to St. James Baptist
268 Church as well as Laurel Hills Baptist Church. And we also have a partnership
269 with Richmond Trolley. So if we do have a situation where we have to utilize it,
270 they will park there, and then they'll be bused from there by Richmond Trolley
271 back to our location.
272

273 Mr. Mackey - Okay. That's very good. In the packet it says that you
274 would have I think it said two to four security personnel, and I know you were
275 meeting with the police to determine what you need. How many did you all come
276 up with?
277

278 Mr. Darryl Logan - We've learned some things. We learned that we need
279 seven police officers. I believe that's what we'll need. I talked to Mr. Moffett. I
280 forgot her name. But I talked to somebody in his office yesterday in regards to
281 submitting the applications. The applications are supposed to be submitted five
282 days before the event. It will be submitted by tomorrow, which is Friday. So
283 seven police officers is what we'll be having.
284

285 And I did actually have a question. I've also talked to some Henrico County
286 sheriffs. Are we also able to have sheriffs as well or just police officers or do you
287 know?
288

289 Mr. Blankinship - I believe they're all in the same pool in terms of hiring
290 off duty.
291

292 Mr. Darryl Logan - Do you know if anyone is cheaper?
293

294 Mr. Blankinship - I will tell you, Mr. Logan, if they're not needed, if they
295 get seven out—they want to make sure they have them. If you have seven on
296 site and they decide they don't need them, they will cut some of them.
297

298 Mr. Darryl Logan - Okay, gotcha.
299

300 Mr. Blankinship - They are expensive.
301

302 Mr. Mackey - Another question. How many parking lot attendants
303 will you need?
304

305 Mr. Darryl Logan - As far as parking lot attendants—this is the concept.
306 The police are going to be used for public safety and traffic control. And then as
307 far as our paid security, they're going to be parking lot attendants. Really to
308 observe and to be around the beer garden is what they're going to do. We still

309 are in the process of talking to some members of our church because we have a
310 parking ministry at church that handles events. So we're also going to try to bring
311 them as volunteers. That isn't in concrete yet, but that is something that we're
312 working on now.

313
314 Mr. Mackey - Okay. Is this event going on regardless of rain or
315 shine?

316
317 Mr. Darryl Logan - We have to set a preliminary just-in-case date. After
318 this recent rain, we were able to go out there and see kind of how it would be,
319 and it is muddy. So we do have to set up a date. Can we come back and talk to
320 you about that? We just have to set up another date. We haven't done it as of
321 yet. I know it should have been something in the preliminary plan, but we haven't
322 set up another date as of yet.

323
324 Mr. Blankinship - We would need to amend the condition then,
325 condition #1.

326
327 Mr. Mackey - Yes, I would think so.

328
329 Mr. Darryl Logan - Okay. Understandable. I follow you.

330
331 Mr. Mackey - That was all the questions I had.

332
333 Mr. Berman - Thank you, Mr. Mackey. Any other questions from the
334 Board?

335
336 Ms. Harris - For condition #1, do we need to state that a rain date
337 will be set?

338
339 Mr. Blankinship - Yes ma'am. We'll have to amend that in some manner
340 if there's going to be a rain date.

341
342 Ms. Harris - Right. But they don't have to come back before us.

343
344 Mr. Blankinship - Not necessarily, if the Board's comfortable. Or the
345 Board could put in several choices.

346
347 Mr. Darryl Logan - I was about to say—and I don't mean to cut you guys
348 off. I can look on my calendar, if I can step out. Then I can tell you what we have
349 available. Or you could let me know what will work for you guys.

350
351 Mr. Blankinship - It would be great if you could do that and then just
352 pass us a note later in the meeting. You can give it to either Mr. Madrigal or
353 Mr. Gidley.

354

355 Mr. Darryl Logan - All right. I will stay to the end as well, so that's no
 356 problem.
 357
 358 Mr. Berman - Any other questions? Mr. Logan, have you read the
 359 ten conditions in the packet and do you accept all of them?
 360
 361 Mr. Darryl Logan - I've read everything. I don't know exactly that there
 362 are ten conditions, but I read everything that was in the packet. I've had so many
 363 packets. What packet was that? Oh, so that's the one they were giving me this
 364 morning. Okay, hold on.
 365
 366 Mr. Berman - It has "Conditions of Approval" on the top of the page.
 367 I just want to make sure that you're comfortable with it. If you have any
 368 questions, we can address them right away.
 369
 370 Mr. Darryl Logan - No problem. Give me a second.
 371
 372 Mr. Berman - We talked about some of them already.
 373
 374 Mr. Darryl Logan - I've gone over this before, so I am comfortable with
 375 everything that I've read here. So yes, no problem.
 376
 377 Mr. Berman - Thank you very much. If there are no more questions.
 378
 379 Mr. Darryl Logan - June 10th backup date? Excuse me, guys. June the
 380 10th.
 381
 382 Mr. Berman - June the 10th? Okay. Great. When we come to the
 383 end of the meeting with the motions we'll amend that.
 384
 385 Mr. Darryl Logan - Gotcha.
 386
 387 Mr. Berman - Very good. No more questions. Thank you very much.
 388
 389 Mr. Darryl Logan - Thank you guys for the opportunity to speak in front of
 390 you. And if you have a chance, come check us out, we're at 2097 New Market
 391 Road.
 392
 393 Mr. Berman - It does smell good, I will tell you that. Very good. Is
 394 there anybody here who wishes to speak in support of this request? Is there
 395 anybody here who wishes to speak in opposition to the request?
 396
 397 Ms. Harris - I need to ask him. Mr. Madrigal, do you know what
 398 neighbor opposed this and if they live in the adjacent area?
 399

Mr. Blankinship - I actually took that phone call, Ms. Harris, so I'll answer if you don't mind. It was one of the neighbors on the opposite side of New Market Road. It was more of a concern, I think, that if the traffic got to be unmanageable it would be problematic. And that's why we were so emphatic about getting with the division of police and making sure that there would be adequate traffic safety measures.

Mr. Berman - Okay. As Mr. Blankinship explained, we're going to make a motion on this request after all the other requests are presented today. Since there are no further questions, Mr. Blankinship, can we have our next request?

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

Mr. Berman - Do I hear a motion?

Mr. Mackey - Yes, Mr. Chairman. I think Mr. Logan has done a good job in meeting with all necessary parties—the police, the fire, and the health departments. And I think they have answered all the questions needed. And I would like to make a motion that we go along with the County's recommendation and approve CUP2017-00011.

Mr. Berman - Mr. Mackey, would you like to amend condition #1 to include an alternate date of June 10, 2017.

Mr. Mackey - Yes sir.

Mr. Berman - Is that still okay, Mr. Logan? Okay. Very good. Same time, noon to 7 p.m. Very good. We have a motion from Mr. Mackey. Do we hear a second?

Ms. Harris - I second.

Mr. Berman - We have a second from Ms. Harris.

Ms. Harris - I think I need to say that I would love to be at this event, but I will be out of town on this day. I think the community is going to profit from the celebration.

Mr. Logan - And it's actually our two-year anniversary. So we want to continue to have this each year after this. So once we do it right this year and we show the community that it is going to come to fruition like we have in our minds, hopefully—.

Mr. Berman - Mr. Logan has stated off microphone that he intends to make this an annual event. Okay. Is there any further discussion? Hearing none, all in favor signify by saying aye. Any opposed say nay. There is no opposition; that motion carries 5 to 0.

I also want to thank everybody who has been sitting here for hours for sticking with it. Appreciate it. Let's move on.

After an advertised public hearing and on a motion by Mr. Mackey, seconded by Ms. Harris, the Board **approved** application **CUP2017-00011, RONNIE'S BBQ's** request for a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to hold a festival at 2097 New Market Road (Parcel 810-690-4480) zoned Business District (B-3) (Varina). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit is for the approval of a one-day temporary event on Saturday, May 20, 2017, 12:00 noon to 7:00 pm. In case of inclement weather, the event will be held on June 10, 2017.

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

3. The applicant shall clearly delineate at least 150 parking spaces and the necessary drive aisles on the property. Parking spaces shall be 9 feet wide by 18 feet deep. Drive aisles shall be at least 24 feet wide and shall be kept free and clear of equipment, vehicles, and obstacles during the event. Fire lanes shall be maintained as instructed by the Fire Marshall. Parking areas shall be separated from pedestrian areas of the event by six-foot-high construction fencing or similar measures to ensure the safety of visitors.

4. The applicant shall be responsible for ensuring that traffic turning into the event parking lot does not impede the flow of traffic on New Market Road. Traffic control marshals shall be posted as necessary to maintain the flow of traffic. An overflow parking area shall be designated in case the on-site parking proves to be insufficient.

5. The applicant shall obtain all necessary building permits for items including but not limited to tents in excess of 900 square feet and all electrical generators and connections to be used during the event. The applicant shall request building permits no later than May 17, 2017 and shall schedule inspections as requested by the Department of Building Construction and Inspections.

6. All food vendors shall obtain the appropriate licenses from the Virginia Department of Health and shall comply with all requirements of such licenses.

The applicant shall provide adequate restroom facilities and hand-wash stations as required by the Virginia Department of Health or the Department of Building Construction and Inspections.

7. On-site security measures shall satisfy the requirements of the Division of Police as outlined in their memorandum dated March 9, 2017.

8. On-site fire safety measures shall satisfy the requirements of the Division of Fire Safety as outlined in their response to the Music and Festival Permit application.

9. The applicant shall obtain a license for the sale of alcoholic beverages during the event, and shall comply with all the requirements of such license.

10. The applicant shall obtain a Music and Festival Permit for the event, and shall comply with all the requirements of such permit. Amplified sound and music shall not exceed 65 dB at the boundaries of the Carlton property (2041-2097 New Market Road and 2044-2060 St James Road).

Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
Negative:		0
Absent:		0

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

CUP2017-00013 **GLORIA A. DUFFEY** requests a conditional use permit pursuant to Section 24-95(i)(4) of the County Code to build a detached garage in the side yard at 113 Jankin Lane (BRADLEY ACRES) (Parcel 851-714-0449) zoned One-Family Residence District (R-2A) (Varina).

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?

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

The property today is located in the East End just northeast of the intersection of Meadow Road and Interstate 64. The property contains roughly two-thirds of an acre. There's an existing dwelling on it along with two aging sheds. This is a street view of the property, and you can see one of the sheds in the background right here.

538
539 The property owner would like to construct a one-story, 360-square-foot
540 detached garage in the side yard next to the existing driveway. This garage
541 would be accessed from the house by a ground-level deck. As you know,
542 accessory structures are required to be located in the rear yard, thus today's
543 application for a conditional use permit to allow it in the side yard.

544
545 Is the request consistent with the Comprehensive Plan and the Zoning
546 Ordinance? Yes it is. The property is zoned R-2A, One-Family Residence
547 District, and it's designated as Rural Residential on the Land Use Plan. The use
548 of the property as a one-family dwelling is consistent with both of these
549 designations, and a detached garage is a permitted accessory use to a dwelling.

550
551 Detrimental impacts on nearby property. The proposed plot plan is right here. As
552 you can see, the detached garage, which would be right here, and this is the
553 ground-level deck that's proposed to connect it to the house. The garage would
554 exceed the three-foot setback required for a detached structure. In the R-2A
555 district, the minimum side yard setback for the main dwelling itself is 12 feet. So
556 the proposed 25 would be just over twice the requirement for the dwelling. So
557 staff does not really anticipate any detrimental impact on the nearby neighbor
558 over here. You can see here this is the side yard looking from the applicant's
559 home over towards that neighbor. And as you can see, there's quite a bit of room
560 over in this area.

561
562 This is a floor plan and elevation. The ground-level deck would be here
563 connecting the house to the proposed detached garage. This is an elevation of it.
564 It's a one-car detached garage with a vinyl siding which is different from the brick
565 of the existing home. That said, there is some vinyl out in that neighborhood. The
566 adjacent property owner to the side does have vinyl for their home, so it would be
567 compatible to that. And as a result, staff does not anticipate a substantial
568 detrimental impact as far as the size or the material of the proposed detached
569 garage.

570
571 On the contrary, actually, one benefit of this is there are two existing sheds in the
572 backyard that are getting older and have seen better days. And the applicant has
573 indicated that once the detached garage is built, the two sheds in the backyard
574 would be removed. So replacing these with a new and permanent structure
575 would arguably be beneficial for the neighbors out there.

576
577 So in conclusion, the one-story detached garage would be similar in height to the
578 existing ranch home, and its proposed size of 360 square feet is not excessive.
579 Finally, setbacks similar to the principal dwelling's requirement would be met. As
580 a result, staff can recommend approval of this request subject to the conditions in
581 your staff report.

583 This concludes my presentation, and I will be happy to entertain any questions
584 you may have. Thank you.

585
586 Mr. Berman - Thank you very much. Does the Board have any
587 questions for Mr. Gidley?

588
589 Ms. Harris - Mr. Gidley, in the survey we have in our packet, we
590 have a lot 19, lot 18, lot 20. Is lot 19 a part of this parcel that we're dealing with
591 today?

592
593 Mr. Gidley - Yes ma'am. Lot 19 is the parcel. It's right here, the
594 outline. The dwelling shown here is the dwelling right here. And then the
595 driveway comes up this way, and the detached garage would be in the side yard
596 right here.

597
598 Ms. Harris - It seems that there is a lot of room in the back of that
599 dwelling that probably could be used for whatever purpose.

600
601 Mr. Gidley - There is room in the backyard. I believe they are on a
602 septic system, so they may be concerned about that. But I'll let the applicant
603 address that. I couldn't really tell when I was out there where the septic system
604 was actually located. But I suspect that's one of their concerns, and secondarily
605 just having the driveway over on this side of the home.

606
607 Ms. Harris - Okay.

608
609 Mr. Berman - Any other questions for Mr. Gidley? Thank you very
610 much.

611
612 Mr. Gidley - Thank you, Mr. Chair.

613
614 Mr. Berman - Let's hear from the applicant, please. Can you please
615 approach, state your name and spell it, please, for us?

616
617 Mr. Woods - Yes. My name is Shawn Woods

618
619 Mr. Berman - Wait until you get to the mic, please.

620
621 Mr. Woods - My name is Shawn Woods. S-h-a-w-n, W-o-o-d-s.

622
623 Mr. Berman - Thank you.

624
625 Mr. Woods - A couple of things I wanted to mention. Number one,
626 the house does have some vinyl siding on it so the garage would be matching
627 the house that's right next to it. There is vinyl siding on the house; it's not all
628 brick. And number two, if we did push the garage to the back, it would be closer

629 to the side yard because the back is angled. So it actually has more room where
630 it is than if we moved it around the deck area to the back side of the house. Plus
631 she has a patio back there which it might intrude on. And she is planning on
632 doing an addition behind the house for a master bedroom and family room. Being
633 that the driveway is there and the backyard is kind of cut at an angle, this
634 seemed to be the best place for the garage.

635
636 And if you looked at the house to the right, right at the end of the cul-de-sac to
637 the right of her, there's a garage probably 15 feet or 12 feet right next to the
638 property line. So it's over twice as close to the property line as she's going to be
639 doing. That house. You can see how close the garage is to the property line. So
640 she's going to be over twice the distance of that with her garage.

641
642 Anyway, that's all I have to say unless you all have questions.

643
644 Mr. Berman - Yes. Mr. Woods, I just want to make sure I heard you
645 correctly. Are you saying there is vinyl in the house in question or the neighbor's
646 house?

647
648 Mr. Woods - On the house that we're adding the garage to. If you
649 looked at one of the pictures, you'd actually see the vinyl siding. There's another
650 picture that shows the right side of the house that had vinyl siding on it. Yes, right
651 there. So we're matching that vinyl siding.

652
653 Mr. Berman - Okay.

654
655 Mr. Woods - And it actually continues around the back, but there
656 might not be a picture of that.

657
658 Mr. Berman - You can't see it from the street. Okay. Are you aware
659 if there's a homeowners association here that has any restrictions?

660
661 Mr. Woods - I'm not aware of anything in regards to that, no.

662
663 Mr. Berman - Okay. All right, thank you. Are there any other
664 questions for Mr. Woods?

665
666 Mr. Bell - Yes, one. The distance between the detached garage
667 and the deck, how far is that going to be?

668
669 Mr. Woods - Well the deck is actually up against the garage. Are
670 you asking me the distance between the house and the garage, the width of the
671 deck?

672
673 Mr. Bell - Is there going to be a path or a porch or a—
674

675 Mr. Woods - No. If you look at the floor plan, you'll see that that
676 kind of triangular area is all a deck. It abuts the house and the garage.

677
678 Mr. Blankinship - So you step out of the house onto the deck and walk
679 across the deck to the garage.

680
681 Mr. Woods - Yes. And then be able to go right into the garage.
682 Exactly, exactly. And she had a sunroom right there on the house side. So she
683 didn't want to really cover that deck because they said we could do a covered
684 deck and not even go through this permit. But she wanted to have the sun and
685 didn't want to cover the deck, which is why we're here. We wouldn't have had to
686 do this had she covered part of the deck to make it an attached garage. She just
687 didn't want to do that if she didn't have to.

688
689 Mr. Bell - Thank you.

690
691 Ms. Harris - Question. Are you aware of the septic tank location?

692
693 Mr. Woods - We're not. But in the conditions for this, we're going to
694 mark it out. I believe it's in the back of the yard. We'll have it marked out before
695 doing any work here.

696
697 Ms. Harris - If I understand you correctly, the reason that the rear
698 of the house is not being used for this garage is because there are future plans to
699 add on?

700
701 Mr. Woods - She has future plans behind the house, directly
702 behind it. But if we tuck the garage up further towards the back, it might actually
703 get closer to the property line that's angled on the right side. Yes, there. So we
704 might be closer to the property line. And we're trying to keep it closer to the
705 driveway, which is kind of where it's at right now, and not have to have her
706 driving around a deck to get to the garage and all that kind of stuff. It just doesn't
707 seem practical in the design of things. So that's why it was designed there.

708
709 Mr. Berman - Any other questions? Thank you, Mr. Woods.

710
711 Mr. Woods - Thank you very much.

712
713 Mr. Berman - Is there anybody here today who wishes to speak in
714 opposition to the request? How about in support of the request? Very good. Let's
715 continue.

716
717 **[After the conclusion of the public hearings, the Board discussed the case**
718 **and made its decision. This portion of the transcript is included here for**
719 **convenience of reference.]**

720

721 Mr. Berman - Do I hear a motion?

722
723 Mr. Mackey - Yes, Mr. Chairman. I make a motion that we go along
724 with the County's recommendation to approve CUP2017-00013. I think that it will
725 not be any detriment to the surrounding neighbors, and I think it would enhance
726 the neighborhood.

727
728 Mr. Berman - Thank you, Mr. Mackey. Do we hear a second?

729
730 Mr. Reid - Second.

731
732 Mr. Berman - We have a second from Mr. Reid. Any further
733 discussion? Hearing none, all in favor signify by saying aye. Those opposed?
734 There is no opposition; the motion carries 5 to 0.

735
736 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
737 Mr. Reid, the Board **approved** application **CUP2017-00013, GLORIA A.**
738 **DUFFEY's** requests a conditional use permit pursuant to Section 24-95(i)(4) of
739 the County Code to build a detached garage in the side yard at 113 Jankin Lane
740 (BRADLEY ACRES) (Parcel 851-714-0449) zoned One-Family Residence
741 District (R-2A) (Varina). The Board approved the conditional use permit subject
742 to the following conditions:

743
744 1. This conditional use permit applies only to the placement of a one-car garage
745 in the side yard. All other applicable regulations of the County Code shall remain
746 in force.

747
748 2. Only the improvements shown on the plot plan and building design filed with
749 the application may be constructed pursuant to this approval. Any additional
750 improvements shall comply with the applicable regulations of the County Code.
751 Any substantial changes or additions to the design or location of the
752 improvements shall require a new conditional use permit.

753
754 3. The location of the existing septic system shall be flagged prior to the start of
755 grading for the garage.

756
757 4. Before beginning any clearing, grading, or other land disturbing activity, the
758 applicant shall obtain approval of an environmental compliance plan from the
759 Department of Public Works.

760
761 5. All exterior lighting shall be shielded to direct light away from adjacent property
762 and streets.

763
764 6. The applicant shall remove the two sheds in the rear yard within one month of
765 the final inspection of the garage.

