

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY JUNE 27, 2024 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE *RICHMOND TIMES-DISPATCH* JUNE 17, 2024 AND JUNE 24, 2024.**
6
7

8 **Members Present:** Walter L. Johnson, Jr., Chair
9 Terrell A. Pollard, Vice-Chair
10 Terone B. Green
11 Barry R. Lawrence
12 John R. Broadway
13
14

15 **Also Present:** Leslie A. News, Assistant Director of Planning
16 Benjamin Blankinship, Secretary
17 Paul M. Gidley, County Planner
18 Sara Rozmus, County Planner
19 Janaya Poarch, Accounting Clerk
20
21
22

23 **Mr. Johnson -** Good morning and welcome to the June 27th meeting of the
24 **Henrico County Board of Zoning Appeals.** For all that are able, will you please stand and
25 **join us in the Pledge of Allegiance.**
26

27 **[Recitation of Pledge of Allegiance]**
28
29

30 **Mr. Johnson-** Again, good morning. And we will now have Mr. Blankinship
31 **to read our rules.**
32

33 **Mr. Blankinship-** Good morning, Mr. Chair, members of the Board. Good
34 morning to everyone with us today. I'd also like to welcome everyone who is joining us
35 remotely on Webex today. If you wish to observe the meeting and do not intend to speak,
36 then welcome and thank you for joining us. For those of you on Webex who would like to
37 speak, we need to know that in advance so that we can connect you at the appropriate
38 time. So, if you are an applicant, or if you have questions or comments on one of the
39 cases, please press the chat button now. It's located on the bottom right corner of the
40 screen, and when the chat window opens, please select Janaya Poarch from the list of
41 participants and let her know your name and which case you're interested in. The chat
42 feature will only be used to identify speakers. So, please do not type questions or
43 comments into a chat. But please send a chat to Janaya Poarch now.
44

45 **So, for those in the room, as Secretary, I will call each case and will ask everyone in the**
46 **room who intends to speak to that case to stand and be sworn in. Then a member of the**

47 Planning Department staff will give a brief presentation. Then the applicant will give their
48 presentation on their case. Then anyone else who wishes to speak, in favor or in
49 opposition, will be given the opportunity. We will hear from the people in the room first,
50 and then those on Webex. After everyone has had a chance to speak the applicant, and
51 only the applicant, will have an opportunity for rebuttal.

52
53 This meeting is being recorded. So, for those of you in the room, we will ask you to speak
54 directly into the microphone on the podium there in the back of the room. Please state
55 your name. And please spell your last name so we get it correctly in the record. And just
56 so you know, once the case you're interested in is over, you're free to leave, there's no
57 need for you to stay for the rest of the meeting.

58
59 And with that, Mr. Chair, we are ready for the first case.

60
61 Mr. Johnson- Okay. Thank you. Please call the first case.

62
63 **CUP-2024-100551 - Chris Pollock: conditional use permit to allow an accessory**
64 **dwelling unit at 7602 Hampshire Road, Westham, Tuckahoe. Parcel 761-737-2445.**
65 **Zoning: R-3, One-Family Residence District. Code Section: 24-4406.**
66

67 Mr. Blankinship- Conditional Use Permit 2024-100551, Chris Pollock: a
68 conditional use permit to allow an accessory dwelling unit at 7602 Hampshire Road, in
69 Westham, in the Tuckahoe Magisterial District. Would everyone who intends to speak to
70 this case please stand and be sworn in. Raise your right hand please. Do you swear the
71 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so
72 help you God? Thank you. Ms. Rozmus.

73
74 Ms. Rozmus- Thank you, Mr. Secretary. Good morning, Board. This case
75 was one that was deferred from April. So, this is Mr. Pollock's case. It is 7602 Hampshire
76 Road. Just west of the intersection with Shrewsbury. This ranch-style home is on .43-
77 acres and was purchased by Mr. Pollock in 2020. The applicant would like to build a 900-
78 square-foot detached garage with a 780-square-foot ADU on the second floor. And since
79 our last meeting, Mr. Pollock has made some changes to his plan. The ADU is now
80 smaller, and the garage is smaller. The height is still the same, but the neighbors in the
81 rear and the side have signed off. They are okay with this plan. And he has included a
82 balcony screen to cover that back balcony that neighbors had some concerns about the
83 view into their yard. So, the ADU is in the same location. It is approximately 59 feet from
84 the principal dwelling and 15 feet from the rear lot line, and six feet from the side lot line.
85 And it's going to go in this spot, right here. And I think that about covers it. I can take any
86 questions.

87
88 Mr. Blankinship- Do you want to mention the revised conditions?