767
768 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
769 Negative: 0
770 Absent: 0
771
772
773 **[At this point, the transcript continues with the public hearing on the next**
774 **case.]**
775
776 Mr. Blankinship - CUP2017-00014 has been deferred. That's the
777 Discipleship RVA request. That case has been deferred. So we'll go to
778 CUP2017-00015.
779
780 **CUP2017-00015 PAMILA C. MAYFIELD** requests a conditional use
781 permit pursuant to Section 24-12(e) of the County Code to allow a
782 noncommercial kennel at 8602 Freestone Avenue (WINDSORDALE) (Parcel
783 754-749-7954) zoned One-Family Residence District (R-3) (Three Chopt).
784
785 Mr. Blankinship - Would everyone who intends to speak to this case
786 please stand and be sworn in. Raise your right hands, please. Do you swear the
787 testimony you're about to give is the truth, the whole truth, and nothing but the
788 truth so help you God? Thank you. Mr. Madrigal?
789
790 Mr. Madrigal - Thank you. Mr. Chair, members of the Board. Before
791 you is a request to allow a non-commercial kennel at a one-family dwelling. The
792 subject property is approximately a quarter of an acre in size and is improved
793 with a one-story, 1,400-square-foot residence with open parking that was
794 constructed in 1960. The rear yard is approximately 6,500 square feet in area
795 and is fenced in by a combination of wood and chain link fencing. The owner
796 acquired the lot in 1995. In May of 2015, the applicants adopted a three-year-old
797 female Rottweiler from the County animal shelter. They were told that the dog
798 had Lyme disease and had been spayed at the end of June. To their surprise,
799 the dog had a litter of five puppies. Of these, one female was permanently placed
800 with a family, and the rest reside at the subject lot. The five dogs range in age
801 from two to five years old and weigh between 70 and 100 pounds. The dogs are
802 kept in the residence and are let out into the backyard for supervised play and for
803 their necessities. All the dogs have been spayed and neutered.
804
805 In January of this year, the County received a complaint regarding the number of
806 dogs kept at the property. After the applicants were contacted by the Community
807 Maintenance Inspector and informed about the maximum number of pets that
808 could be kept at a residence, they applied for a conditional use permit.
809
810 The property is zoned R-3 and is designated as Suburban Residential 2 on the
811 Land Use Plan. The keeping of pets is a customary accessory use accessory to
812 a one-family residence. Although the applicant exceeds the number of pets

813 allowed without a CUP, the use is consistent with both the Zoning and
814 Comprehensive Plan designations.

815
816 The property is 12,000 square feet in area, and the rear yard is approximately
817 6,500 square feet in size. Although the rear yard is fenced, the height of the
818 fence along the northern and western property lines is 3-1/2 feet. Because of the
819 size of the dogs, staff feels that the fencing is too low and poses a potential
820 containment issue. Despite the fence height, the rear yard is big enough for the
821 wellbeing of the dogs.

822
823 In order to limit any potential adverse impacts on neighbors or nearby property,
824 the applicant not only needs to ensure containment, but also needs to limit noise
825 related to the animals. In this case, the three adjacent neighbors are on one-
826 quarter-acre lots and the homes are spaced closely together. The existing
827 fencing along the western and northern property lines should be replaced with a
828 higher and preferably solid fence like the six-foot-tall privacy fence along the
829 eastern boundary line that can be seen here. This would address the
830 containment issue and improve the safety factor for adjacent neighbors.

831
832 The applicants do not intend to add anymore pets and anticipate a reduction in
833 the number of dogs at the property once their older children acquire permanent
834 housing and take two of the dogs with them. Otherwise, the number of dogs will
835 be reduced by natural attrition. Based on the current situation, no substantial
836 detrimental impacts are anticipated if the applicant abides by the recommended
837 conditions of approval.

838
839 In conclusion, the applicant's request is consistent with the Zoning and
840 Comprehensive Plan designations for the property. The dogs are kept primarily in
841 the home, and ample yard is being provided for their wellbeing. As long as the
842 applicants improve the fencing and abide by the recommended conditions of
843 approval, any substantial detrimental impacts should be mitigated. For these
844 reasons, staff recommends approval subject to conditions.

845
846 This concludes my presentation.

847
848 Mr. Berman - Thank you very much. Board, any questions for
849 Mr. Madrigal? Thank you, sir.

850
851 Mr. Madrigal - Thank you.

852
853 Mr. Berman - I'd like to hear from the applicant now. Can you
854 please approach and state your name and spell it for us, please.

855
856 Ms. Mayfield - My name is Pamila Mayfield. It's M-a-y-f-i-e-l-d.

857
858 Mr. Berman - Good morning.

859
860 Ms. Mayfield - Good morning. Here I am. I was not expecting to be
861 here to do this because, like he said, when we went to the County pound to get
862 the dogs, I was expecting one. We didn't find out she was going have puppies
863 until the Monday before the Thursday she had them. And the doctor said you
864 might have ten days. We didn't. She didn't.
865
866 I tried to give them away. I gave Velvet, the older female away first. She came
867 back because my friend's brother's landlord said, "You can't have the dog in the
868 house. You have to build a kennel." He said, "I didn't get a dog to have it
869 outside," so he brought her back. I gave her away to another girl that worked at
870 the Kroger down the road from where we live. She's fine.
871
872 Oliver I gave to my next door neighbors when they lived there. They had him for
873 probably eight weeks or so. He was kept kenneled. He was I'd say mistreated,
874 but I can't prove it. When he came back, he wasn't the same dog. They were
875 evicted and said "please hold on to the dog for us until we can find someplace
876 else to live." That was November a year ago.
877
878 After that it was like—if I had known I had a three-dog limit, I would have been in
879 here asking for a permit a long time ago. I do have paperwork here if you need it
880 to prove they've been spayed or neutered. I have County tags for them, they've
881 got their rabies shots. Everything is as it should be. I just have more than I'm
882 supposed to.
883
884 They're almost two years old. They'll be two years old in June. And like I said, I
885 don't know what else to do. I'm afraid if I give them away to the County—I did go
886 back to the County and ask if we could do that. And they're like, "Nothing we can
887 do. Our bad. Oops." So it was a surprise.
888
889 They've good dogs. They're funny as they can be. They're good for a laugh. I go
890 outside with them when they go outside so they're not irritating my neighbors.
891 They didn't know what neighbors were, to be honest because the one house has
892 been vacant to—if you're in the backyard, the left of us, that's been purchased by
893 someone and it's now a rental property. The people that lived there for six
894 months prior to this worked at night, so we never saw them, neither did my dogs.
895 The ones that live there now have two dogs. They put up small temporary
896 fencing to keep their dogs off the fence and to keep mine—because they run.
897 They think this is grand fun. They race up and down the fence with each other.
898 Hers bark a lot; mine don't. Mine just run.
899
900 The wooden fence that's on the opposite side belongs to my neighbor that now
901 has bought the house and lives there. This is a new neighbor that lives there
902 now. She's getting ready to replace that because truth is, it's a little worn itself. I
903 have no problem putting a fence up behind my house and to the side of the
904 house. I really don't. I just would like to keep—you know I have the chain link

905 gate that's about six feet tall. I'd like to keep that, though, instead of making it a
906 wooden gate for the simple reason my trash man uses my yard to go to the back
907 yard to get my neighbors trash that lives on Parham Road. Their side of the
908 house faces Parham; mine faces Freestone and Parham's here. So their
909 trashcans are right here in that six-foot spot that's—where the telephone pole is
910 or the electric light pole is. And I can see them when they come that way, so that
911 I can go, "Wait a minute, let me get the dogs in," because I don't want them
912 bothered by them either.

913
914 Mr. Wiener's house is that one that sits facing Parham Road. And his trash is
915 over here where my fence is that divides us. I don't know how I'm going to do
916 that fence other than to put it inside of the chain link fence because he has
917 grapevines growing on it. But I'll figure it out.

918
919 I don't know what else to tell you, unless you've got more questions for me. I'll be
920 happy to answer them as best as I can.

921
922 Mr. Berman - Thank you, Ms. Mayfield. Are there questions from
923 the Board?

924
925 Mr. Bell - Yes, I have a couple. In the report it mentions that
926 three of the dogs will be leaving when your children get older?

927
928 Ms. Mayfield - Two will. I have a daughter and a son still living at
929 home. Oliver is my son's. Nina is my daughter's. So once they find permanent
930 housing—that's Oliver. The goofball. And Nina's the little one. She's the one right
931 here to the side. My daughter fell in love with that dog when she was born. How
932 am I supposed to give that away? That was the other thing, too, is once I did find
933 people that said they wanted puppies, when the puppies were here and ready to
934 go, they didn't want puppies anymore.

935
936 Mr. Bell - When are you expecting them to leave?

937
938 Ms. Mayfield - I'm trying to give them a chance. My daughter will be
939 21 the end of this month. She's trying to save money. They are looking for a
940 house to rent together. The reason being is because you usually have a fenced-
941 in yard. It is difficult sometimes to find houses to rent that will take large animals,
942 large dogs. But that's what we're trying to do. We're hoping within—I'd say six
943 months to a year. Please? Please? Between the sea of fur and my two grown
944 kids I'm like . . . yes. I see you saying the same thing. Oh my gosh. Yes, it's a
945 sea of fur in there. And they're all very happy to see you when you come home.

946
947 Mr. Bell - Mr. Chairman, based on that information and
948 condition #2 where it talks about them staying until basically they pass away or
949 for another reason, would it be beneficial for us to put in here the fact that within
950 a year the two small dogs will be leaving?

951
952 Mr. Berman - I think that's reasonable. We can discuss that during
953 motions.
954
955 Mr. Bell - Thank you.
956
957 Mr. Berman - Thank you. Any other questions for Ms. Mayfield?
958
959 Ms. Harris - Ms. Mayfield, if we did state that in the condition that
960 this situation will be resolved in one year, would that be feasible to you?
961
962 Ms. Mayfield - I would hope. But what I'd want to know is what
963 happens if it's not. What do I do then? Do I have to pay \$450 to come back and
964 do this again?
965
966 Ms. Harris - I can't answer that.
967
968 Mr. Blankinship - We can take that up further at the discussion portion.
969
970 Ms. Mayfield - Like I said, I'm hoping. But you know how it goes
971 sometimes. These are the two younger of four children. I have one that's in the
972 Air Force; he's in Fort Benning, Georgia. I have another one that's a bartender in
973 Florida. The two of them are grown and gone, and these two are still at home. My
974 younger son who is still at home will be 27 in August. He was out of the house for
975 a bit, but he was renting from someone else, and they did not pay the mortgage
976 loan on the house and it was foreclosed on. So he came back home.
977
978 So I'm trying to let them get their ducks together. Because I know once you start
979 renting something, house or apartment, they usually want a security deposit, they
980 usually want last month's rent. So now you're talking two rent payments. Then
981 you have hookups for electricity, water, gas. And then you'll want to put some
982 stuff in the refrigerator so you can eat when you finally get your stuff moved in. so
983 I'm trying to give them an opportunity, a chance.
984
985 So I don't know if you want to just leave two and two. I've had them this long. I'm
986 just trying to give them a chance to get their selves together so that when they do
987 they can take their dogs.
988
989 Mr. Berman - Thank you. Any other questions from the Board? So
990 first I just want to say that we hear applications like this quite often. It's a little
991 awkward because we don't want to be the bad guys, but we have a responsibility
992 for public safety—
993
994 Ms. Mayfield - I understand.
995

996 Mr. Berman - —and adherence to Virginia code. Personally, I have
997 a daughter who is also looking for an apartment. So she can move out and—
998

999 Ms. Mayfield - Does she need a roommate?
1000

1001 Mr. Berman - We could talk.
1002

1003 Ms. Mayfield - I've got two.
1004

1005 Mr. Berman - And we also rescue dogs. So I understand. But you
1006 have to understand, five dogs in a fairly confined area, and these are a known
1007 aggressive breed. Not to say that yours are.
1008

1009 Ms. Mayfield - I don't know what they are.
1010

1011 Mr. Berman - Okay.
1012

1013 Ms. Mayfield - I know what their mother is. We're guessing at what
1014 daddy is.
1015

1016 Mr. Berman - Rottweiler. And we understand that any pet in a
1017 person's home is like family. So I just want you to know that we are sensitive to
1018 this, but we need to look at all aspects. Any other questions? Thank you very
1019 much, Ms. Mayfield.
1020

1021 Ms. Mayfield - Thank you.
1022

1023 Mr. Berman - Is anybody here today to speak in support of this
1024 request? Is there anybody here today to speak in opposition of this request?
1025 Hearing none, let's move on to the next case please.
1026

1027 **[After the conclusion of the public hearings, the Board discussed the case**
1028 **and made its decision. This portion of the transcript is included here for**
1029 **convenience of reference.]**
1030

1031 Mr. Berman - I will make a motion. I move that we deny the
1032 conditional use permit. Do I hear a second? Hearing no second, the motion is not
1033 in effect. Do I hear another motion?
1034

1035 Ms. Harris - I move that we approve this conditional use permit
1036 adding the condition #2 that we're going to give them a one year grace period.
1037 Since she said the children would probably relocate and take a couple of the
1038 dogs with them, I think we need to give her at least this time.
1039

1040 Mr. Berman - So we're adding to condition #2 to stipulate a one
1041 year period where two of the dogs—we don't have to link it to the kids, but two of
1042 the dogs would be out of the household, out of the property. Is that fair?

1043
1044 Ms. Harris - Yes.

1045
1046 Mr. Berman - Okay. Thank you. Do I hear a second?

1047
1048 Mr. Bell - Second the motion.

1049
1050 Mr. Berman - We have a second from Mr. Bell. Any discussion? No
1051 discussion. All in favor signify by saying aye. Those opposed? The ayes have it
1052 4-0. Mr. Berman was the nay. Four to one.

1053
1054 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1055 Mr. Bell, the Board **approved** application **CUP2017-00015, PAMILA C.**
1056 **MAYFIELD's** requests a conditional use permit pursuant to Section 24-12(e) of
1057 the County Code to allow a noncommercial kennel at 8602 Freestone Avenue
1058 (WINDSORDALE) (Parcel 754-749-7954) zoned One-Family Residence District
1059 (R-3) (Three Chopt). The Board approved the conditional use permit subject to
1060 the following conditions:

1061
1062 1. This conditional use permit applies only to the keeping of five dogs as pets by
1063 the property owner. All other applicable regulations of the County Code shall
1064 remain in force. This permit is not for the commercial boarding or breeding of
1065 animals at any time.

1066
1067 2. No new or replacement animals may be added, so that the number of animals
1068 will be reduced by natural attrition to three, as allowed by code. This permit shall
1069 expire when two of the number of dogs living on the site has been reduced to
1070 three, or on April 27, 2018, whichever comes first.

1071
1072 3. The applicant shall maintain the property so that noise and odors are
1073 controlled. All pet waste shall be removed from the property at least once a
1074 week.

1075
1076 4. The dogs shall live in the residence and shall not be kenneled in the rear yard.

1077
1078 5. No later than July 27, 2017, the applicant shall enclose the rear yard with a
1079 6-foot-high privacy fence.

1080
1081
1082 Affirmative: Bell, Harris, Mackey, Reid 4
1083 Negative: Berman 1
1084 Absent: 0
1085

1086
1087 [At this point, the transcript continues with the public hearing on the next
1088 case.]
1089

1090 CUP2017-00017 AFFINITY FUNERAL SERVICE requests a
1091 conditional use permit pursuant to Section 24-50.7(e) of the County Code to
1092 allow one cremation unit at a funeral home at 2720 Enterprise Parkway (WEST
1093 BROAD PARK) (Parcel 763-752-3510) zoned Office District (O-2) (Tuckahoe).
1094

1095 Mr. Blankinship - Would everyone who intends to speak to this case
1096 please stand and be sworn in. Raise your right hands, please. Do you swear the
1097 testimony you're about to give is the truth, the whole truth, and nothing but the
1098 truth so help you God? Thank you. Mr. Gidley.
1099

1100 Mr. Gidley - Thank you, Mr. Secretary. The site is located at the
1101 intersection of Enterprise Parkway and Prestwick Road. Surrounding uses
1102 include the Three Willows apartments to the north. And across the road here you
1103 have the Williamsburg Park subdivision, and then there are offices to the south
1104 and to the east.
1105

1106 The building in question was originally constructed as an office building in the
1107 1970s. The current owner acquired the property in 2014 and a year later received
1108 plan of development approval to allow the conversion of the office building into a
1109 funeral home. The applicant would like to install a single cremation unit at the
1110 back corner of the property, which would be right here. Enterprise Parkway
1111 actually runs up on this side here, so this is the back corner right here where this
1112 would go.
1113

1114 As far as the evaluation, is the request consistent with the Comprehensive Plan
1115 and Zoning Ordinance? The property is zoned O-2 Office District and is
1116 designated as Office on the Comprehensive Plan. A funeral home is consistent
1117 with both of those designations. In the O-2 District, the Zoning Ordinance allows
1118 a single cremation unit to be approved by the Board of Zoning Appeals by a
1119 conditional use permit.
1120

1121 Would the request result in substantial impact on nearby property. As I said, the
1122 properties to the east and south are used as offices, which this would be
1123 consistent with. The parcels to the north and west are residences or residential
1124 property. A funeral home can be a good transitional use between residences and
1125 the more intensive uses to the northeast towards West Broad Street. That said,
1126 as I'm sure you saw in your staff report, the owner of the adjacent apartment
1127 complex did send in a letter to us and listed a number of concerns that the
1128 owners of the adjacent apartment complex did have with the proposal. Staff
1129 suggested the apartment owner and the applicant meet, which I'm glad to report
1130 they did meet. They met on Tuesday. And I received a subsequent message
1131 from Mr. Kessler, the owner of the apartments next door. And he said he was no

1132 longer opposed to the request and that as long as they received the required
1133 emissions permit from the Department of Environmental Quality, he would have
1134 no opposition to this request.

1135
1136 This is where the cremation unit would go. The apartments are back here. And
1137 as you can see, there's a new fence that has been installed here and a number
1138 of mature pines, which would be preserved. So there is a good buffer between
1139 the side of the proposed cremation unit and the apartment complex.

1140
1141 Yesterday evening, staff did receive an email from a resident in the Williamsburg
1142 Park neighborhood who lives right over off of Chowning Road, which is right
1143 here. She expressed some concerns about potential fire and emissions
1144 concerns. And I had one other call from a resident of one of the nearby
1145 neighborhoods expressing concerns about it also.

1146
1147 The Zoning Ordinance does require the cremation unit to be equipped with
1148 safeguards that would eliminate all smoke, odor, and other harmful emissions.
1149 Staff received a letter that's in your staff report from the manufacturer of the
1150 proposed unit saying it would be equipped with monitors that prevent the
1151 emission of any smoke or odors. There is a proposed exhaust stack, which is
1152 right here. The letter indicated the stack would be used to vent hot air and hot
1153 gasses, but that otherwise it would be in compliance with code and that no
1154 smoke, odors, or harmful emissions would be given off.

1155
1156 In conclusion, the property is currently used as a funeral home. The Zoning
1157 Ordinance does allow a funeral home in the O-2 District to have a single
1158 cremation unit with the approval of a conditional use permit. This cremation unit
1159 would be equipped with safeguards to eliminate smoke, odor, and any harmful
1160 emissions. In addition, as I showed earlier, there is an effective buffer between
1161 the funeral home site and the adjacent apartment complex. As a result, staff can
1162 recommend approval of this request subject to the conditions in your staff report.

1163
1164 This concludes my presentation, and I'll be happy to answer any questions you
1165 may have.

1166
1167 Mr. Berman - Thank you, sir. Any questions from the Board for
1168 Mr. Gidley?

1169
1170 Ms. Harris - The statement that you said, the owner of the
1171 apartment complex agreed to, seemed to have implied that as long as this permit
1172 would be granted or approved by the environmental control—

1173
1174 Mr. Gidley - Department of Environmental Quality at the state
1175 level.

1176
1177 Ms. Harris - Right. Is that a condition here?

1178
1179 Mr. Gidley - It's not. And I was going to suggest you might want to
1180 go ahead and add that. My understanding is they have to get the emission's
1181 permit from DEQ, but it wouldn't hurt to add it as a condition of approval here as
1182 well.

1183
1184 Ms. Harris - Okay.

1185
1186 Mr. Gidley - The phone call came in on Tuesday two days ago, so
1187 it wasn't in the staff report at that time.

1188
1189 Mr. Berman - Any other questions? Mr. Gidley, I noticed that a
1190 couple of the questions were left blank on the application. Did I miss it? Are the
1191 answers to those questions 1 and 2 on page 2 somewhere else in the packet?

1192
1193 Mr. Gidley - I noticed that too. Sometimes people fill things out
1194 more thoroughly than others. I don't believe I have anything additional other than
1195 the letters that were included in the staff report from the manufacturer. So
1196 perhaps that's something you could address to the applicant.

1197
1198 Mr. Berman - We will. Thank you. Any other questions? Very good.
1199 Thank you, Mr. Gidley.

1200
1201 Mr. Gidley - Thank you, Mr. Chair.

1202
1203 Mr. Berman - Can the applicant please approach? State your name
1204 and spell, please.

1205
1206 Mr. Mullins - I'm David Mullins. And it's M-u-l-l-i-n-s. I am the
1207 president and co-owner of the funeral home. First of all, I apologize for
1208 overlooking and failing to answer those two questions. I'm prepared to answer
1209 them now, and I'll be glad to write in what I say and so forth if that can be done.

1210
1211 We bought this property, and when we were talking to folks in Planning when we
1212 were preparing to—I don't know if any of you are familiar with the building. But
1213 the building, Mr. Joyner built it years ago. The postal service had the upstairs,
1214 rented it for years. I think it only ever had two employees and 14,000 square feet.
1215 But then they left. And the building was in a not-so-good state of repair when we
1216 bought it.

1217
1218 We have been in funeral service—I'm second generation. My family's been in
1219 funeral service for over 50 years. We have a firm in Fredericksburg, Virginia, one
1220 in Stafford, Virginia, two in Louisa County. Why did we want to come to
1221 Richmond? Our children, one graduated from VCU; one graduated from U of R.
1222 This is their home. Our daughter drove up the road for nine years working with

us. Our grandchildren came. I wanted her off the road. And our son decided he wanted to go into funeral service, so we felt there was an opportunity here.

When I met with Planning, they advised me to get the funeral home open, initially when we were coming with the application to put a funeral home there. Try to be a good neighbor first. Improve the building. We've redone the parking lot. I wish you could see the inside of it, what we've done to it. We also bought the next to it, which is—what would that be Mr. Gidley, the office building to the—is that to the north?

Mr. Blankinship - South? Or to the north?

Mr. Mullins - Yes, to the north. Why did we buy that building to the north? Well, we wanted to spruce that up as well. But I did not want that facility to be a parking concern for our neighbors at the funeral home. So in the evening, on weekends, we have 75 additional parking spots that we can use there rather than having people pour out into the streets and so forth. So we're deeply invested in that.

I understand that folks may have concerns about what we do. But this is just the first step. We cannot go to DEQ with an application—and I have two crematories in our Fredericksburg location, so I'm very familiar with the process. But we cannot go to DEQ unless zoning allows it. And then they will do their thing, and their thing is about that thick, the permit is. The company that we would be using—we have two of these units already. They have 50 of them in the state of Virginia.

Cremation, folks need to know about the process and so forth. When I became a funeral director 30 years ago. My family moved to Fredericksburg 32 years ago. Before that, we lived in Southwest Virginia. And about 1 or 2 percent of the families we served had cremation. Cremation today is approaching 60 percent. It is all religions, all races and so forth. And a big part of it is economics. And part of our business plan when we came to Richmond, we wanted to come with a more affordable option for folks, which we have. But we wanted them to have a facility that was first rate so they would have dignity and respect that they deserve. So that's what we've tried to do here.

With regard to that first question, I don't think there will be any effect because if there's going to be any effect to the environment, DEQ's not going to let us do it. And as far as the visibility, I don't know if you saw the drawing there, but we've taken this—we would not have been able to do what we've done—and again, I invite any of you and our neighbors that are here that I've not met, any of you to come and see the facility inside.

But because that building was a concrete building, we were able to pretty much gut the first floor. And we've got a nice ceiling height and so forth. But that did not

1269 allow us to—we cannot really be cutting through that floor and with those T's and
1270 U's and so forth in putting that inside the building. So that's why we want to build
1271 on. But we've taken great effort to that stack, which we have to have. It's going to
1272 be covered, surrounded, all the way up except the top five feet. And that will be
1273 approximately—those top five feet will be at an elevation of about from 31 to 36
1274 feet. I may be off on that.

1275
1276 But those pines in the back were originally—Planning at first said take them
1277 down and do landscaping. When I met with Mr. Kessler on Tuesday, he and I
1278 both agreed that the pines were a good thing for us and a good thing for him. So
1279 Planning came back and they said, "We don't want you to take all the pines
1280 down." This is when we were getting the funeral home application approved.
1281 They said, "We want you to put up an eight-foot fence," and that's what we did.
1282 So we put the fence up, and we have the pines there as well.

1283
1284 I also need to say to you that because of the age of the neighborhood, the front
1285 of our property, the north of our property, the south of our property, there are
1286 mature trees that are 35, 40 feet high. And due to the height of our building, I
1287 think there is little visibility if any visibility for anyone. And again, as far as
1288 affecting the environment, DEQ's not going to approve it if there's an effect there.

1289
1290 How does it fit in? I think it fits in in that a funeral home was by right in O-2.
1291 Funeral homes are allowed in B-3, which is our building to the north. I think the
1292 building across the street is B-3 or maybe it's O-3. But I think it's B-3. But you
1293 know what? Mr. Kessler and I had a good meeting the other day about fitting in.
1294 One of his initial concerns that you'll see in that letter was how about if maybe he
1295 can't rent apartments because of certain groups of people, religions and so forth.
1296 There are Hindu families, Buddhist families, Vietnamese families, and the list
1297 could go on. There are a considerable number of families now who because of
1298 their background want to go to the crematory. They want to have their service in
1299 the chapel, and then they want to go with the body to the crematory. He wasn't
1300 aware of that.

1301
1302 And again, as I said, we're at a 60 percent cremation rate right now. And it's
1303 projected by the year 2022 or 2024 that the cremation rate in the U.S. will be
1304 about 73 percent. So we would just like to be considerate.

1305
1306 I have not received any other communication. Mr. Gidley informed me of
1307 Mr. Kessler's concerns. I called him that day. He went out that evening and
1308 looked at the property. He was going on vacation the next week, so this past
1309 Tuesday was the first day that I could meet with him. I met with him at 9:00 on
1310 Tuesday morning, and I think he called Mr. Gidley around 10 and left a message.
1311 I know there was a letter that I received a copy of last—. But we have not heard
1312 from anyone else.

1313
1314 Thank you very much.

1315
 1316 Mr. Berman - Thank you, Mr. Mullins. Before I open it up, you did
 1317 cover questions 1 and 2 on the application, which were previously blank. Also left
 1318 blank were the hours of operation.
 1319
 1320 Mr. Mullins - Okay. DEQ put specific hours in there that we can
 1321 operate it. Typically it would be something like from 9 until 6, something like that.
 1322
 1323 Mr. Berman - Monday to Friday?
 1324
 1325 Mr. Mullins - Monday through Friday. The only problem we might
 1326 have with that is because of—one challenge that funeral homes in general have
 1327 now, and I think it's because of people needing to work, is a lot of families want
 1328 to have Saturday and Sunday funerals. We might possibly have a service on a
 1329 Saturday or a Sunday that the family wanted to see the cremation. I had one last
 1330 week in Fredericksburg, an Indian family, a doctor. And they wanted their two
 1331 hours in the chapel, and then they wanted to go to crematory, and it had to be on
 1332 a Sunday afternoon.
 1333
 1334 But I would be fine with that—we could only do a cremation on those days if it
 1335 was involved in a service, something like that.
 1336
 1337 Mr. Berman - Okay, thank you. At this time, are there any questions
 1338 for Mr. Mullins from the Board?
 1339
 1340 Ms. Harris - Yes. Mr. Mullins, is a crematory normal for funeral
 1341 homes? I know that you mentioned the trend now is to have more cremations.
 1342 But do we see funeral homes with cremation units like you are proposing?
 1343
 1344 Mr. Mullins - I think Woody Funeral Home in Henrico on Parham
 1345 Road has had one for over 20-some years.
 1346
 1347 Ms. Harris - On site.
 1348
 1349 Mr. Mullins - Yes ma'am.
 1350
 1351 Ms. Harris - Okay. I always thought that it was a third-party site.
 1352
 1353 Mr. Mullins - It used to be. Bliley's, about five or six years ago they
 1354 put one at their Chippenham location. They built onto that building and put one
 1355 there.
 1356
 1357 Ms. Harris - Okay. And I had several questions before you even
 1358 came before us. One question was if you'd be visible to neighbors. And I think
 1359 that we see that it is. From the parking lot, we could see you're going to place it
 1360 right there on the corner almost. So it would be visible?

1361
 1362 Mr. Mullins - No ma'am. We're building a two-bay garage, if you
 1363 will. Do you see those U's that come out from the building, those concrete—
 1364 looking at the building there, you see that concrete and then you see a window.
 1365 And then you see concrete and you see a window. See where the car's parked?
 1366
 1367 Ms. Harris - Yes.
 1368
 1369 Mr. Mullins - Just imagine that on the back side. It's the same.
 1370 Okay. And we have a garage base back there. What we're going to do where
 1371 that tree is, is we're going to build basically a two-bay garage that will be brick.
 1372 And then so that will be one level. And then what we're going to do on the plan, if
 1373 Mr. Gidley can show you, is right there—see that one window, two windows in?
 1374 What we're doing is we're building out from those windows and that concrete,
 1375 and we're building a wall up to make that stack only be visible the five feet
 1376 required by the DEQ at the top. So it will not be visible except that.
 1377
 1378 Ms. Harris - Okay. But the concrete barrier is visible.
 1379
 1380 Mr. Mullins - I'm sorry?
 1381
 1382 Ms. Harris - The exterior of the building. The exterior of the
 1383 cremation unit.
 1384
 1385 Mr. Mullins - No ma'am. The stack will be enclosed. Basically,
 1386 we're building a three-wall shelter around it so that will not be visible.
 1387
 1388 Ms. Harris - So what will be visible?
 1389
 1390 Mr. Mullins - Just that five feet above.
 1391
 1392 Ms. Harris - Okay. I'm missing something here.
 1393
 1394 Mr. Blankinship - The garage will be visible.
 1395
 1396 Mr. Mullins - The garage will be visible. And it will be brick.
 1397
 1398 Ms. Harris - Okay, that was my question.
 1399
 1400 Mr. Mullins - I apologize.
 1401
 1402 Ms. Harris - No problem.
 1403
 1404 Mr. Bell - Can I interrupt just a second?
 1405
 1406 Ms. Harris - Sure.

1407
1408 Mr. Bell - Right with this, since she's brought this up, is the top
1409 going to be like the top of the rest of the building?
1410
1411 Mr. Mullins - The top of?
1412
1413 Mr. Bell - You know it's got that fancy stuff? I don't know.
1414
1415 Mr. Mullins - What we're going to do is the material that comes out
1416 will be painted like the rest of the building.
1417
1418 Ms. Harris - Next question. In the letter from Cremation Systems
1419 Incorporated, paragraph 2, it talks about the stack is equipped with automatic
1420 capacity? I'm sorry.
1421
1422 Mr. Mullins - Opacity.
1423
1424 Ms. Harris - Yes. Monitors that prevent any visible emissions.
1425
1426 Mr. Mullins - Yes ma'am.
1427
1428 Ms. Harris - Okay. So because they have singled out visible
1429 emission, are there invisible?
1430
1431 Mr. Mullins - There are gases, yes ma'am. And that is all
1432 addressed in the DEQ. But I would say to you that that is not an uncommon thing
1433 in that the gentleman before you, the barbecue guy, they've got emissions into
1434 the air. Buz and Ned's up on the corner of Parham, they've got two furnaces right
1435 out there. And this is a different thing, but what I want to say to you again is the
1436 DEQ report, which is that thick will address every bit of that. And it's very
1437 stringent.
1438
1439 Ms. Harris - Yes. But I don't think we want to pass on our
1440 responsibility to any other board or commission. I think we have to do what we
1441 have to do here. So I have a—
1442
1443 Mr. Mullins - Well I would say this to you, ma'am, and maybe I can
1444 better—if there are concerns about that, there are no visible emissions. And so if
1445 we're concerned about other emissions, then you should be concerned about
1446 Woody's unit. You should be concerned about the two the Cremation Society
1447 has—I call it close to the Ukrop building—I'm sorry—in the building where Fox
1448 TV is. They have two there. And then Bliley has put in a sister company called
1449 Richmond Cremation in Henrico County, which is less than a mile from their main
1450 operation on Augusta. They were allowed to put a crematory in there.
1451

1452 Ms. Harris - Right. We normally take case by case rather than
 1453 case by county.
 1454
 1455 Mr. Mullins - Well I'm sorry. I'm just saying there's precedent for
 1456 other crematories being in the County. And I apologize.
 1457
 1458 Ms. Harris - The other thing is someone mentioned smoke. So you
 1459 said gases and visible gases. But that would be smoke, right?
 1460
 1461 Mr. Mullins - No ma'am. The opacity monitor is what shuts that
 1462 down.
 1463
 1464 Ms. Harris - Okay. I believe those are all my questions.
 1465
 1466 Mr. Berman - Thank you, Ms. Harris. Any other questions from the
 1467 Board?
 1468
 1469 Mr. Bell - To follow up on a couple of questions. When you talk
 1470 emissions, that's obviously a big concern with the odor and everything else. Have
 1471 you ever had any complaints because of gas emissions?
 1472
 1473 Mr. Mullins - No sir, I have not. And odor is not—I know
 1474 Mr. Kessler put that. Odor is never a concern with cremation. It is not. Where
 1475 you're going to have odor in a funeral home is if there is a body that has been
 1476 dead for a time before it was taken into the funeral home's care. But there is no
 1477 odor with cremation.
 1478
 1479 The other thing that I would say to you—this addition that we are proposing is we
 1480 put the second bay there. In O-2 you can have no funeral vehicle outside that
 1481 has any markings on it. So we're building a place there to put a hearse. We want
 1482 to follow the rules, so that's why we're doing it.
 1483
 1484 Mr. Bell - You have two in Fredericksburg. Have you had any
 1485 complaints in Fredericksburg?
 1486
 1487 Mr. Mullins - No sir, I have not.
 1488
 1489 Mr. Bell - Are the two in Fredericksburg set up like you're trying
 1490 to set this up? By that I mean location where it's in residential, plus business
 1491 areas, or are they just in strictly business areas?
 1492
 1493 Mr. Mullins - We are on Route 1. We're in a business area. But
 1494 we're very visible to Route 1.
 1495
 1496 Mr. Bell - Other than Mr. Kessler, have you received any other
 1497 complaints from any neighbors around you?

1498
 1499 Mr. Mullins - I have not heard anything at all. There are two letters
 1500 that I think have been received in the last day. I saw one yesterday and then I
 1501 saw one this morning. So I have not had a chance to respond to those.
 1502
 1503 Mr. Bell - Thank you.
 1504
 1505 Mr. Mackey - You said you hadn't had a chance to respond. Is it
 1506 possible that you would respond to Mrs. Buchannan's email? She had a few
 1507 questions on there.
 1508
 1509 Mr. Mullins - Okay. Can I—
 1510
 1511 Mr. Mackey - Would you like to see a copy of it?
 1512
 1513 Mr. Blankinship - We'll give a copy. He's got a copy.
 1514
 1515 Mr. Berman - Due to her work schedule, Mrs. Buchannan was not
 1516 able to attend today. Thus the email.
 1517
 1518 Mr. Mullins - Okay. I know we're not talking about other funeral
 1519 homes and so forth, but would you want—I have some knowledge about #2. Do
 1520 you want me to respond to #2 or not?
 1521
 1522 Mr. Berman - Sure, because we can't click on the link.
 1523
 1524 Mr. Mullins - Okay.
 1525
 1526 Mr. Blankinship - The question is: How will accidents like this one be
 1527 avoided? We don't need to know any more than that about what happened, just
 1528 how it would be avoided at your location.
 1529
 1530 Mr. Mullins - Okay. I need to give you one minute of history. I was
 1531 on a funeral in Stafford County. We got a call. Up there we do not have—
 1532 everybody doesn't get taken to a morgue. The funeral homes are the morgues.
 1533 There was a gentleman who they said weighed between 800 and 1,000 pounds
 1534 they wanted us to respond to. We had to bring the body to Richmond. Rather
 1535 than send staff members, I left the other funeral director in charge and went back
 1536 to the funeral home and took two staff members out there. The gentleman was
 1537 that big. We got him in the vehicle. He was wrapped in a heavy tarp that the fire
 1538 department had provided. We placed him on a wooden air tray to get him out of
 1539 the house.
 1540
 1541 I got a call three days later from the ME office wanted to know if I wanted that
 1542 pallet back. I said no, but the fire department needs their tarp back. And they said
 1543 no, they don't want that; that's a biohazard.

1544

1545 I can only surmise that that body that was that large and that tarp, which was
1546 really, really thick, is what went into that crematory. And is that in Henrico as well,
1547 that crematory? I think it may be.

1548

1549 Mr. Blankinship - The link mentions Henrico, but we aren't able to click
1550 on the link.

1551

1552 Mr. Mullins - Okay. But anyway, how will I keep that from
1553 happening? Number one, there is a crematory in Northern Virginia that if we
1554 get—this unit that we're proposing will hold someone up to 800 pounds. But I
1555 don't believe in testing the limits, so if we get somebody that's over 500 pounds,
1556 we're probably just going to take them up north.

1557

1558 I think what caused the fire was—I don't know about their crematory unit, but I
1559 think that tarp and the size of that person was a pretty bad recipe for what
1560 happened.

1561

1562 Mr. Blankinship - So you're saying that there's another facility in
1563 Northern Virginia that has a different kind of unit?

1564

1565 Mr. Mullins - That maybe will hold one up to 1,000 pounds. One of
1566 the challenges of our whole business in what we do is we as a country as getting
1567 bigger.

1568

1569 Mr. Blankinship - So the answer to the question is there are other
1570 facilities you could use.

1571

1572 Mr. Mullins - Yes sir. Our first unit will—they say 600, but I'm not
1573 comfortable putting anyone over 400 pounds in that. And the reason I put the
1574 second unit in was to better serve people, but also to have one of these that
1575 could serve for a larger person.

1576

1577 Mr. Berman - Okay. Thank you, Mr. Mullins. Regarding the email, I
1578 think you've touched on all the other items in here.

1579

1580 Mr. Mullins - Okay.

1581

1582 Mr. Berman - It's in the packet. So thank you for that. I think the
1583 distinction is being made here between the acceptance of cremation in general
1584 and the acceptance of the proximity of cremation. I think they they're two
1585 separate things with regard to a residential area.

1586

1587 Mr. Mullins - Yes sir.

1588

1589 Mr. Berman - So are there any other questions?

1590
1591 Ms. Harris - Yes. My concern is location. I believe in cremation.
1592 My mother was cremated, and those were her wishes. But the crematory that we
1593 used was not located in a residential community. So I have concerns about that.
1594 Do you know how much it will cost you to build what you're requesting here as
1595 opposed to how much it would cost if you built it somewhere else?
1596

1597 Mr. Mullins - Well our problem with building it somewhere else is
1598 the way the zoning rules are in the county. You have some areas where we could
1599 put a funeral home but that funeral home—we can get a small building. The way
1600 the zoning rules are, in B-1, B-2, B-3, when whoever did the road plan, a funeral
1601 home has to be on a major or minor arterial road. And the M rules follow kind of
1602 along with that. And in those rules, too, a funeral home can only cremate the
1603 bodies for the families that have called them. So technically, if I want to follow the
1604 rules, which I want to follow the rules, if I find a place someone else two miles
1605 away and it's in B-1, 2, or 3, and it's on a good enough road, and I can put a
1606 crematory there, I couldn't bring the bodies from this location to that one the way
1607 the County rules are.
1608

1609 Ms. Harris - You cannot bring a body from the funeral home to a
1610 crematory?
1611

1612 Mr. Mullins - The only place that you can accept—my reading of
1613 the zoning and where I've talked to Mr. Kennedy, Michael Kennedy, who was the
1614 person who helped us on the funeral home application who's a very nice
1615 gentleman, is that M-2 is the only place that we could put a crematory in Henrico
1616 that we could take bodies to another location. So if this is denied, I'm going to
1617 need to look at going into Chesterfield or into Hanover.
1618

1619 We're very pleased with the reception we've received for the funeral home,
1620 though. The community response. By the end of last year, our first year, we
1621 served 250 families, which is kind of unheard of for a startup. And this year we
1622 have already served as many families as had served through mid-September of
1623 last year.
1624

1625 Ms. Harris - I was not talking about the funeral home.
1626

1627 Mr. Mullins - No, I know.
1628

1629 Ms. Harris - I was only talking about the cremation unit.
1630

1631 Mr. Mullins - I'm just saying—what we're trying to do is to better
1632 serve the families that have been calling us. We cannot—what you're asking me
1633 to—Mr. Kennedy will tell you. I've asked him about four or five buildings over the
1634 last year. The way the zoning laws are it's just—or the Zoning Ordinance, it's not

1635 that easy. We would have to find an M-2 piece of property I think is what we'd
1636 have to do.