89
90 Ms. Rozmus- Oh, I'm sorry, yes. We had some revised conditions. The
91 revised conditions include some screening for the rear. Mr. Pollock plans to plant some
92 mature trees along the back line. He has plans to do a grading plan, of course before he

93 starts any building. And then, he's going to work on the drainage problem on the side, the
94 left side of the property where his driveway is. He's going to have someone come in, a
95 professional come in and assess the draining issues and work for a solution.

96
97 Mr. Johnson- Okay. Thank you. Are there any questions from the Board for
98 staff?

99
100 Mr. Lawrence- I have a couple of questions, Mr. Chairman.

101
102 Mr. Johnson- Okay.

103
104 Mr. Lawrence- Ms. Rozmus, page two of the staff report states that the
105 proposed accessory dwelling unit would be 780 square feet.

106
107 Ms. Rozmus- Yes.

108
109 Mr. Lawrence- Page four of the staff report states that the proposed
110 accessory dwelling unit was reduced to 760 square feet. So, I guess my question is the
111 revised square footage that's being proposed, is it 780 or 760?

112
113 Ms. Rozmus- It is 780. That is a typo. I apologize.

114
115 Mr. Lawrence- So, it's being reduced by 20 square feet. Is that correct?

116
117 Ms. Rozmus- Yes. And good catch.

118
119 Mr. Lawrence- That's all I had, Mr. Chairman.

120
121 Mr. Johnson- Any other questions? On the first photo you had there with the
122 window, or something, the screening. I thought it was some type of glass or something.

123
124 Ms. Rozmus- This example over here, it's kind of a shutter. So, it provides
125 nice screening, nice coverage. Yeah, I think that this drawing just doesn't reflect how high
126 up it will go. But it's going to go all the way up to the top.

127
128 Mr. Johnson- Alright. Thank you. Any other questions from the Board for
129 staff? Okay, we will now hear from the applicant.

130
131 Mr. Pollock- I am Chris Pollock, P.O.L.L.O.C.K. The applicant. I think Ms.
132 Rozmus summarized it perfectly. But since the last meeting I met with the two neighbors
133 behind and worked through the majority of their concerns. Including screening and
134 shrinking some windows, planting some bushes. And they have both emailed Ms.
135 Rozmus and said based on the results of our meeting, they are fine and everything's been
136 worked through.

138 Mr. Johnson- Okay. Any other questions for the applicant? None, okay.
139 What is the pleasure...

140
141 Mr. Blankinship- Did you want to see if anyone else wants to speak?

142
143 Mr. Johnson- Anyone else wish to speak in support? Anyone want to speak
144 in opposition?

145
146 Mr. Blankinship- There is no one on Webex for this case.

147
148 Mr. Johnson- Okay. Thank you.

149
150 Mr. Broadway- Well, Mr. Chair, first I'd like to thank Mr. Pollock for all he's
151 done to work with his neighbors to address the concerns they had. And so, on that basis,
152 I would move that we approve the conditional use permit subject to the conditions
153 recommended by staff.

154
155 Mr. Lawrence- Second.

156
157 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

158
159 Board- Aye.

160
161 Mr. Johnson- All opposed say, Nay. Motion passed.

162
163 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **approved** case
164 **CUP-2024-100551** subject to the following conditions:

- 165
166
167 1. This conditional use permit allows a detached garage with an accessory dwelling
168 unit. All other applicable regulations of the County Code remain in force.
169
170 2. This conditional use permit applies only to the improvements shown on the plot
171 plan titled "Site Master Plan – Pollock Residence" by Nomad Studio dated May 31,
172 2024 and building design titled "7602 Hampshire Garage – Elevations & Floor
173 Plan" by Nomad Studio dated March 11, 2024, as amended by these conditions.
174 Any additional improvements must comply with the applicable regulations of the
175 County Code. Any substantial changes or additions to the design or location of the
176 improvements will require a new conditional use permit.
177
178 3. Windows on the rear elevation facing 405 and 407 Horsepen Road must not have
179 a sill lower than 5'-0" above the finished floor.
180

- 181 4. A fixed permanent screen, similar to that shown on the plan titled "Revised
182 windows & balcony screen," must be installed on the balcony facing the rear of the
183 property.
184
- 185 5. Before beginning any clearing, grading, or other land disturbing activity, the
186 applicant must obtain approval of a Comprehensive Grading Plan and an
187 Agreement in Lieu of an Erosion and Sediment Control Plan from the Department
188 of Public Works.
189
- 190 6. Before requesting final inspection of the building, the applicant must replace the
191 chain link fence along the rear of the property abutting 405 Horsepen Road to
192 match the existing fence at the rear of the property abutting 407 Horsepen Road.
193
- 194 7. Before requesting final inspection of the building, the applicant must plant a row of
195 Thuja Green Giant evergreen trees, approximately 7 feet tall, along the rear
196 property line at a quantity and spacing determined by a professional landscaper.
197
- 198 8. The applicant must obtain a building permit for the proposed accessory dwelling
199 unit by June 27, 2026, or this conditional use permit will expire. If the building
200 permit is cancelled or revoked after that date due to failure to diligently pursue
201 construction, this conditional use permit will expire at that time.
202