1637

1638 Mr. Berman - It may not be easy, but there's an option.

1639

1640 Mr. Mullins - Well. This would be our first choice.

1641

1642 Mr. Berman - I understand.

1643

1644 Ms. Harris - Thank you.

1645

1646 Mr. Berman - Any other questions? Very good. Thank you,
1647 Mr. Mullins.

1648

1649 Mr. Mullins - Thank you.

1650

1651 Mr. Berman - Can I see a quick show of hands of those who are
1652 planning to speak in support of this application? Okay, how many who want to
1653 speak in opposition? Is there a spokesperson? For the record, there are eight or
1654 nine people. Is there a spokesperson? Okay.

1655

1656 Ms. Goldman: [Off microphone] I can volunteer to be the
1657 spokesperson.

1658

1659 Mr. Berman - Just in the interest of time. And then after you speak,
1660 if there's more to be said that hasn't already been said then we can call on the
1661 next person. How's that? Okay.

1662

1663 Mr. Blankinship - But we don't need six people to make the same
1664 statement.

1665

1666 Mr. Berman - That's what I'm saying. So no piling on in the interest
1667 of time. Yes, if you don't mind. If you could please approach and state your
1668 name. We do appreciate everybody who has come out, though, today, taken the
1669 time.

1670

1671 Ms. Goldman - Good morning. I'm Frances Goldman. G-o-l-d-m-a-n. I
1672 apologize for not having spoken to my friends and neighbors in advance to know
1673 what their opposition may be, but I'm hoping I'll hit everything. And if not, you'll
1674 give them an opportunity, I would hope, to speak.

1675

1676 I believe collectively we all live within a three-quarter mile proximity of the
1677 proposed cremation unit. We are opposed to the installation of the cremation unit
1678 at 2720 Enterprise Parkway. I appreciate Ms. Harris's point about being able to
1679 separate the unit from the location. And I appreciate you having brought that up,
1680 so I won't spend much time on that.

1681
1682 I will first talk on the scientific side. I have copies of many studies that show that
1683 one of the emission problems is mercury from fillings in the bodies. There are
1684 screens that can be installed, but I'm not aware that this unit does have those
1685 screens. I've not done any research on that to find out what unit they've gotten.
1686 And no, I was not in touch in advance with Mr. Mullins to find out what he had in
1687 mind. I only became aware of this about a week ago when one of my neighbors
1688 pointed it out.

1689
1690 The seriousness of the health condition in these studies has been reported over
1691 and over. I do know that the Bliley's unit does have a screen, and that does keep
1692 the mercury emissions out. At least I've been told. I don't know that for a fact; I've
1693 only been told that.

1694
1695 In addition, there are other gases that are released. And you're right, Mr. Mullins,
1696 none of them are visible. And to Ms. Harris's point, visible doesn't necessarily
1697 mean safe or unsafe. It's the emissions themselves. If you'd like, I can leave a
1698 copy of this and give everyone those studies.

1699
1700 On strictly an emotional side I'm going to tell you—and this is me speaking
1701 personally, not as a lawyer, not as a representative. I'm Jewish. And frankly, I
1702 don't want a crematorium in my neighborhood. I don't. If there's a way to put the
1703 crematorium, in Goochland County out in the woods or somewhere in Henrico
1704 out in the woods, more power to you. I just am vehemently opposed to having a
1705 cremation unit, otherwise known as a crematorium in my backyard. And I think it
1706 will affect property values. I think it will affect emotional value; certainly you can
1707 hear it in my voice. It affects my emotional value. And I have a really big problem
1708 with this, and I don't want it.

1709
1710 I don't have a problem with a funeral home. People die; we all face that. I'm an
1711 estate and trust lawyer; people die. It's the disposition of the remains in a
1712 neighborhood that I find offensive.

1713
1714 If I could ask, are there any points that I did not bring up that someone else
1715 would like for me to?

1716
1717 Mr. Blankinship - Well we need everyone—

1718
1719 Mr. Berman - I'll call you up.

1720
1721 Ms. Goldman - The mercury issue I know is a very big issue,
1722 especially with children and pregnant woman. I do have studies here, and I can
1723 leave those with the Board if you would like. And it's a very serious issue. I don't
1724 know how other places that have allowed it in Henrico County have dealt with
1725 that. I can't answer that.

1726

1727 Is there anything else I missed besides that? Okay. I believe that's all I have to
1728 say.

1729
1730 Mr. Berman - Okay, thank you very much. Are there any questions
1731 for Ms. Goldman from the Board? Okay, thank you very much.

1732
1733 Ms. Goldman - Thank you.

1734
1735 Mr. Berman - At this time I wanted to see if Mr. Mullins could
1736 approach for a second. To the mic, please. I wanted to give you an opportunity
1737 first. You've heard and seen some opposition. You have a couple of options. We
1738 could proceed or you could consider a deferral and dig deeper into possible
1739 options and solutions. I wanted to give you that option.

1740
1741 Mr. Mullins - I'm a reasonable person. If deferral would change
1742 anything, I would be glad to meet with folks. If that would be the
1743 recommendation. But if folks are set in their ways . . .

1744
1745 Mr. Blankinship - Some of the concerns that have been expressed are
1746 technical in nature, and they have to do with the relationship between this
1747 Board's responsibility, the DEQ's responsibility, and your responsibility on the
1748 technical issues. I think a month's deferral would allow conversation around
1749 those issues. Some of the other parts of the opposition are not going to be any
1750 different a month from now. Some of those questions are still going to be difficult
1751 questions a month from now. I think some of the questions you could lay to rest
1752 in a month.

1753
1754 Mr. Mullins - Okay. Well I'm fine with that. Can you talk with staff
1755 as far as what specifically you want back from us, what information you all need?
1756 Do you need to know something about the DEQ process? DEQ is who we trust
1757 with our state's environment. How do I best answer that?

1758
1759 Mr. Blankinship - Ms. Goldman has raised some specific objections of a
1760 technical nature—

1761
1762 Mr. Mullins - About mercury.

1763
1764 Mr. Blankinship - —that we don't know.

1765
1766 Ms. Goldman - Mercury and other gases. I'd be glad to give you a
1767 copy of these studies, if you would like.

1768
1769 Mr. Blankinship - If we had a reaction or a response from the DEQ
1770 about how those issues are dealt with, that would clarify the issues that are
1771 remaining for this Board to decide.

1773 Mr. Mullins - Okay.
 1774
 1775 Mr. Berman - As an example, the mercury screening question, you
 1776 could research that. Any Henrico or close-by M-2 availability just as an option.
 1777 Nobody can predict how this motion will go down if you proceed today, so we just
 1778 want to give you that opportunity to consider a deferral.
 1779
 1780 Mr. Mullins - Okay. We'll defer. Thank you for giving me that
 1781 option.
 1782
 1783 Mr. Berman - Thank you. We will do a motion at the end?
 1784
 1785 Mr. Blankinship - A deferral I think you should go ahead and take up
 1786 now as you usually do.
 1787
 1788 Mr. Berman - Okay.
 1789
 1790 Mr. Mullins - Do you want me to sit down?
 1791
 1792 Mr. Berman - Yes. You don't have any further questions. All right.
 1793 Thank you, Mr. Mullins. At this time, I'd like to hear a motion for deferral for a
 1794 month. Is a month going to be okay, Mr. Mullins? Okay. The response was yes.
 1795 Any motion for deferral? I will make a motion to defer this case for one month. Do
 1796 I hear a second?
 1797
 1798 Mr. Reid - Second.
 1799
 1800 Mr. Berman - Mr. Reid has seconded. Any discussion?
 1801
 1802 Ms. Harris - Yes. Did we say that during this deferral we will check
 1803 with DEQ to specifically address the mercury screening issue? And what other
 1804 issue do we want to request?
 1805
 1806 Mr. Blankinship - Whatever other concerns the neighbors and the
 1807 applicant discuss between now and then.
 1808
 1809 Mr. Berman - Where is the burden of responsibility for reviewing
 1810 with DEQ? Does it fall upon the County or does it fall upon Mr. Mullins?
 1811
 1812 Mr. Blankinship - I think it's up to Mr. Mullins to meet with the
 1813 neighbors, make sure he knows what their objections are, and then address as
 1814 many of their objectives as can be addressed in technical terms.
 1815
 1816 Mr. Berman - Any other discussion? Hearing none, all those in favor
 1817 for the deferral for one month signify by saying aye. Any opposed. None
 1818 opposed. Motion for deferral is granted.

1819
1820 After an advertised public hearing and on a motion by Mr. Berman seconded by
1821 Mr. Reid, the Board **deferred** application **CUP2017-00017, AFFINITY FUNERAL**
1822 **SERVICE's** request for a conditional use permit pursuant to Section 24-50.7(e)
1823 of the County Code to allow one cremation unit at a funeral home at 2720
1824 Enterprise Parkway (WEST BROAD PARK) (Parcel 763-752-3510) zoned Office
1825 District (O-2) (Tuckahoe).

1826
1827
1828 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1829 Negative: 0
1830 Absent: 0
1831

1832
1833 Mr. Berman - Thank you again for coming today. Moving on can we
1834 please hear the next case.

1835
1836 **CUP2017-00018 LUMOS NETWORKS, INC** requests a conditional use
1837 permit pursuant to Sections 24-56(a) and 24-36 of the County Code to expand a
1838 telecommunications facility at 2900 Hungary Spring Road (WOODLAWN
1839 FARMS) (Parcel 765-752-0302) zoned Business District (B-1) (Brookland).

1840
1841 Mr. Blankinship - Would everyone who intends to speak to this case
1842 please stand and be sworn in. Raise your right hands, please. Do you swear the
1843 testimony you're about to give is the truth, the whole truth, and nothing but the
1844 truth so help you God? Thank you. Mr. Madrigal.

1845
1846 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the
1847 Board. Before you is a request to expand an existing telecommunication's facility.
1848 This past February, the Board approved a 480-square-foot expansion of this
1849 facility. Because of the company's plans for growth and corresponding
1850 realignment of their telecommunications network, they intend to decommission
1851 other locally leased facilities in the Richmond area and consolidate these
1852 operations at this location for both efficiency and cost savings. As a result, they
1853 have since revised their plan, substantially increasing the size and changing the
1854 design of the proposed building.

1855
1856 The new structure will still be a one-story building, but the square footage will be
1857 increased to approximately 1,700 square feet. The new building will be
1858 constructed of concrete block with a decorator horizontal accent band running
1859 along the top of the exterior walls. The exterior walls will be clad in brick veneer
1860 to match the existing on-site building. Since it is an equipment building, there is
1861 no glazing proposed, both for security and for maximum efficiency of use of the
1862 building. The building will have a mansard roof clad in asphalt shingles similar to
1863 surrounding architecture. Because it is an unmanned facility, parking demand will
1864 not increase, and the existing on-site parking is sufficient for the proposal.

The property is zoned B-1 and is designed as Commercial Arterial on the Land Use Plan. The proposed use is a quasi-public utility that will enhance technological support services for the business community, and thus it is consistent with both the zoning and Comprehensive Plan designations. No detrimental impacts are anticipated if the applicant's request is approved.

The proposed building will adhere to the established building setback line on the west side of Hungary Spring Road. The building will complement surrounding architecture and predominately screen the existing telecommunications hut on the property. There will be no increase in parking demand at the site, and the two existing parking stalls will be adequate for the proposed use. Additionally, staff has developed specific conditions of approval that mitigate any negative impacts.

In conclusion, this is an existing telecommunications hub. The proposal will increase current and future service capacity for the Richmond and Tidewater regions. The new building will architecturally complement surrounding commercial buildings, and the exterior finish will match the existing on-site building. Since it is an unmanned facility, the proposal will not increase parking demand nor have a traffic impact. The use is consistent with the intent of the zoning and Comprehensive Plan designations, and no detrimental impacts are anticipated, and specific conditions of approval have been prepared to mitigate any potential impacts. Based on these facts, staff recommends approval subject to conditions.

This concludes my presentation.

Mr. Berman - Thank you, Mr. Madrigal. Any questions from the Board?

Ms. Harris - Mr. Madrigal, do you know why in our packet we received information on the pipeline expansion and also undersea cable? What is the connection to what we are talking about today?

Mr. Madrigal - It was a press release provided by the applicant on their network plans, the expansion of their plans. That was after you all had approved their previous request. They came out with those plans immediately afterwards, which kind of changed their overall network plans.

Ms. Harris - So it would not be tied into the pipeline that we hear so much about?

Mr. Madrigal - Actually, it's going to substantially increase the services that they can offer, increase capacity. But it also affects their overall plans for the network, so they're kind of realigning their network. Part of that realignment is consolidating several local facilities to this one location.

1911
 1912 Ms. Harris - Right. I notice that they did so many disclaimers at the
 1913 end. Did you notice that in report?
 1914
 1915 Mr. Madrigal - I guess we can thank the attorneys for that.
 1916
 1917 Mr. Berman - Any other questions from the Board? Thank you, sir.
 1918
 1919 Mr. Madrigal - Thank you.
 1920
 1921 Mr. Berman - At this time we'd like to hear from the applicant. Our
 1922 apologies to any lawyers in the audience. Could you please spell your name for
 1923 us?
 1924
 1925 Ms. Lindenau - Sure. Good morning. My name is Alison Lindenau. It's
 1926 L-i-n-d-e-n-a-u. I came to see you in February and ask for approval of a 480-
 1927 square-foot building. And plans changed right after we left the meeting.
 1928
 1929 As I discussed then, we were recently acquired by EQT Infrastructure. They're a
 1930 company that sorts cash flow into the company. And on March 7th, it was
 1931 announced that there were three new undertakings that Lumos is moving forward
 1932 with. Richmond will serve those undertakings. Our network will provide services
 1933 to Ashburn, to the Tidewater area, etc. The space that we had approved is just
 1934 not large enough to serve what we're trying to do here. Sixty percent market
 1935 growth is what they're looking at. And we want to use the assets that we have
 1936 already, do this once, and allow for expansion in the future with this space.
 1937
 1938 So part of the structure will be used now for network services, and then the other
 1939 half will be available should this blow into something larger. Poor Miguel. Two
 1940 months later when he thought he was done with me, I had to come back and ask
 1941 for more space. So this is where we are now. Any questions?
 1942
 1943 Mr. Berman - Any questions from the Board?
 1944
 1945 Mr. Mackey - Yes, I have a question. Ms. Lindenau, had you started
 1946 on the portion that we had already approved? Had you ever started construction?
 1947
 1948 Ms. Lindenau - No, I had two weeks. So no. We had just started
 1949 down that road, and then this landed in my lap.
 1950
 1951 Mr. Mackey - Basically, it just looks like you're doubling it, putting it
 1952 right in front of—
 1953
 1954 Ms. Lindenau - The existing building. Yes. And I've gotten samples of
 1955 the exterior facade, and took them over to our building to make sure that they
 1956 matched, and they do.

1957
1958 Mr. Berman - Any other questions?
1959
1960 Mr. Bell - I asked this last time. Basically, we're talking about
1961 equipment, maintenance and service of equipment with no more than two or
1962 three people on the property at any time.
1963
1964 Ms. Lindenau - Right. Correct.
1965
1966 Mr. Bell - Thank you.
1967
1968 Ms. Lindenau - And once the equipment is installed, the servicing can
1969 be done virtually.
1970
1971 Mr. Bell - Thank you.
1972
1973 Ms. Harris - We know that you're in transition, so to speak, but do
1974 you all foresee any cell towers on the property?
1975
1976 Ms. Lindenau - No ma'am.
1977
1978 Ms. Harris - Nothing?
1979
1980 Ms. Lindenau - We're a fiber company.
1981
1982 Ms. Harris - Okay, good. And sort of a surface question. With the
1983 picture that we have here in our packet, landscaping. I'm concerned about no
1984 grass and small shrubs. I know you are concerned about other things, but have
1985 you any plans for improving the way it looks?
1986
1987 Ms. Lindenau - We will be provide a landscaping plan and let Miguel
1988 review it. But it is sort of sparse now. We will dress it up and make it look nice.
1989
1990 Ms. Harris - All right, thank you.
1991
1992 Mr. Berman - The last time we heard the application, we were
1993 concerned about noise, the turbines facing the office building. Now there will be
1994 several more. Yes, those. Thank you. Can you speak to that?
1995
1996 Ms. Lindenau - There is an exhaust fan on this side of the building, on
1997 the left side where the new building will be placed. That exhaust fan will be
1998 removed. We'll put it on the back side of the building where the HVAC units are
1999 now.
2000
2001 The new building, instead of having—yes, there's the exhaust fan. That will be
2002 moved around to the rear. The new building will have the condensing unit on the

2003 top of the structure, so there won't be any HVAC units facing Hungary Spring
2004 Road. So hopefully going up we won't have the noise that we have with this
2005 structure.

2006
2007 Mr. Blankinship - Will that rooftop equipment be visible?

2008
2009 Ms. Lindenau - No, it will be fenced.

2010
2011 Mr. Berman - Have you had discussions with the business next
2012 door?

2013
2014 Ms. Lindenau - No.

2015
2016 Mr. Berman - Okay. Any other questions? Thank you very much.

2017
2018 Ms. Lindenau - Thank you.

2019
2020 Mr. Berman- Is anybody here today to speak in support of this
2021 application? Is there anybody here today to speak in opposition of the
2022 application? Hearing none, let's move on please.

2023
2024 **[After the conclusion of the public hearings, the Board discussed the case**
2025 **and made its decision. This portion of the transcript is included here for**
2026 **convenience of reference.]**

2027
2028 Mr. Berman - Do I have a motion?

2029
2030 Mr. Bell - Yes. I move that we accept the conditional use permit
2031 2017-00018. I don't think it's detrimental to the area. I don't think it creates any
2032 safety problems. And I think it will benefit as a whole the citizens of the County.

2033
2034 Mr. Berman - Very good. That's a motion from Mr. Bell. Do we hear
2035 a second?

2036
2037 Mr. Mackey - Second.

2038
2039 Mr. Berman - We have a second from Mr. Mackey. Any discussion?
2040 All in favor signify by saying aye. Those opposed? There is no opposition; the
2041 motion carries 5 to 0.

2042
2043 After an advertised public hearing and on a motion by Mr. Bell, seconded by Mr.
2044 Mackey, the Board **approved** application **CUP2017-00018, LUMOS**
2045 **NETWORKS, INC's** request for a conditional use permit pursuant to Sections 24-
2046 56(a) and 24-36 of the County Code to expand a telecommunications facility at
2047 2900 Hungary Spring Road (WOODLAWN FARMS) (Parcel 765-752-0302)

zoned Business District (B-1) (Brookland). The Board approved the conditional use permit subject to the following conditions:

1. This conditional use permit applies only to the expansion of an unmanned telecommunication facility on the property. The buildings shall be used for active telecommunications equipment. Office and storage uses shall not be permitted. All other applicable regulations of the County Code shall remain in force.

2. Only the improvements shown on the site plan and building design filed with the application, as amended by these conditions, may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit unless required as a condition of approval.

3. The applicant shall present a complete grading, drainage, and erosion control plan prepared by a certified professional in the state of Virginia to the Department of Public Works for approval. This plan must include the necessary floodplain information if applicable.

4. The proposed building shall incorporate similar exterior finish materials as the existing on-site building. Ground and wall mounted equipment, such as but not limited to electrical panels, meters, and air conditioning units, shall not be placed on street facing building facades. Equipment placed on interior property line facing facades (side yard & rear yard) shall be screened from view by way of landscaping. Any roof mounted equipment shall also be screened from public view. The final design shall be reviewed and approved by the Planning Department, prior to the issuance of a building permit.

5. A detailed landscaping plan shall be submitted to the Planning Department with the building permit for review and approval. The landscaping plan shall include the continuation of a minimum 6-foot landscaping strip along the interior side property line.

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

7. All lighting shall be shielded to direct light away from adjacent property and streets.

Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
Negative:		0
Absent:		0

2094
2095 **[At this point, the transcript continues with the public hearing on the next**
2096 **case.]**
2097

2098 **CUP2017-00019** JULIE CABLE requests a conditional use permit
2099 pursuant to Section 24-52(c) of the County Code to operate a boarding stable for
2100 horses at 5000 Cables Farm Road (Parcels 857-710-7008 and 858-709-0079)
2101 zoned Agricultural District (A-1) (Varina).
2102

2103 Mr. Blankinship - Would everyone who intends to speak to this case
2104 please stand and be sworn in. Raise your right hands, please. Do you swear the
2105 testimony you're about to give is the truth, the whole truth, and nothing but the
2106 truth so help you God? Thank you. Mr. Madrigal?
2107

2108 Mr. Madrigal - Mr. Secretary, Mr. Chair, members of the Board.
2109 Before you is a request to allow the operation of a horse boarding stable in an
2110 agricultural district. The Cable family has owned the 102-acre property since
2111 1958 and it has always been zoned A-1. A horse farm is a principal permitted use
2112 and does not require a conditional use permit in this district. A commercial stable,
2113 however, requires a conditional use permit to ensure that traffic and other
2114 impacts from the operation do not have an adverse impact or effect on
2115 neighboring property.
2116

2117 The applicant recently applied for a business license for the boarding stable and
2118 was informed that a CUP was required. The property is zoned A-1 and is
2119 designated Rural Residential on the Land Use Plan. A horse farm is a permitted
2120 use and a boarding stable is consistent with the zoning and Comprehensive Plan
2121 designations.
2122

2123 The family farm extends eastward to the County line approximately half a mile
2124 from the boarding stable. The surrounding area is made up entirely of farms and
2125 large-lot subdivisions. The horse boarding operation should not substantially add
2126 to the impact of the horse farm which has been there since the 1950s. Because
2127 White Oak Road is classified as a major collector and carries between 1,000 and
2128 2,000 trips per day and is only 30 feet wide, the addition of horse trailer traffic
2129 could potentially pose a traffic hazard. This situation is more pronounced as the
2130 entrance to the farm is on a curve and sight distance is limited. If several trailers
2131 arrive or leave at the same time, it increases the potential for a traffic hazard. As
2132 long as the proposed use does not include horse shows or riding events at the
2133 property, there should only be an occasional horse trailer coming or going from
2134 the site at any one time.
2135

2136 In conclusion, the proposed use is consistent with both the zoning and
2137 Comprehensive Plan designations. Staff does not anticipate any substantial
2138 detrimental impacts on nearby property. Based on the facts of the case, staff
2139 recommends approval subject to conditions.

2140
 2141 Mr. Berman - Thank you, sir. Any questions for Madrigal from the
 2142 Board?
 2143
 2144 Mr. Reid - I had a question. Mr. Madrigal, in the conditions of
 2145 approval, topic #4, it reads: "This approval does not authorize the use of the
 2146 property for horse shows, races, or other events that would include more than
 2147 two horse trailers entering or exiting the property on the same day." Is that the
 2148 correct wording?
 2149
 2150 Mr. Madrigal - Yes sir.
 2151
 2152 Mr. Reid - Okay, I just wanted to make sure.
 2153
 2154 Mr. Blankinship - We'd like to confirm with the applicant.
 2155
 2156 Mr. Reid - Right. Thank you, sir.
 2157
 2158 Mr. Madrigal - Thank you.
 2159
 2160 Mr. Berman - Any other Board questions? Thank you. At this time
 2161 we'd like to hear from the applicant. Please spell your name into the microphone.
 2162
 2163 Ms. Cable - Good morning, my name is Julie Cable. Last name is
 2164 spelled C-a-b-l-e.
 2165
 2166 Mr. Berman - Good morning.
 2167
 2168 Ms. Cable - I applied for the conditional use permit in order to be
 2169 allowed to use the land owned by family. The cleared section of the land is where
 2170 the horses would be turned out for outdoor turnout. The pastures and paddocks
 2171 are located there. It doesn't encompass the entire farm; it's just the cleared area.
 2172 There's one main barn, a riding ring, and a smaller exercise ring. The facility is
 2173 used primarily to board and facilitate meetings for a 4-H group that engage in
 2174 horseback riding activities.
 2175
 2176 My husband has helped youth over the years, over the past 30 or so years
 2177 through the 4-H Club and mentored many, many young people that have come
 2178 through. Owning, leasing horses, he's made it possible for them to do things that
 2179 ordinarily maybe they wouldn't have had an opportunity to do. By continuing his
 2180 business as was his will, and my promise to him before he passed away this past
 2181 January, I intend to continue using the facility for that purpose primarily.
 2182
 2183 We don't host any horse shows or any open-to-the-public events, races or other
 2184 horse-related events. So traffic is not an issue. The only time we have more than
 2185 two trailers leaving the farm is once a year when we go to the state 4-H show in

2186 Lexington, Virginia. We may have three or four trainers that leave at about 5:00
2187 in the morning.
2188
2189 Mr. Berman - Excuse me, Ms. Cable. Could you step a little closer
2190 to the mic?
2191
2192 Ms. Cable - Okay.
2193
2194 Mr. Berman - Thank you. Sorry to interrupt you.
2195
2196 Ms. Cable - No, that's fine. Other than that, we don't have a whole
2197 of—there's not a big influx of traffic on a daily basis or on any kind of a regular
2198 basis. Maybe a few cars, but no more than ordinary for the area.
2199
2200 Mr. Blankinship - How many horses do you board?
2201
2202 Ms. Cable - We have 37 on site right now, 7 of those are owned
2203 by the family. So there are 30 boarded horses.
2204
2205 Mr. Blankinship - Do you intend to expand that or just to continue with
2206 the scale that you have?
2207
2208 Ms. Cable - I just intend to continue at that capacity.
2209
2210 Mr. Blankinship - That should have been in the report. I didn't address
2211 it.
2212
2213 Mr. Berman - Have you read the conditions for approval?
2214
2215 Ms. Cable - I have, yes sir.
2216
2217 Mr. Berman - Any questions or issues with them?
2218
2219 Ms. Cable - No, no.
2220
2221 Mr. Berman - Very good. Any other questions for Ms. Cable?
2222
2223 Ms. Harris - Yes. Ms. Cable, how different will the boarding stable
2224 be from the operations that you're involved in now?
2225
2226 Ms. Cable - I'm sorry; I'm not sure I understand.
2227
2228 Ms. Harris - How different?
2229
2230 Ms. Cable - From when my husband ran the facility?
2231

2232 Ms. Harris - No. You're requesting something from us. You've
2233 been operating this horse ranch for a while. So what more do you need to do
2234 now with your operations?

2235
2236 Ms. Cable - Nothing is going to change. I had applied for the
2237 business license. When my husband was here, he was the sole proprietor of the
2238 business. At his passing, I had applied for a business license in order to continue
2239 operating a business and get my insurance and everything like that straightened
2240 out. It's just basically an administrative change.

2241
2242 Ms. Harris - Okay, thank you.

2243
2244 Mr. Berman - Any further questions from the Board? Thank you,
2245 Ms. Cable.

2246
2247 Ms. Cable - Thank you.

2248
2249 Mr. Berman - Is anybody here today to speak in support of this
2250 application? Hi. Can you please approach and spell your name?

2251
2252 Ms. Haskins - Hi. I'm Shannon Haskins. H-a-s-k-i-n-s. I actually
2253 came to board my horse at this farm when I was 21 years old, so I've been there
2254 for 22 years. Even though I am an adult now, I have always, even as a young
2255 person, helped with the 4-H and helped the kids. And I can tell you firsthand that
2256 I have seen troubled children come in that were helped by horses. There are so
2257 many programs out there for youth and they've proven how effective horses and
2258 livestock are with kids. They're not all troubled kids, but a lot of them are kids
2259 who could not afford upper echelon riding and what that takes. These kids work
2260 hard, they clean their own horses.

2261
2262 When they go to the 4-H, as Ms. Cable, most people don't realize that's an event
2263 that they are not even allowed to have a parent help them saddle the horse.
2264 That's very in contrast to what you see in Hanover County with thousand-dollar
2265 rigs and trainers and saddles and chiropractic and all this stuff that the horses
2266 get. These children are operating at a base level, and it really does help them.

2267
2268
2269 And what we have seen over the 22 years that I've been there is that the girls are
2270 less likely to take bad boys into consideration. They are more likely to stand up
2271 for themselves from working with the horses. They're more confident. We've had
2272 several of the kids go on to very, very high-level college, including law school,
2273 that came to Buddy's farm and is continued by Ms. Cable. One of the girls was
2274 fourth at her school at Varina, graduated a few years ago, and then just
2275 graduated from JMU. One of them has gone on to law school.

2276

2277 I think this farm serves an invaluable opportunity that we simply can't afford
2278 elsewhere. Having been there for 22 years, I can tell you even though I compete
2279 with horses as an amateur, what we're trying to do in Buddy's memory, it just
2280 can't be duplicated. And I've looked. I'm a real estate agent. I know all of
2281 Goochland, Hanover, Chesterfield, Richmond, New Kent, and there is no other
2282 facility that's operating like this. I think its service to the community is invaluable.
2283 Thank you.

2284
2285 Mr. Berman - Thank you, Ms. Haskins. Any questions?

2286
2287 Ms. Harris - Ms. Haskins, how many volunteers have you come in
2288 contact with?

2289
2290 Ms. Haskins - Over the years—when the kids age out, so do the
2291 parents who are volunteering. There's probably only been maybe five or six
2292 adults that have stayed throughout the time that I've been there. But there have
2293 been several adults that once their kids age out they will come back for special
2294 events. They will come and see the horses. And a lot of the horses, when they
2295 become seniors—senior horses don't compete all the time—they'll come and
2296 they'll feed the horses and they'll visit, and then they'll go home. So you might
2297 only see that person once or twice a year, but they are part of the community that
2298 has an impact around the kids and the horse. And they're someone that should
2299 we have a horse pass, you would be surprise how many come because a horse
2300 passed. The love and the care and the sense of community that this place
2301 provides is outstanding.

2302
2303 I went to Tucker High School in the West End. We didn't have anything like this.
2304 And I was in several of the clubs and several of the school functions. This was
2305 something that we had to travel outside to get.

2306
2307 Ms. Harris - Thank you.

2308
2309 Mr. Bell - One quick question. Going in and out is a little—
2310 visibility is bad. Have there ever been problems with cars pulling or trucks pulling
2311 horses going in and out?

2312
2313 Ms. Haskins - Actually, the way that road is, even though it looks
2314 scary on the map, when you're pulling a truck out, you can clearly see both ways.
2315 And we've all been schooled on how to properly pull a truck and a trailer. So
2316 when you pull up, you can clearly see probably—I'm not terrific at measurements.
2317 But you can probably see a quarter of a mile to the right and probably .15 to the
2318 left. So you're very careful not to pull out. Our horses are beloved family
2319 members, so we're not ever going to risk anything. And the few trucks that pull,
2320 the one place that they go is Lexington, Virginia, which is over Afton Mountain.
2321 So if you've ever been over Afton Mountain, that's a significant haul. All the

2322 trucks that are pulling the trailers in and out are capable of getting up to highway
2323 speeds immediately.

2324
2325 Mr. Bell - So you're saying in 22 years you've never—

2326
2327 Ms. Haskins - Never. Not once have I had a problem.

2328
2329 Mr. Bell - Or heard of a problem.

2330
2331 Ms. Haskins - Not ever, yes. That is correct, sir.

2332
2333 Mr. Bell - Thank you.

2334
2335 Ms. Harris - Ms. Haskins, I was out there this week. I did notice
2336 that that is a scary intersection. Even though you have the visibility both ways,
2337 you never know how fast a car is going to come around that curve. So I imagine
2338 the trailer will command some respect. But I think it's still a very dangerous
2339 intersection.

2340
2341 Ms. Haskins - Well if you actually traveled past the farm and went up
2342 the next hill, the road coming from that other direction is very twisty turny [sic],
2343 and most of the cars coming that way are down to 10 or 15 miles an hour
2344 because of the hill and because of the weaving back and forth prior to getting to
2345 this farm. And so the coming in is a much clearer road than the going out. And
2346 the County did just do work to expand the waterline. Probably four or five years
2347 ago. And when they did, they opened up that turn. It was much worse, and we
2348 never had a problem then. So it's actually nicer now.

2349
2350 Mr. Blankinship - When you have five horse trailers coming in and then
2351 five leaving, I think we have some concerns.

2352
2353 Ms. Haskins - That one show, they leave at 5 a.m.

2354
2355 Mr. Blankinship - Right. They're going to a show elsewhere.

2356
2357 Ms. Haskins - Yes, yes.

2358
2359 Mr. Blankinship - So you don't have that traffic.

2360
2361 Ms. Haskins - Yes. And there's not traffic like that at 5 a.m. You can
2362 also see the lights at 5 a.m. And the reason that they have to leave at 5 a.m. is it
2363 takes approximately 2-3/4 hours to get to Lexington, which puts them there right
2364 at 8:00 once you stop for teenage potty breaks and whatnot. And then also the
2365 heat of the day. We don't travel during the heat of the day with the horses. That
2366 show was always the second and third week of September, and it's usually still
2367 hot. So we're not going to be bringing the horses in or out during the daytime

2368 when it's hot like that. There is no air conditioning in those trailers; it's only wind.
2369 So you have to go when there's no traffic.

2370
2371 Ms. Harris - Right. And you have a ditch there, too, when you pull
2372 out. And I'm sure the trailer drivers are more skilled than I am, but it concerns
2373 me. So I can just imagine that it's something that owners might need to look at.

2374
2375 Ms. Haskins - We've never had an accident. In 22 years, we've
2376 never even had a tire blown out ever from that turn, pulling in or out.

2377
2378 Ms. Harris - No one got stuck in the ditch.

2379
2380 Ms. Haskins - Never have.

2381
2382 Ms. Harris - Okay.

2383
2384 Ms. Haskins - No. When Hurricane Isabel came through, part of the
2385 road washed out, but it was the part of the road right past the driveway. So we
2386 were still even then able to get in and out. And a lot of us came because our well
2387 was electric, and we were dipping water for horses all day. So even then during
2388 Hurricane Isabel when we lost power for a week we didn't have a problem.

2389
2390 Ms. Harris - Okay. Thank you.

2391
2392 Mr. Berman - Any other questions for Ms. Haskins? Thank you very
2393 much.

2394
2395 Ms. Haskins - Thank you.

2396
2397 Mr. Berman - Anybody else here to speak in support of this
2398 application that has something new to add? Thank you. If you could please spell
2399 your name for us.

2400
2401 Mr. Harmon - My name is Pat Harmon. H-a-r-m-o-n. I am a retired
2402 school teacher across the street at Hermitage Technical Center. I had a daughter
2403 that had been down to the Cable farm and who learned to ride down there. It was
2404 an awesome place. I have talked to so many young people that it touched their
2405 lives on things, that it taught, something that we really need to make sure we stay
2406 involved with our youth coming up.

2407
2408 The things I've seen from the families. And again, I'm retired. I went to my dentist
2409 just the other day, and I run into his assistant there. And she was talking about it
2410 down there and how it touched her life. It's just an awesome place for the young
2411 people. It's been there for so long.

2413 The girls, the guys that are there, they learn what it is to take care of something.
2414 On the trips as we would go to various shows, Lexington and so forth, that we'd
2415 stop on the road. Well the first thing that they all learned was you take care of
2416 your horse first thing. It's so many things. It's not somebody else do this or do
2417 that. It is a great learning facility for these young folks. I certainly hope it'll be the
2418 pleasure that it continues. Thank you very much.

2419

2420 Mr. Berman - Thank you, Mr. Harmon. Any questions from the
2421 Board? Very good. Anybody else wish to add something new in support? Good
2422 morning.

2423

2424 Ms. Dowdy - Good morning. I'm Sandra Dowdy. I'm Chairman of
2425 the Henrico 4-H Leaders Association. I am the leader of the Varina Rising Stars
2426 4-H. I've been a Varina resident all of my life. I've known Buddy most of my life.

2427

2428 This facility not only just goes with White Oak 4-H. He helps other 4-H groups.
2429 He stands by them. If there's a problem, he jumps in and helps. He's well known
2430 the facility is well known.

2431

2432 You were speaking about the curve. It is a dangerous curve. We slow down on
2433 that curve. And most people in the area know this is Cable's farm. Slow down,
2434 horses might be coming out. I drive a four-horse slant gooseneck trailer. I've
2435 come in and out of there, never hit the ditch, and managed to do it. The
2436 neighborhood is aware of the facility.

2437

2438 It is a viable part of the Varina area. Has it helped many kids? Yes. We just don't
2439 deal with just horses in 4-H; we deal with the public speaking, the presentation,
2440 whatever. And it's all done as part of Cable's farm too. He has been a valuable
2441 volunteer of 4-H and we've appreciated it. And for Julie to keep on his work is
2442 commendable.

2443

2444 We've got a lot of kids that come from the Varina area that go to this Lexington
2445 show. We have between 5 and 600 kids from the state of Virginia that attend the
2446 Lexington show. Horses are still viable here in Virginia. 4-H is still viable. It's
2447 important to these kids. And considering keeping this facility going is great.
2448 Thank you.

2449

2450 Mr. Berman - Thank you, Ms. Dowdy. Any questions from the
2451 Board? Thank you, ma'am. Any other people who wish to speak in support? Is
2452 there anybody here today to speak in opposition of the application? Very good.
2453 At this point, we have four more applications to go and all the motions. So I
2454 would like to take a break. It is going on 11 a.m. We will gavel back in promptly at
2455 11:10 a.m. Thank you.

2456

2457 [TEN MINUTE BREAK]

2458

2459 [After the conclusion of the public hearings, the Board discussed the case
2460 and made its decision. This portion of the transcript is included here for
2461 convenience of reference.]
2462

2463 Ms. Harris - Mr. Chairman, I move that we approve this conditional
2464 use permit. I think that we need to congratulate Ms. Cable and the former
2465 resident, I guess, of this horse ranch. They seem to be doing a very good job,
2466 especially with the 4-H groups. This is basically an administrative change, we
2467 were told, so that is my recommendation.
2468

2469 Mr. Berman - Thank you. We have a motion from Ms. Harris. Do we
2470 have a second?
2471

2472 Mr. Reid - Second.
2473

2474 Mr. Berman - Second from Mr. Reid. Any discussion? Hearing
2475 none, all in favor signify by saying aye. Those opposed? There is no opposition;
2476 the motion carries 5 to 0.
2477

2478 After an advertised public hearing and on a motion by Ms. Harris, seconded by
2479 Mr. Reid, the Board **approved** application **CUP2017-00019, JULIE CABLE's**
2480 request for a conditional use permit pursuant to Section 24-52(c) of the County
2481 Code to operate a boarding stable for horses at 5000 Cables Farm Road
2482 (Parcels 857-710-7008 and 858-709-0079) zoned Agricultural District (A-1)
2483 (Varina). The Board approved the conditional use permit subject to the following
2484 conditions:
2485

2486 1. This conditional use permit applies only to the proposed boarding stable. All
2487 other applicable regulations of the County Code shall remain in force.
2488

2489 2. No new improvements are authorized by this approval. Any additional
2490 improvements shall comply with the applicable regulations of the County Code.
2491 Any substantial changes or additions to the design or location of the
2492 improvements shall require a new conditional use permit.
2493

2494 3. All improvements used in connection with the boarding of horses shall be
2495 located at least 200 feet from any lot occupied by a dwelling other than a farm
2496 dwelling.
2497

2498 4. This approval does not authorize the use of the property for horse shows,
2499 races, or other events that would include more than two horse trailers entering or
2500 exiting the property on the same day.
2501

2502 5. The applicant shall maintain the property so that noise and odors are
2503 controlled. Manure from the horses shall be disposed of in a manner consistent

2504 with Virginia Department of Agriculture and Consumer Services "Agricultural
2505 Stewardship Act Guidelines."
2506

2507
2508 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
2509 Negative: 0
2510 Absent: 0
2511

2512

2513 **[At this point, the transcript continues with the public hearing on the next**
2514 **case.]**
2515

2516

2516 Mr. Berman - We will begin again. We're going to pick up
2517 CUP2017-00020.
2518

2519

2519 **CUP2017-00020** **ANTHONY JORDAN** requests a conditional use
2520 permit pursuant to Section 24-116(d)(3) of the County Code to deposit soil as fill
2521 material at 1920 Portugee Road (Parcel 837-704-0031) zoned Agricultural
2522 District (A-1) (Varina).
2523

2524

2524 Mr. Blankinship - Would everyone who intends to speak to this case
2525 please stand and be sworn in. Raise your right hands, please. Do you swear the
2526 testimony you're about to give is the truth, the whole truth, and nothing but the
2527 truth so help you God? Thank you. Mr. Madrigal.
2528

2529

2529 Mr. Madrigal - All right. Mr. Chair, members of the Board. Before you
2530 is a request to use an agriculturally-zoned property as a fill lot to deposit soil. The
2531 property is located across the street from the Richmond Dragway. It is the
2532 western half of the 28-acre parcel acquired by the Weise family in 1969, which
2533 was divided in 1973. It is an unimproved lot that is heavily wooded and
2534 depressed in the middle. It reaches a maximum elevation of 150 feet of mean
2535 sea level on both ends and slopes down to 138 feet towards the middle of the lot.
2536

2537

2537 In 2010, John Weise, Jr. applied to conditionally rezone the property to Industrial
2538 without a specific development proposal. The case was withdrawn prior to the
2539 Planning Commission hearing. Mr. Weise passed away in May of 2016. The
2540 applicant bought the property from his estate in November of 2016. The applicant
2541 would like to clear the lot and fill it with soil from other locations. If this was being
2542 done as part of a subdivision or plan of development, the clearing and grading
2543 would be reviewed and approved as part of those processes. But because there
2544 is no development proposal at this time, the least costly path of review is the
2545 CUP process for the applicant.
2546

2547

2547 The property is zoned A-1 and is designated Traditional Neighborhood
2548 Development on the Land Use Plan. The applicant intends to clear the lot and fill
2549 it with waste soil. This appears to be a preliminary step towards a future
2550

development of the property. It is difficult to evaluate the consistency of the proposal with the zoning and Comprehensive Plan designations without knowing the intended future use of the property.

The amount of fill dirt to be deposited on the site varies up to approximately ten feet. The highest elevation would remain 152 feet, and the drainage would still flow towards the middle of the lot and would exit the site toward the center rear of the lot. The maximum slope would be approximately a 5-to-1 ratio along Portugee Road, the western property line, and around the BMP to be created in the middle of the site. Most of the property would be graded to a 1 percent slope.

While the property to the south is zoned Heavy Industry and the properties to the east and north are vacant, two dwellings adjoin the property to the west. Those are visible here. The proposed clearing and grading would have a detrimental impact on those two homes. As submitted, the plan calls for grading to a 5-to-1 slope beginning at the property line.

Staff recommends two changes to the plan that would mitigate the impact on those homes and one that would mitigate the impacts along Portugee Road. First, there should be not land disturbance within 75 feet of the western property line. Second, a landscape buffer should be planted along the applicant's side of the property beginning 200 feet north of the right-of-way and extend 350 feet. Staff also recommends a 50-foot landscape buffer along Portugee Road.

In conclusion, there are no plans to develop the property at this time. Any future development will be subject to County review. The clearing and grading of the lot is consistent with the zoning and Comprehensive Plan designations. There will be some detrimental impacts on the abutting residential property to the west, but it can be mitigated by following the recommended conditions. For these reasons, staff recommends approval subject to conditions.

Mr. Berman - Thank you. Any questions for Mr. Madrigal?

Ms. Harris - Mr. Madrigal, I know we don't know at this point how this land will be used, but do you foresee another landfill area like we have on Darbytown Road?

Mr. Madrigal - This won't be for trash. From my understanding, this will be for clean soil coming from other properties.

Mr. Blankinship - And they won't be raising higher than the highest point now. The lower portions of the site will be filled up to meet the higher portions, but the highest portions of the site will not be raised.

2594 Ms. Harris - Okay. What are we dealing with as far as the lot that
 2595 slopes to—you said the center or the middle of the lot. But how much of that
 2596 compared to the whole parcel are we dealing with?
 2597
 2598 Mr. Madrigal - I don't understand the question.
 2599
 2600 Ms. Harris - Okay. The report says it slopes down to 138 feet
 2601 toward the middle. How much are we talking about? What's the area that we're
 2602 talking about? How much of a sloped area compared to the size of the lot are we
 2603 dealing with? The center of the lot? Is it the center of lot that slopes down like
 2604 that?
 2605
 2606 Mr. Blankinship - I think the whole property now kind of slopes gently to
 2607 that center area. It will continue to, but just not as steeply. Does that make
 2608 sense?
 2609
 2610 Ms. Harris - Yes. I was wondering how much could be actually
 2611 built on that lot without dealing with that slope.
 2612
 2613 Mr. Blankinship - It's not so steeply sloped that they couldn't build on it.
 2614 The lot could be developed as it is.
 2615
 2616 Ms. Harris - Okay. Thank you.
 2617
 2618 Mr. Berman - Any other questions?
 2619
 2620 Mr. Mackey - Yes sir. Mr. Madrigal, is the County aware of any
 2621 possible wetlands on this parcel?
 2622
 2623 Mr. Blankinship - That probably would be a good question for the
 2624 applicant.
 2625
 2626 Mr. Mackey - All right. I'll wait for the applicant.
 2627
 2628 Mr. Berman - Any others? Thank you, Mr. Madrigal. I'd like to hear
 2629 from the applicant, please. State your name.
 2630
 2631 Mr. Schurman - Brad Sherman with Balzer and Associates. And it's S-
 2632 c-h-u-r-m-a-n.
 2633
 2634 Mr. Mackey - I'm sorry; could you spell it again, Mr. Schurman?
 2635
 2636 Mr. Schurman - S-c-h-u-r-m-a-n. Sorry, I have a cold.
 2637
 2638 Mr. Mackey - No problem.
 2639

2640 Mr. Schurman - If you want, I can address the issue of the wetland.
2641 The Henrico wetland experts have met with ours, and it has been determined
2642 there are no wetlands or water of the U.S. on the property.

2643
2644 Mr. Mackey - Okay.

2645
2646 Mr. Schurman - The low is created by—the culvert dumps out right
2647 there from Portugee Road. So we're honoring that same path of flow. And to your
2648 question, the drainage that would take the water to the center of the property, I'd
2649 say it's about 10 acres. It's a 14-acre parcel. And those same drainage patterns
2650 are being maintained. It's just the slope's being flattened out from what it is today
2651 going towards a pond that's going to control all the spill. I can answer any
2652 questions you have. I'm sure there are plenty.

2653
2654 Mr. Blankinship - Could you begin at the beginning and just kind of tell
2655 us what the property owner is trying to do?

2656
2657 Mr. Schurman - Sure. The property owner, Anthony Jordan and his
2658 father, they own a company called Safeco Environmental Services. They go
2659 around looking for places that need dirt to be removed from job sites and try to
2660 find a home for it. So they acquired this parcel strictly for that reason. They were
2661 a little surprised when they realized they had to do all this. They're willing to go
2662 through this process. They have no future development for it at all. Their
2663 business model is to take dirt off of somebody else's hands and find a home for it
2664 as opposed to going and paying someone else to take it.

2665
2666 In the future, this land is going to re-vegetate back within the area that's cleared.
2667 And that's going to be with grass. I don't think they're going to plant any trees
2668 back in that area. I spoke to the father this morning, and he said that it's possible
2669 one day that he'll build a home there for himself close to the pond. But he has no
2670 plans to rezone this for any sort of development at all. That's where we are
2671 today.

2672
2673 Mr. Berman - Approximately what percentage of this will be
2674 timbered, will the trees be cut down?

2675
2676 Mr. Schurman - All of it except for the 75- and 50-foot areas that they
2677 have in the conditions that need to be preserved.

2678
2679 Mr. Berman - Okay. Any other questions?

2680
2681 Ms. Harris - You mentioned dirt, but look at condition #11. They
2682 said the material to be deposited on the site shall be limited to imperishable
2683 material such as stone, brick, tile, sand, gravel, oil, asphalt, concrete, and the
2684 like. So there might be more than just dirt?

2686 Mr. Schurman - That's what is actually allowed to go there. From
2687 talking to him, some of the material, I believe if it's coming from a Henrico library
2688 project has some concrete that's been crushed up. And that'll be going
2689 somewhere in the first layer that they would bring in, and it would be covered with
2690 dirt. In your code, these fill materials are allowed on any parcel, really, to be used
2691 as appropriate fill, compacted and so forth.

2692
2693 Mr. Berman - Any other questions? Thank you very much. Is
2694 anybody here today to speak in support of this application? Is there anybody
2695 here today to speak in opposition of the application? Okay, the gentleman in the
2696 back. We'll hear you next. Thank you. If you can please state your name.

2697
2698 Mr. Philpott - My name is Tony Philpott. P-h-i-l-p-o-t-t. I'd just like to
2699 say to Mr. Blankinship and his group I appreciate you getting back with us in a
2700 timely manner whenever we called you or talking with us. Because in today's
2701 world, that doesn't always happen.

2702
2703 I live at 6363 Lafrance Road, and my son lives at 6345, so the two residents that
2704 are detrimental, I guess, or being affected by this are our homes. My wife's family
2705 has been on that piece of land for a hundred years. We would hate to have to
2706 leave it. When I talked to Mr. Jordan, I didn't know what he wants to put in there.
2707 The land, the slope from the drag way, I'm not exactly sure where that water's
2708 now going to go if that dirt level gets raised up. My son and others have hunted
2709 that land. They had permission from Mr. Weise. The report says it wasn't a
2710 wetlands, but it might be. I don't know.

2711
2712 Mr. Blankinship - There's wetlands and then there's land that gets wet.

2713
2714 Mr. Philpott - There is.

2715
2716 Mr. Blankinship - There are no federally-regulated wetlands.

2717
2718 Mr. Philpott - There is, right. I mean they also said that there used
2719 to be an eagle nesting back there. And I don't know if that's there or not. But if it
2720 is, we would certainly hope they would try to find a place for that.

2721
2722 Our concern is where would the water go. When I asked Mr. Jordan over the
2723 telephone his plans for the future, do I need to sell? What do we need to do?
2724 And his response was, "Wherever the money takes us." I would just like to know
2725 what our family needs to do. Like I said, we've been there for years. We have
2726 great neighbors. I heard them say bringing in concrete and then putting grass. I
2727 don't know if grass grows on concrete.

2728
2729 That's our concern. I know the timbering and the—we were there when it got
2730 timbered before, and it did grow back. But my concern is not only with the dirt
2731 and the flood levels, but down the road what's going to happen.

2732

2733 Mr. Berman - Mr. Schurman did state that the crushed concrete
2734 would be the first layer. Any questions for Mr. Philpott?

2735

2736 Mr. Blankinship - I do if none of the Board members do. Mr. Philpott,
2737 the question about the buffer along your property. The original plan showed
2738 clearing and grading right up to your property line, and we have put a condition
2739 on the plan that they move that back 75 feet and then landscape within 50 feet of
2740 your property. I wonder what kind of landscaping you would want to see there.

2741

2742 Mr. Philpott - I guess trees would be great. I mean it's going to be a
2743 lot of activity. I have two granddaughters that live right there with us in the two
2744 areas. It's going to be a lot I guess trucks coming in and dust and different things
2745 going on.

2746

2747 Mr. Blankinship - Do you think if they leave the existing trees within 75
2748 feet of your property that that would be sufficient or do you think they need to
2749 plant?

2750

2751 Mr. Philpott - That would be a great start.

2752

2753 Mr. Blankinship - Leaving the existing—

2754

2755 Mr. Philpott - Leaving the existing trees, yes sir.

2756

2757 Mr. Blankinship - But I don't hear you saying you want to see a double
2758 row of Leyland cypress or something.

2759

2760 Mr. Philpott - No, no. What they have there now is usable.

2761

2762 Mr. Blankinship - Okay. Thank you.

2763

2764 Mr. Mackey - Thank you for clearing that up because I was under
2765 the impression that that's what they were going to do was start at 75 feet within
2766 the home of Mr. Philpott.

2767

2768 Mr. Berman - Anything else for Mr. Philpott? Thank you, sir.

2769

2770 Mr. Philpott - Thank you.

2771

2772 Mr. Berman - Could we hear the next person in opposition?

2773

2774 Mr. Williams - Hello. My name is Trevor Williams. W-i-l-l-i-a-m-s. I
2775 just bought the lot right next to this on the east side with intentions to build a
2776 home. I'm just concerned about maybe possible resale value. Same concerns as

2777 Mr. Philpott. I don't know if there's a buffer planned to be put on my side or not?
 2778 But my house is going to be fairly close to that property line.
 2779
 2780 Mr. Berman - Can we show where Mr. William's lot is? Right there.
 2781 Okay, to the east.
 2782
 2783 Mr. Blankinship - I guess the difference would be that Mr. Philpott's
 2784 houses are already there. You have the opportunity to provide a buffer on your
 2785 property whereas his house is where it is.
 2786
 2787 Mr. Williams - Well my road's cut now.
 2788
 2789 Mr. Blankinship - Oh it is? Okay.
 2790
 2791 Mr. Williams - Yes sir.
 2792
 2793 Mr. Blankinship - All right. Maybe that's something for the Board to
 2794 consider.
 2795
 2796 Mr. Williams - I don't really particularly have a huge problem. Less of
 2797 a buffer than 75 feet would honestly be fine for me. Really my concern is later
 2798 down the road if I go to see is what they're going to be doing going to affect my
 2799 property value.
 2800
 2801 Mr. Berman - Any other questions for Mr. Williams?
 2802
 2803 Mr. Mackey - None that I can think of.
 2804
 2805 Mr. Berman - Okay.
 2806
 2807 Mr. Williams - Thank you.
 2808
 2809 Mr. Berman - Thank you very much.
 2810
 2811 Mr. Moore - I'm Raymond Moore. I've been living on that road a
 2812 little over 82 years. If he just leaves a 75-foot buffer for Mr. Philpott, he goes and
 2813 clears that land, he's going to be running into a drainage that comes off of
 2814 Portugee Road, across from Lafrance Road. There are three pipes that drain
 2815 from different places. So he needs to leave a little bit more and not clear that
 2816 flood land because environmental will get involved and liable to be a lot of
 2817 trouble.
 2818
 2819 Mr. Berman - Can I get you to spell your name, please?
 2820
 2821 Mr. Moore - R-a-y-m-o-n-d, M-o-o-r-e. 6247 Lafrance Road.
 2822

2823 Mr. Berman - Okay. Thank you, Mr. Moore. Any questions for
2824 Mr. Moore? Okay, thank you. Any further opposition? Very good, thank you. Let's
2825 move on to our next application please.
2826

2827 **[After the conclusion of the public hearings, the Board discussed the case**
2828 **and made its decision. This portion of the transcript is included here for**
2829 **convenience of reference.]**
2830

2831 Mr. Berman - Conditional use permit 2017-00020. Do I hear a
2832 motion?
2833

2834 Mr. Mackey - Yes, Mr. Chairman. First I want to state that this
2835 Board takes the welfare of all its citizens first and foremost and with the safety. I
2836 do not feel that the applicant will cause unreasonable harm to the other
2837 neighbors, and I think that we should go along with the County's
2838 recommendation and grant the approval of CUP2017-00020.
2839

2840 Mr. Berman - Mr. Mackey, would you be up for modification to item
2841 2 in the conditions of approval? Is it advisable that we change the buffer
2842 condition such that the trees remain or 75 feet? Mr. Blankinship, what is your
2843 guidance on this?
2844

2845 Mr. Blankinship - I think what we have in there is what was agreed to
2846 during the meeting, 75 feet of undisturbed and 50 feet of landscape. The
2847 neighbor didn't really request any specific landscaping.
2848

2849 Mr. Berman - Okay.

2851 Mr. Blankinship - I think it's okay the way it's written.
2852

2853 Mr. Berman - We have a motion from Mr. Mackey as it stands. Do I
2854 hear a second?
2855

2856 Mr. Reid - Second.

2858 Mr. Berman - Mr. Reid has seconded the motion. Any discussion?
2859

2860 Ms. Harris - We probably need to consider the fact that complaints
2861 are always an option when you have conditional use permits. Like we don't know
2862 just what's going to happen to this land or how it is going to be used. But since it
2863 is a conditional use permit, if it doesn't go according to plan, we can certainly
2864 have the complaints registered with us.
2865

2866 Mr. Berman - Very good. I apologize. The second was from
2867 Mr. Reid?
2868

2869 Mr. Reid - Yes.
2870
2871 Mr. Berman - Okay. Any further discussion? All in favor signify by
2872 saying aye. Those opposed? There is no opposition; the motion carries 5 to 0.
2873
2874 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
2875 Mr. Reid, the Board **approved** application **CUP2017-00020, ANTHONY**
2876 **JORDAN's** request for a conditional use permit pursuant to Section 24-116(d)(3)
2877 of the County Code to deposit soil as fill material at 1920 Portugee Road (Parcel
2878 837-704-0031) zoned Agricultural District (A-1) (Varina). The Board approved
2879 the conditional use permit subject to the following conditions:
2880
2881 1. This conditional use permit applies only to the clearing and grading of the
2882 property. All other applicable regulations of the County Code shall remain in
2883 force. No improvements are authorized by this approval. Any future
2884 improvements shall comply with the applicable regulations of the County Code.
2885 Any substantial changes or additions to the grading or drainage plans, except as
2886 provided below, shall require a new conditional use permit.
2887
2888 2. The plans shall be amended to show the limits of land disturbance no closer
2889 than 75 feet to the western property line, and to show a 50-foot landscaped
2890 buffer along the Portugee Road frontage and along the western property line
2891 beginning at a point 200 feet north of Portugee Road and extending 350 feet.
2892
2893 3. No later than July 27, 2017, the applicant shall post a financial guarantee in
2894 the amount of \$42,000 guaranteeing that the land will be restored as shown on
2895 the drainage plan submitted with the application. The financial guarantee shall be
2896 maintained throughout the life of this permit, including any renewals. Reclamation
2897 shall not be considered complete until the disturbed area is covered completely
2898 with permanent vegetation.
2899
2900 4. No later than July 27, 2017, the applicant shall obtain approval of an erosion
2901 and sedimentation control plan from the Department of Public Works (DPW). The
2902 applicant shall continuously satisfy DPW that erosion control measures are in
2903 accordance with the approved plan and are properly maintained. As site
2904 conditions change, updated plans and bonds may be required as determined by
2905 DPW.
2906
2907 5. Throughout the life of this permit, the applicant shall comply with the
2908 Chesapeake Bay Preservation Act and all state and local regulations
2909 administered under such act applicable to the property, and shall furnish to the
2910 Planning Department copies of all reports required by such act or regulations.
2911
2912 6. Clearing, grading, and other activities on the site shall be conducted only on
2913 Monday through Friday between 7:00 am and 7:00 pm. No operations of any kind
2914 are to be conducted at the site on Saturdays, Sundays, or national holidays.

2915 7. All access to the property shall be from the construction entrance onto
2916 Portugee Road shown on the plan submitted with the application.
2917

2918 8. The property shall be treated with calcium chloride or other wetting agents to
2919 eliminate any dust nuisance whenever necessary.
2920

2921 9. The operation shall be so scheduled that trucks will travel at regular intervals
2922 and not in groups of three or more.
2923

2924 10. Trucks shall be loaded in a way to prevent overloading or spilling of materials
2925 of any kind on any public road.
2926

2927 11. The operator shall submit a quarterly report stating the origin, nature and
2928 quantity of all soil and other material deposited on the site, certifying that no
2929 hazardous material was included. The material to be deposited on the site shall
2930 be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil,
2931 asphalt, concrete and like materials, and shall not include any hazardous
2932 materials as defined by the Virginia Hazardous Waste Management Regulations.
2933

2934 12. A progress report shall be submitted to the Board on or about April 27, 2018,
2935 stating how much of the property has been filled, how much remains to be filled,
2936 and how long the applicant anticipates the remaining filling will take.
2937

2938 13. Clearing and grading shall be discontinued by April 26, 2019, unless a new
2939 permit is granted by the Board of Zoning Appeals. The final grading of the site
2940 shall be consistent with the drainage plan submitted with the application.
2941

2942
2943
2944 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
2945 Negative: 0
2946 Absent: 0
2947

2948
2949 **[At this point, the transcript continues with the public hearing on the next**
2950 **case.]**
2951

2952 Mr. Blankinship - That is the end of the conditional use permits. We are
2953 now beginning the variances.
2954

2955 **VAR2017-00006** **DANIEL SALOMONSKY** requests a variance from
2956 Sections 24-95(c)(4) and 24-95(c)(2) of the County Code to build an addition at
2957 300 Wood Road (WESTHAM) (Parcel 759-736-3154) zoned One-Family
2958 Residence District (R-1) (Tuckahoe). The rear yard setback and front yard
2959 setback are not met. The applicant proposes 24 feet front yard setback and 17
2960 feet rear yard setback, where the Code requires 35 feet front yard setback and

25 feet rear yard setback. The applicant requests a variance of 11 feet front yard setback and 8 feet rear yard setback.

Mr. Blankinship - Would 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? Thank you. Mr. Gidley?

Mr. Gidley - Thank you, Mr. Secretary. The subject property's located in the Westham subdivision at the intersection of Wood Road and Beechwood Drive. It currently contains a one-family dwelling that was constructed in 1955.

At the time of construction, either of the two streets could have been chosen as the front yard. The home was subsequently constructed with Wood Road as the front and Beechwood Drive as the side yard. Setbacks in place at the time were met. This is a view of the home here. Wood Road, which the home essentially faces, is right here, and then Beechwood Drive, the side yard, goes up along here.

In 1960, a new zoning ordinance took effect. It provided that on corner lots the shortest street side would be considered the front yard, which in this case would be Beechwood Drive. It's slightly shorter than the Wood Road frontage. This made the existing home nonconforming with regard to setbacks since the home was built with Wood Road designed as the front yard.

The applicant would like to build an addition onto the old front of the home facing Wood Road. If Wood Road was still the front yard, the proposed addition would meet setbacks. And you have a plot plan here. This shows setbacks as they would have been under the old standards. The setbacks are the same, essentially. What's changed, though, is Beechwood is now considered the front, which would provide for 35 feet setback there rather than the 25-foot setback shown here.

So as you can see here, the addition, which is right here, would have met setbacks. That assumes the proposed porch, which would be a second-floor porch, would be set back at least 35 feet from the property line. It's not entirely clear on here if that's the case. Since Beechwood Road is now considered the front, the setbacks would not be met.

The applicant in many ways wanted the Board to designate as such what is the front yard. And although the Board can't do that, the Board can grant a variance that would in effect allow the addition as though it were the front yard. So it's a matter of using the correct authority, I guess, but there is a way to allow the applicant to move forward with his proposal.

Under the evaluation of a variance, does the ordinance unreasonably restrict utilization of the property or would it alleviate a hardship due to a physical condition related to the property or its improvements at the time of the effective date of the ordinance. Although the applicant has a reasonable use of the property, the adoption of the 1960 Zoning Ordinance made the home nonconforming with regard to setbacks. It also limited flexibility to add an addition onto the home. This may be considered by the Board to be unreasonable and under the second test a hardship due to a physical condition of the property or its improvements. Again at the time of the effective date of the ordinance. This is because both the lot and the house were in place prior to the adoption of the 1960 Zoning Ordinance change, which provided that the front yard be switched over to Beechwood Drive.

If the Board agrees with this perspective, then all five of the subtests in your staff report must also be met in order for a variance to be issued. As far as good faith, the applicant purchased the property in good faith.

Substantial detriment to nearby properties. The home was initially designed with Wood Road as the front yard. Granting a variance would allow this initial development pattern and the established development pattern to continue. Because the original setbacks would be met, there should not be a substantial detrimental impact on nearby properties.

I had several calls of inquiry from people, but nobody came out and said they opposed it once they understood what the history of the site was and what was being requested.

Number three is it a general or recurring situation. This is rather unusual. Although there are corner lots that existed prior to 1960, a lot of those are going to face the correct road because there is more clearly a front in the traditional sense than a side. In this case, it was really, really close as far as which one was the shortest. So this was a pretty unusual situation. And also, due to the lot becoming wider as you go down towards Wood. As I said, the ordinance change resulted in the home being made nonconforming. A lot of times, a home on a corner lot will still meet setbacks. So it is an unusual situation and not one that comes up very often.

Number four dealing with the use of the property. One-family dwellings are a permitted use in the R-1 District, so there is not a use variance in play here.

And finally, Henrico does not have a special exception or modification as an option.

So in conclusion, the home was built in 1955 with Wood Road designated as a front yard. An ordinance change five years later made the home nonconforming with setbacks and made it difficult to have an addition that would fit onto home.

3053 This change arguably qualifies as a hardship due to a physical condition of the
3054 property or its improvements at the time of the effective date of the ordinance.
3055 This is a unique situation, not something that's general and reoccurring. And
3056 finally, there should not be any detrimental impact on nearby property. As a
3057 result, staff can recommend approval of this request subject to the conditions
3058 found in the staff report.

3059

3060 If you have any questions, I'll be more than happy to answer them.

3061

3062 Mr. Berman - Thank you. Board questions for Mr. Gidley? Would
3063 this necessitate having to change their address?

3064

3065 Mr. Gidley - No sir.

3066

3067 Mr. Berman - Thank you. Any further questions? Thanks.

3068

3069 Mr. Gidley - Yes sir.

3070

3071 Mr. Berman - I'd like to hear from the applicant now. Good
3072 afternoon.

3073

3074 Mr. Salomonsky - Hello. My name is Daniel Salomonsky. S-a-l-o-m-o-n-
3075 s-k-y. I'd like to thank staff for their time and consideration. I'd like to thank the
3076 Board for their time and consideration as well.

3077

3078 Staff did a great job of summarizing my predicament. In essence, Beechwood
3079 Road is two feet shorter than Wood Road. That caused my problem. So my
3080 house faces Wood Road. The new setbacks with Beechwood Road cut across
3081 my house as it is already. So these new rules, after my house was built, make
3082 my house nonconforming. I'm just asking for the house to be conforming again
3083 so I can make a reasonable change.

3084

3085 As far as the question on the porch on the front, I was drawing a proposed porch.
3086 I didn't want the porch to be a problem, but I wanted staff to know I was going to
3087 put a porch on the house. There are some questions on the porch from the
3088 standpoint that a porch is allowed to be two to four feet across the line. But I
3089 drew it like this because I didn't want the porch to be something that would stop
3090 this from going forward. So the final porch consideration, I was hoping that could
3091 be part of meeting code as though Wood Road was my setback. And that could
3092 be done with the building permit application.

3093

3094 Mr. Blankinship - Just to make sure I understand. The drawing you
3095 submitted with your application, does that show the porch that you want to build?

3096

3097 Mr. Salomonsky - It shows it very close. It's right on that line. To me with
3098 planning it with the way we want it to be—honestly the way we want it to be, I

3099 want it to be two to four feet past that setback line, which to my understanding
 3100 would be allowed with code.
 3101
 3102 Mr. Blankinship - So you would like the porch to come out two or four
 3103 feet farther than it does now.
 3104
 3105 Mr. Salomonsky - Yes sir.
 3106
 3107 Mr. Blankinship - On the drawing.
 3108
 3109 Mr. Salomonsky - Yes. Yes sir.
 3110
 3111 Mr. Blankinship - Okay. Does everybody understand that?
 3112
 3113 Mr. Berman - Is it the porch that can extend over or is it—
 3114
 3115 Mr. Blankinship - Well it has to be a porch at the main floor of the
 3116 dwelling.
 3117
 3118 Mr. Salomonsky - The main point of this was the foundation.
 3119
 3120 Mr. Blankinship - As long as we're in front of the Board of Zoning
 3121 Appeals—
 3122
 3123 Mr. Salomonsky - When I drew this, I didn't—I wasn't thinking that this
 3124 exact drawing would be what would be accepted when I submitted it. The
 3125 foundation plan is going to be slightly different. The cutback right here will
 3126 probably just be straight across. As we get into spending money going forward,
 3127 getting designs and architectural drawings, I was trying to just get the basic idea
 3128 of what I'm going to do, which is pretty exact. But I wanted to let staff know that
 3129 there was going to be a porch so I just drew it this way. But the setbacks do allow
 3130 for it to be farther past the line without a variance. But I just wanted to have full
 3131 disclosure there's going to be a porch there.
 3132
 3133 Mr. Blankinship - Absolutely. Thank you. We just want to make sure
 3134 that all of that's in the record at this morning's meeting so that when we review a
 3135 building permit we know whether to bring it back for approval.
 3136
 3137 Mr. Salomonsky - Basically I was applying for the variance for the
 3138 addition part.
 3139
 3140 Mr. Berman - Any questions for the applicant?
 3141
 3142 Ms. Harris - Yes. I was looking at the picture that we have in the
 3143 back of the packet. Do you already have a porch?
 3144

3145 Mr. Salomonsky - Yes ma'am.
 3146
 3147 Ms. Harris - Okay. So you are going to do what with the porch that
 3148 you already have?
 3149
 3150 Mr. Salomonsky - That porch will come down because the addition will
 3151 be across most of the front of the house. And just for perspective, on the site plan
 3152 there is no room in the back of the house for an addition because the house is
 3153 already all the way up against the back setbacks as it was originally built. So I
 3154 have to come forward.
 3155
 3156 Mr. Berman - Just as a heads up, and please correct me if I'm
 3157 wrong, Mr. Blankinship. If you build the porch now and then you seek to further
 3158 enclose it, you no longer can go over.
 3159
 3160 Mr. Salomonsky - Correct.
 3161
 3162 Mr. Berman - It's part of the house.
 3163
 3164 Mr. Salomonsky - Yes, correct.
 3165
 3166 Mr. Berman - Any further questions? Thank you, sir.
 3167
 3168 Mr. Salomonsky - Thank you.
 3169
 3170 Mr. Berman - Is anybody here today to speak in support of this
 3171 application? Okay.
 3172
 3173 Mr. Spalding - Hello. Good morning. My name is Brandon Spalding.
 3174 S-p-a-l-d-i-n-g. I'm Mr. Salomonsky's next door neighbor at 7000 Lakewood
 3175 Drive. So we would share what I guess is the southern boundary. His driveway
 3176 and our driveway would align along that edge. So we're on the corner there.
 3177
 3178 I'm here just to support his application for a variance. Most of the houses in our
 3179 neighborhood have very large lots. And because of that, people by right have
 3180 been able to put additions on their houses. And we've seen a lot of nice things
 3181 happen in our neighborhood, and I think an addition on Mr. Salomonsky's house
 3182 would be very in keeping with what's going on in the neighborhood. I think it
 3183 would be good for property values.
 3184
 3185 Honestly, before he moved in, we had a series of renters in the house. And while
 3186 they were very nice people, they don't take care of their house the same way that
 3187 owners do. And I feel like if he could put this addition on and sort of fix a couple
 3188 of the issues—no offense to the house—that maybe other purchasers that led to
 3189 that house having a sort of series of renters, I think it would be great. We'd love
 3190 to keep them happy and keep them as a neighbor.

3191
3192 I'll be happy to answer any questions, but I'm just here to support him.
3193
3194 Mr. Berman - Thank you. Any questions for Mr. Spalding? Thank
3195 you, sir.
3196
3197 Mr. Blankinship - A lot of people will sit for 2-1/2 hours to speak in
3198 opposition, but not many people will wait 2-1/2 hours.
3199
3200 Mr. Spalding - The thing is, not that long ago he helped carry an
3201 enormously heavy armoire up our front steps.
3202
3203 Mr. Blankinship - You're even.
3204
3205 Mr. Spalding - And into our living room. He saw us struggling with it
3206 in the front yard and came over and offered to help. So I owe him a huge debt,
3207 not to mention that this is a little bit self-serving because I think his house having
3208 an addition will be helpful for everyone on that road.
3209
3210 Mr. Berman - Very good. Thank you, Mr. Spalding. Anybody else
3211 speaking in support? Or needing armoire moved. Is there anybody here today to
3212 speak in opposition of the application? Thank you, let's move on.
3213
3214 **[After the conclusion of the public hearings, the Board discussed the case**
3215 **and made its decision. This portion of the transcript is included here for**
3216 **convenience of reference.]**
3217
3218 Mr. Berman - VAR2017-00006. Do I hear a motion?
3219
3220 Ms. Harris - Mr. Chairman, I move that we approve this variance.
3221 The house was built before the zoning changed, and we've examined the
3222 subtests. So I think this variance should be approved.
3223
3224 Mr. Berman - We have a motion from Ms. Harris. Do we hear a
3225 second?
3226
3227 Mr. Bell - I second the motion. I'd just like to add to it. In looking
3228 through that neighborhood, as presented to us by one of the neighbors who
3229 approves what the applicant wants to do, it will improve that neighborhood in
3230 terms of looks.
3231
3232 Mr. Berman - Thank you, Mr. Bell. We have a second from Mr. Bell.
3233 Any discussion? All in favor signify by saying aye. Those opposed? There is no
3234 opposition; the motion passes 5 to 0.
3235

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell, the Board **approved** application **VAR2017-00006, DANIEL SALOMONSKY's** request for a variance from Sections 24-95(c)(4) and 24-95(c)(2) of the County Code to build an addition at 300 Wood Road (WESTHAM) (Parcel 759-736-3154) zoned One-Family Residence District (R-1) (Tuckahoe). The Board approved the variance subject to the following conditions:

1. This variance applies only to the setback requirement for the proposed addition only. All other applicable regulations of the County Code shall remain in force.

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

3. The new construction shall match the existing dwelling as nearly as practical in materials and color.

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

Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
Negative:		0
Absent:		0

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

VAR2017-00007 **RONALD E. MARTIN, JR.** requests a variance from Section 24-94 of the County Code to build a screened porch on an existing deck at 11409 Greenbrooke Court (SADLER GROVE) (Parcel 746-765-1484) zoned One-Family Residence District (R-3C) (Three Chopt). The rear yard setback is not met. The applicant proposes 29 feet rear yard setback, where the Code requires 40 feet rear yard setback. The applicant requests a variance of 11 feet rear yard setback.

Mr. Blankinship - Would 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? Thank you. Mr. Gidley?

3282 Mr. Gidley - Thank you, Mr. Secretary. The subject property is
3283 located in the Sadler Grove subdivision, which appropriately is just northwest of
3284 Sadler Road. It contains a one-family dwelling that was constructed in 2003. The
3285 applicants purchased the property in 2008. At the time, in addition to the dwelling
3286 it contained an at-grade concrete patio in the back of the house.

3287
3288 In 2011, the applicants received a building permit to construct a deck onto the
3289 rear of the home. This is the home here. And they did receive a building permit to
3290 construct the deck onto the home. The applicant is now requesting permission
3291 to—I'm sorry.

3292
3293 Under the property's R-3 zoning, the setback for the home is 40 feet or any other
3294 covered structured such as a sunroom or a screened porch. A deck, however,
3295 may encroach up to 10 feet into the setback. As a result, a deck can actually
3296 come within 30 feet of the rear property line.

3297
3298 This is a building permit for the deck. You can see the old concrete patio that was
3299 here and the deck that was put on. It showed 30 feet to the rear property line,
3300 which just was right at the required setback for a deck. The applicant is now
3301 requesting permission to convert the existing deck into a covered screen porch.
3302 Since it's a covered structure, it has to meet the same setback of 40 feet as the
3303 house.

3304
3305 The plot plan submitted for today's case shows 29 feet to the deck for some
3306 reason rather than the 30 feet approved by the building permit. And the deck
3307 technically shouldn't be closer than 30 feet. The request for a variance today is
3308 for 11 feet since a covered structure has to meet the same setbacks as the
3309 house, which again is 40 feet.

3310
3311 Evaluation. There are two options to obtain a variance, neither of which appear to
3312 be met in this case. The first concerns whether the Zoning Ordinance
3313 unreasonably restricts the use of the property. The property contains an existing
3314 dwelling. And in addition, the applicant was able to put the existing deck onto the
3315 home in 2011. Together, both of these provide a reasonable use of the property.
3316 In fact, a dwelling with a deck on it is a common development pattern found in
3317 this neighborhood. So given that, I don't see really how the property is
3318 unreasonably restricted by the Zoning Ordinance. If it is, then most of the
3319 properties in this neighborhood would be.

3320
3321 The second option for a variance is a hardship due to a physical condition of the
3322 property or its improvements at the time of the effective date of the ordinance. I
3323 think the applicant's more focused on this test here. The applicant claims a
3324 medical condition and the inability to fit his desired addition onto the lot qualifies
3325 as a hardship under this test. However, unlike the last case we just had, in this
3326 case the effective date of the Zoning Ordinance requirements for the rear yard
3327 setback and also dealing with a deck versus a covered structure took effect in

1960, and this was over 40 years prior to the recordation of the lot or the building of the home. So the ordinance was already in effect long before the home or the lot came into play, which is different from the last case where the home and the lot predated the Zoning Ordinance change. So that's an important difference here. Because of the home existing or being built after the ordinance took effect, this test is not met.

Even if one of the two options to obtain a variance were met, all five of the subtests must also be met for a variance to be approved. Again, staff doesn't believe any of the two main options are met, but for the record I'd like to briefly point out subtest #3 does not appear to be met. And that is, is the condition or situation of the property so general or reoccurring that an amendment to the ordinance could be a practical option. This is a general and reoccurring situation. There are numerous homes in the County with a deck that legally encroaches into the rear yard setback. The owners of these decks, if they wanted to convert them into covered structures in many cases would face the same restrictions as the applicant does today.

So this is not a unique or an unusual situation. In fact, two doors down there was a similar request submitted in 2005 to convert an existing deck down there into a covered screened porch. This application back in 2005 was denied by the BZA because the Board deemed the applicant to have had reasonable use of their property. So a variance was not granted. That's evidence of it being a general and reoccurring situation. In the pre-Cochran days, in fact you could see four or five requests for such a variance in one month. Ms. Harris may remember back that far. So it's not something that's unusual. It is general and reoccurring.

If the Board of Supervisors wanted to make an exception for say screened porches like they did with decks, they could do so if they chose to do so. But they've not made that decision.

So that subtest is not met. I won't go over the others to save time.

In conclusion, neither of the two options for a variance appears to be met. There is not an unreasonable restriction on the use of the property as it's improved with a two-story home and a deck similar to many of the other lots in the subdivision. And while staff sympathizes with the medical situation faced by the applicant, it does not qualify as a hardship due to a condition of the property. Even if it was, it did not exist at the time of effective date of the ordinance, as required by state law to justify a variance. And that's because the lot and the home both were created long after that code section took effect. And finally, this is a general reoccurring situation that could be addressed by the Board of Supervisors if they chose to do so. Because it does not meet the requirements of state law for a variance, staff recommends denial of this request.

3373 That concludes my presentation. I'll be happy to answer any questions you may
3374 have.

3375
3376 Mr. Berman - Thank you. Any Board questions for Mr. Gidley?
3377 Thank you, sir.

3378
3379 Mr. Gidley - Thank you, Mr. Chair.

3380
3381 Mr. Berman - At this time could the applicant please approach and
3382 state their name?

3383
3384 Mr. Martin - My name is Ron Martin, Jr. Last name, M-a-r-t-i-n.
3385 The reason I'm here is because I do have a medical condition, and under strict
3386 doctor's orders I'm not supposed to be in the sun.

3387
3388 It's kind of a life-changing diagnosis. Since then, I had a boat, sold it. I had a
3389 convertible, and I sold that. And my last step in trying to still be able to enjoy the
3390 outdoors is to cover my existing deck with a professionally constructed cover.
3391 That also is a common application in my neighborhood, as he spoke of earlier.
3392 The deck is a common application. More and more people are building these
3393 covered structures in my neighborhood. That is also a very common application.

3394
3395 I realize the staff has recommended against this approval. I do respect the
3396 decision, but I'd like to share some additional information.

3397
3398 I do want to apologize. I'm inexperienced in this. I'm representing myself. The
3399 error on the application is mine. It should say a 10-foot variance, not an 11-foot
3400 variance. So there's an error of one foot on the application. And the existing deck
3401 does meet the current setback of 30 feet.

3402
3403 With regards to the 15-foot variance request in 2005 at 11401 Greenbrooke
3404 Court, two doors down, that was declined. This person did not have a situation,
3405 did not have an extenuating circumstance, if you will, to request approval for that.
3406 His was kind of like all the other requests that have been declined of a similar
3407 nature. So I just do want to point that out, that I have a unique situation.

3408
3409 I do not believe that approving my request would set a precedent since I do have
3410 a unique circumstance. It's unique to me, just like if someone were to request a
3411 variance for a medical condition where they couldn't use a staircase. They
3412 needed a variance to build a ramp of some sort. That is a medical condition, as is
3413 mine. Approving the variance alleviates a personal hardship. I also want to point
3414 that out.

3415
3416 I have a five-year-old daughter. And I want to be able to cover the structure so I
3417 can be outside and watch her and, you know, play in the backyard. That's really

3418 why I'm here. I want to be able to spend some time outside without worrying
3419 about worsening my condition.

3420
3421 I don't believe anyone in my neighborhood is opposed to this approval. I've
3422 worked with the homeowners association. I've talked to various neighbors. One
3423 came by last night to see if there was anything they could do to help me gain
3424 approval on this. I've gone as far as to try to even purchase some of the common
3425 area behind my house so I could do an adjustment, a property line adjustment in
3426 order to be able to use that land. But that came to a very quick dead end. So I
3427 feel like this is my only option at this point.

3428
3429 That is all I have. Thank you.

3430
3431 Mr. Berman - Thank you, Mr. Martin. Any questions for Mr. Martin
3432 from the Board?

3433
3434 Ms. Harris - Yes. I did drive through your neighborhood, and I
3435 noticed that other homes did have a screened-in porch. But do you know if those
3436 porches were placed in the setback area? You are requesting that we allow this
3437 screened-in porch to be placed in the setback area.

3438
3439 Mr. Martin - When you're referring to setback area, are you
3440 referring to the common area?

3441
3442 Ms. Harris - No, not the common area.

3443
3444 Mr. Martin - Or did their property already comply with the required
3445 setback for what they were trying to build.

3446
3447 Ms. Harris - Right.

3448
3449 Mr. Martin - I do not know of anyone who has needed a variance
3450 to build such a structure.

3451
3452 Ms. Harris - That's what I'm asking. Thank you.

3453
3454 Mr. Berman - Any other questions for Mr. Martin? Mr. Martin, I have
3455 one. Have you considered retractable awning or awnings instead of the covered
3456 porch?

3457
3458 Mr. Martin - Yes I have considered that. My understanding is that
3459 anything that goes over your head requires a permit. That is what I've been told
3460 all along. And the fact that the sun tracks across the sky in such a way that—
3461 awnings only go so far out. And when the sun is directly in the sky, you could
3462 have a 12-foot awning and you may only get six feet of shade. That's my
3463 situation. So I feel like a small detached structure would not provide enough

3464 shade. I need something that goes way out to provide enough space in order for
3465 me to actually move around, sit next to the rail, watch my daughter to make sure
3466 she's not going to get hurt. I have considered that, yes. I just do not feel like—I
3467 would not do that if this were not approved because I do not feel like it's a viable
3468 option.

3469
3470 Mr. Berman - That was my next question. Thank you. You had
3471 mentioned ramps for medical conditions. Ramps are permissible.

3472
3473 Mr. Martin - Are they.

3474
3475 Mr. Berman - In most situations. And the other was—you have to
3476 understand that we are sensitive to people's medical conditions. But as it was
3477 explained in the staff's report, this hardship is for the land and for the parcel not
3478 for the humans living on the parcel.

3479
3480 Mr. Martin - I have learned that today in this meeting. Again, I'm
3481 inexperienced in this. I've never gone through this process before. So I
3482 misinterpreted the verbiage in the application.

3483
3484 Mr. Berman - Not a problem at all. We're here to help you
3485 understand. Any other questions?

3486
3487 Mr. Bell - To follow up, as you noticed if you read this report, we
3488 are here for many reasons, and one is obviously the Code of Virginia that's
3489 quoted here. It has five basic parts that we have to use to determine does your
3490 situation permit. And the medical and all that is not included in that. It was
3491 basically included on the factual evidence that was found there. That's what we
3492 do. We can't do anymore than that. If we do, then we are in violation of the Code.

3493
3494 You said you didn't have another option. It's not always the best option, but the
3495 people who handle the variances are the Board of Supervisors. So you can
3496 always go through the Board of Supervisors with a good argument on medical
3497 and whatnot and see what they have to say. That's the problem I find myself
3498 looking at when we discuss it and decide to vote.

3499
3500 Mr. Berman - This body, within the last year, did hand something to
3501 the Board of Supervisors who approved it. Not for your case, but a similar case
3502 regarding covered porches. So it can be done. If you've got something you say
3503 this could be recurring in nature, Board of Supervisors, you really should—it's
3504 something that can be changed, possibly, if this doesn't go through this way. Any
3505 other questions for Mr. Martin? Thank you, sir.

3506
3507 Mr. Martin - Thank you.

3509 Mr. Berman - Is anybody here today to speak in support of this
3510 application? Is there anybody here today to speak in opposition of the
3511 application? Hearing none, let's move on.

3512

3513 **[After the conclusion of the public hearings, the Board discussed the case**
3514 **and made its decision. This portion of the transcript is included here for**
3515 **convenience of reference.]**

3516

3517 Mr. Berman - I'd like to make a motion of denial. Do I hear a
3518 second?

3519

3520 Ms. Harris - Second.

3521

3522 Mr. Berman - Second from Ms. Harris.

3523

3524 Ms. Harris - Yes. And I'd like to say that in this case the Zoning
3525 Ordinance predated the building of the house as opposed to the last case. And
3526 the subtests are not met. And there are other alternatives that this owner can
3527 take from going to the Board of Supervisors to equipment that we discussed. So
3528 there are some other options.

3529

3530 Mr. Berman - Thank you. I will also add that it's regrettable that I
3531 had to make this motion. My family has the same medical condition as well. But I
3532 fear that if we did pass this that it would likely get overruled by a higher court, by
3533 the Circuit Court. Having said that, any further discussion? All in favor of the
3534 denial signify by saying aye. Those opposed? There is no opposition; the motion
3535 carries 5 to 0.

3536

3537 After an advertised public hearing and on a motion by Mr. Berman seconded by
3538 Ms. Harris, the Board **denied** application **VAR2017-00007, RONALD E.**
3539 **MARTIN, JR.'s** request for a variance from Section 24-94 of the County Code to
3540 build a screened porch on an existing deck at 11409 Greenbrooke Court
3541 (SADLER GROVE) (Parcel 746-765-1484) zoned One-Family Residence District
3542 (R-3C) (Three Chopt).

3543

3544

3545 Affirmative: Bell, Berman, Harris, Mackey, Reid 5

3546 Negative: 0

3547 Absent: 0

3548

3549

3550 **[At this point, the transcript continues with the public hearing on the next**
3551 **case.]**

3552

3553 Mr. Blankinship - VAR2017-00008 as been deferred. VAR2017-00009,
3554 Liberty Homes Incorporated.

3555
3556 **VAR2017-00009** **LIBERTY HOMES, INC.** requests a variance from
3557 Section 24-95(c)(4) of the County Code to allow a one-family dwelling to remain
3558 at 4522 Wistar Road (Parcel 767-751-9081) zoned One-Family Residence
3559 District (R-2A) (Brookland). The front yard setback is not met. The applicant
3560 proposes 28 feet front yard setback, where the Code requires 35 feet front yard
3561 setback. The applicant request a variance of 7 feet front yard setback.

3562
3563 Mr. Blankinship - Would everyone who intends to speak to this case
3564 please stand and be sworn in. Raise your right hands, please. Do you swear the
3565 testimony you're about to give is the truth, the whole truth, and nothing but the
3566 truth so help you God? Thank you. Mr. Gidley?

3567
3568 Mr. Gidley - Thank you again, Mr. Secretary. The subject property
3569 is located on the north side of Wistar Road, which in 1964 was widened to 50
3570 feet. At the time, the property contained .388 of an acre.

3571
3572 In 2015, the property and several adjoining lots were acquired by Emerald Land
3573 Development Company. Emerald proposed to divide the four lots that they
3574 owned into seven lots. Staff informed them the appropriate approval process for
3575 this would be to file for subdivision approval. Instead, the developer chose to file
3576 a series of boundary line adjustments and a one lot split that enabled him to
3577 avoid getting subdivision approval. This resulted in five lots having to meet the
3578 current R-2A District standards. You can see the five lots over here to the east.
3579 And then there was one lot that was still subject to the pre-1960 exception
3580 standards. The lot in question is right here.

3581
3582 As part of this building permit process, Emerald Land Development agreed to
3583 convey an eight-foot-wide strip of land to further widen Wistar Road. After the lots
3584 were reconfigured, but before an eight-foot strip of property was dedicated for
3585 right-of-way, Emerald Land sold the lots to their homebuilding arm, Liberty
3586 Homes. Liberty subsequently built six homes, five on the lots to the east and one
3587 home on this lot right here. And you can see the home located at this point here.

3588
3589 The homes built on the five lots to the east were built at the 45-foot setback line
3590 as required by code and met those standards measured from the ultimate right-
3591 of-way of Wistar Road, which is after the dedication of the eight feet.

3592
3593 Unfortunately, on the building permit application for the subject home, 4522
3594 Wistar Road, the wrong plat was submitted with the building permit. The building
3595 permit was subsequently approved by the Permit Center technician within the 35-
3596 foot setback required by the exception standards. It basically met setbacks from
3597 the old right-of-way, but did not meet them from the new right-of-way following
3598 the dedication of the eight feet that the developer agreed to dedicate. So while
3599 the home was under construction, the eight-foot strip of land was dedicated to
3600 the County. And when the builder came in for the certificate of occupancy, the

as-built survey showed a 28-foot setback rather than the required 35 feet. The builder has subsequently applied for a variance requesting permission for the home to remain.

Evaluation. Does the Zoning Ordinance unreasonably restrict the utilization of the lot or is there a hardship due to a change in the ordinance. The buildable area of the lot is unusually shallow due to the floodplain along the rear of the lot. You can see it right here. This does have a significant impact on this lot. The other five lots have an average depth of 150 feet from the ultimate right-of-way of Wistar Road to the floodplain. On the subject lot, this varies from just 50 feet up to 100 feet. Nonetheless, there is technically enough room to build a dwelling that would meet setback requirements. As you can see here, there is still 18 feet to the back corner of the home from the floodplain.

Unfortunately, due a miscommunication, the County approved a building permit that allowed the home to be constructed less than the required 35 feet from the ultimate right-of-way of Wistar Road. While the responsibility for meeting this requirement rests with the developer and the builder, the dwelling was built in good-faith reliance on what appeared to be a valid building permit.

As far as the five subtests, the applicant purchased the property in good faith and was aware of the requirement to dedicate eight feet of right-of-way. He may not have been aware of the requirement that the setback would be measured from the ultimate right-of-way rather than the existing right-of-way at the time of building permit submittal and approval.

The granting of the variance as far as substantial detriment, the main detriment would be to the existing home right here. But obviously it's going to be that much closer to a fairly busy road rather than being set back further, which is one of the reasons we like to see the setback ultimately be measured from the future right-of-way to allow more room for setback not only for safety purposes but just for their own peace and quiet.

The row of homes that was developed to the east, they are further in, meeting setbacks, so to a degree this does look a little bit out of place. You can see the homes here are set back more, and then this does come out more. Again you see the home here. But I don't think that rises to the level of a substantial detriment as such. But again, that's another reason to have it set back the way we normally would.

Number three, a generally reoccurring situation. This situation came about because of an unusual combination of factors. There's a floodplain along the rear of the lot that required the dwelling to be located as far forward towards Wistar Road as possible, the proposed widening of Wistar Road, and a miscommunication between the developer, the builder, and the County over the

measurement of the setback. So this was an unusual situation in that sense and thankfully not something that's general and reoccurring.

As far as the use, it's a legal use. A one-family dwelling is a permitted use in the R-2A District and a special exception is not an option in this case.

In conclusion, the case presents a combination of factors that could justify a variance. The floodplain, which existed at the time of the adoption of the ordinance is a physical condition of the property that constrains the buildable area of the lot. Although it would have been possible to fit the home onto it nonetheless. So there may or may not be a hardship. You can't say for certain there is a hardship in this case. It may be considered unreasonable, however, for the County to come back and enforce the setback after issuing the building permit. If the home had been built at the 35-foot setback from the alternate right-of-way, it would have been lawful. The impact on nearby property would have been similar, not real different as such. For these reasons, staff recommends approval of the variance subject to the conditions in the staff report.

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

Mr. Berman - Thank you. Any questions for Mr. Gidley from the Board? Thank you, sir. I'd like to hear from the applicant, please.

Mr. Kronenthal - Sir, I'm Mark Kronenthal. And that's K-r-o-n-e-n-t-h-a-l. I'm a lawyer with Roth Jackson. I've got a couple slides here. Representing Liberty Homes.

I wonder if we could go ahead onto the drawing from the staff report instead. With the yellow outline. What I'd like to do is show the irregular shape of the property compared to the other lots just to point out—yes, the aerial. Yes sir. Excellent. And I wonder if we could show the other lots. I want to point out that the physical condition of the lot in question. It's the lot with the yellow outline. It's different from the other six lots that were developed altogether. Liberty Homes purchased these lots altogether from Emerald. Liberty and Emerald are under different ownership. They're under different management. They're not related entities, although in practice you do see Liberty buy lots frequently that have been laid out by Emerald.

I think staff really got the timeline accurately. This case is really a series of unfortunate events that have lead us to a condition of a physical nonconformance. I think that you can see in the timeline that we have a bunch of folks acting in good faith. November 2015, this goes back then. Liberty was the contract purchaser of the property. And in good faith it submitted a building permit application with a drawing that laid out the facts of the land as they knew it then. The then-existing 36-foot—the house was at that time set back 36 feet. The

requirement was 35 feet. The surveyor, who was working for Liberty and not for Emerald, he drew what the ground showed then. A year later, Liberty, following up on the original request with Emerald, did convey the eight-foot strip of land.

And so in February and March of this year when the folks at Liberty came to get their certificate of occupancy and presented a correct and updated survey, updated drawing that showed the as-built conditions, there was only the 28-foot setback. So the 36-foot condition then became a 28-foot condition. The County cannot grant occupancy to the house until a variance is granted.

Another fact that you wouldn't know is that there was a contract purchaser that was waiting for us earlier this year. The contract purchaser has declined to close. So the property is going to have to be—assuming that you grant the variance, the property will have to be remarketed.

There are a lot of "if onlys" here. If only the eight-foot right-of-way was conveyed earlier. That didn't happen until about a year after we applied for permits. If only the day that we went to the Permit Center's desk somebody who knew about the right-of-way was there. If only the applicant's predecessor in title, Emerald, if only they had done a subdivision review—the County's so good at catching these kinds of issues especially through the subdivision review—staff would have caught that.

So there are a lot of "if onlys." Everybody acted in good faith. I think the bottom line is that the property is not economically viable—this is the hardship—if the front seven feet of the house has to come off in order to meet the setback or if we have to pick up the house and move it back or demolish it altogether. We did have a contract purchaser. They were ready to—they thought the house was beautiful. They were ready to move on in. It didn't bother them that the depth was in there, but it did bother them that they couldn't get the certificate of occupancy. So we've lost them.

I wonder if we could get the slide that shows—you have a very good slide that shows the difference in the house and the adjacent houses, the photograph. This is a great slide. The setback difference is 20 feet from the house in question, which is the gray house, and then the yellow and lighter yellow house, which meet the existing setback. So if this house met the additional seven feet that it would need, it would still be sticking out. It's like a line. The houses are like a line of soldiers. And whether you're stepping out three steps or two steps, you're still out of line. The house really salutes the very interesting geography, and we've really worked hard to respect the floodplain and the way the depression works in the back. These houses, there's a little topography where they go down. Obviously, the lot in question has a lot more of that topography than the others.

So for these reasons, we believe that the county, we believe that the applicant, acted in good faith. We believe everybody did what they were supposed to do.

3738 But the unfortunately time line has led us to this situation. And we ask that the
3739 Board take the action consistent with the staff's report that recommends
3740 approval.

3741
3742 Mr. Berman - Thank you, Mr. Kronenthal. Are there any questions
3743 from the Board? Very good. Thank you, sir. Is anybody here today to speak in
3744 support of this application? Is there anybody here today to speak in opposition to
3745 the application? Hearing none, that concludes our applications. And we will now
3746 move into the motion portion of today's proceedings. We will take these in order
3747 of the agenda.

3748
3749 **[After the conclusion of the public hearings, the Board discussed the case**
3750 **and made its decision. This portion of the transcript is included here for**
3751 **convenience of reference.]**

3752
3753 Mr. Berman - Do I hear a motion?

3754
3755 Mr. Bell - I make a motion that we approve VAR2017-00009. As
3756 it stands right now it fits into the neighborhood. There aren't any areas of safety
3757 or other concerns that are not present for the other homes. It's a unique situation
3758 in many respects because of how the eight feet occurred and was needed to
3759 build this to begin with, along with the time line all the way up to the builders and
3760 County inspectors looking at the building plans and creating errors. So it was a
3761 situation that the owners of the property had minimum, I believe, responsibility
3762 for.

3763
3764 Mr. Berman - Thank you, Mr. Bell, we have a motion. Do I hear a
3765 second?

3766
3767 Ms. Harris - Second. And I'd like to add to that that there's a
3768 floodplain that was of major consideration in construction of this home. And then
3769 the widening of Wistar Road, too, so they did have to deal with quite a few issues
3770 here.

3771
3772 Mr. Berman - Thank you. We have a second from Ms. Harris. Any
3773 further discussion? All in favor signify by saying aye. Those opposed? There is
3774 no opposition; the motion passes 5 to 0.

3775
3776 After an advertised public hearing and on a motion by Mr. Bell, seconded by Ms.
3777 Harris, the Board **approved** application **VAR2017-00009, LIBERTY HOMES,**
3778 **INC.'s** request for a variance from Section 24-95(c)(4) of the County Code to
3779 allow a one-family dwelling to remain at 4522 Wistar Road (Parcel 767-751-
3780 9081) zoned One-Family Residence District (R-2A) (Brookland). The Board
3781 approved the variance subject to the following conditions:

3783 1. This variance applies only to the front yard setback requirement for one
3784 dwelling only. All other applicable regulations of the County Code shall remain in
3785 force.

3786
3787 2. Only the improvements shown on the survey filed with the application may be
3788 constructed pursuant to this approval. Any additional improvements shall comply
3789 with the applicable regulations of the County Code. Any substantial changes or
3790 additions to the design or location of the improvements will require a new
3791 variance.

3792
3793
3794 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
3795 Negative: 0
3796 Absent: 0

3797
3798
3799 Mr. Berman - Mr. Blankinship, do we have any new business?

3800
3801 Mr. Blankinship - No sir.

3802
3803 Mr. Berman - In that case, do I hear a motion for the minutes from
3804 last month? Excuse me. First do I have any corrections to the minutes?

3805
3806 Mr. Mackey - Yes, Mr. Chairman. On page 10 of the minutes,
3807 starting on line 420, I have some questions for Mr. Jennings. When you come
3808 down to line 423, they changed it to Mr. Bell's name. I asked that question as
3809 well. And on line 428, I also asked that question.

3810
3811 Mr. Berman - Very good. Any other corrections?

3812
3813 Ms. Harris - Yes. On page 47, lines 2118 and 2119, the word
3814 should be insure, i-n-s-u-r-e, instead of e-n-s-u-r-e.

3815
3816 Mr. Berman - Should it?

3817
3818 Ms. Harris - Yes.

3819
3820 Mr. Blankinship - Unless there's money involved, I would *ensure* with
3821 an "e" there. But we can change it.

3822
3823 Ms. Harris - Well we can—yes.

3824
3825 Mr. Berman - We need to ensure that we're using the right word.

3826
3827 Mr. Blankinship - Right.

3828

3829 Ms. Harris - I think I interpreted that as to be sure of.
 3830
 3831 Mr. Blankinship - Right.
 3832
 3833 Mr. Berman - I defer to the educator, though. All right. On page 1,
 3834 line 10, insert the word "are" between "who" and "able." Any further corrections?
 3835 Do I hear a motion on the minutes? I move that we accept these minutes without
 3836 reading them into the record.
 3837
 3838 Ms. Harris - Second the motion.
 3839
 3840 Mr. Berman - Seconded by Ms. Harris. Any discussion? All in favor
 3841 signify by saying aye. Those opposed? There is no opposition; the motion carries
 3842 5 to 0.
 3843
 3844 On a motion by Mr. Berman, seconded by Ms. Harris, the Board **approved as**
 3845 **corrected** the **Minutes of the March 23, 2017**, Henrico County Board of Zoning
 3846 Appeals meeting.
 3847
 3848
 3849 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
 3850 Negative: 0
 3851 Absent: 0
 3852
 3853
 3854 Mr. Berman - I believe that concludes this hearing. Thank you
 3855 everybody again for your patience. Have a good day. We're adjourned.
 3856
 3857
 3858
 3859
 3860
 3861
 3862
 3863
 3864
 3865
 3866
 3867
 3868
 3869
 3870
 3871
 3872



Dennis Berman
Chairman



Benjamin Blankinship, AICP
Secretary