203
204 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**
205 **Negative:** **0**
206 **Absent:** **0**
207
208

209 **CUP-2024-100759 - TB3 LLC: conditional use permit to allow a wall and fence in the**
210 **front and side yards at 8901 Brieryle Road, Mooreland Farms, Tuckahoe. Parcel**
211 **747-733-0150. Zoning: R-1, One-Family Residence District. Code Section: 24-**
212 **4404.A.1.**
213

214 Mr. Blankinship- The second case is Conditional Use Permit 2024-100759, this
215 is TB3, LLC.: a conditional use permit to allow a retaining wall and a 10-foot fence in the
216 front and side yards at 8901 Brieryle Road, in Mooreland Farms, in the Tuckahoe
217 Magisterial District. Would everyone who intends to speak to this case please stand and
218 be sworn in. Raise your right hands please. Do you swear the testimony you are about to
219 give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you.
220 Ms. Rozmus, you're going to do this one?
221

222 Ms. Rozmus- Yes. So, this is a CUP application for a sports court and a
223 retaining wall in the front and side yards in Mooreland Farms. I believe the applicants
224 have made some adjustments to their plans in reflection of some concerns that were
225 brought up by neighbors. Other than that, I think, that everything seems well and good.
226 They have some nice lighting plans and a fence plan, and a landscaping plan as well.

227
228 Mr. Blankinship- Thank you Ms. Rozmus. Mr. Chair, that is correct. The
229 neighbors did meet with the applicant. Again, this is a deferred case, and the applicant
230 has satisfied all their concerns. We had not heard, until after the last meeting, from the
231 neighbor most directly affected, which is the one to the south. But they have emailed with,
232 you know, significant detail that they have reviewed the plans, they understand what's
233 being done, and they are in support. There is one neighbor who expressed concern last
234 month and who asked several questions and asked for additional information to be
235 provided. We have not heard back from that neighbor. So, some people, when they get
236 to the point of having no opposition, they just go silent rather than expressing that they
237 have no opposition. So, there is one neighbor out there that we are, we have not heard
238 affirmatively that they support the case, but they have not expressed opposition since the
239 last information was sent to them.

240
241 Mr. Johnson- Okay. Let's hear the applicant.

242
243 Mr. Castleberg- My name is Rick Castleberg, and I am representing the
244 applicant, Trish Garland. I did meet with the neighbor across the street...

245
246 Mr. Blankinship- Okay, good.

247
248 Mr. Castleberg- ... who was, they really never, I mean, they opposed it from
249 the beginning, and they were instrumental in the redesign, which now works out well for
250 everybody. I went through the whole process of height of the retaining wall, which just in
251 the southeast corner, the very southeast corner the retaining wall is 10 feet tall. And within
252 30 feet heading west into the front yard it reduces to six feet. I showed them the planting
253 plans. The plants are going in at 10 feet in the beginning and they grow to 20 feet. Long
254 story short is that they were on board with everything at the end of that meeting. And they
255 mentioned that to Ms. Garland, I think yesterday as well. So, everybody seems to be in
256 favor of it. I had one question. Based on approval, when do we apply for the permit for
257 this based on approval?

258
259 Mr. Blankinship- If the Board approves the case this morning you can apply
260 today.

261
262 Mr. Castleberg- Okay. Thank you very much.

263
264 Mr. Blankinship- Yes, sir.

265
266 Mr. Castleberg- Any further questions?

267
268 Mr. Johnson- Any questions from the Board or staff?

269
270 Mr. Lawrence- I have a question, Mr. Chairman.

271
272 Mr. Johnson- Yes.

273
 274 Mr. Lawrence- Sir, does Mooreland Farms have an HOA with restrictive
 275 covenants? Because, typically, neighborhoods will have restrictions on fence height,
 276 height and style, that sort of thing if there is an HOA. I was just curious.
 277
 278 Mr. Broadway- I don't think there is.
 279
 280 Mr. Lawrence- There's not?
 281
 282 Mr. Blankinship- I think they were established before the HOA laws.
 283
 284 Mr. Castleberg- Ms. Garland will answer that question.
 285
 286 Ms. Garland- There is not an HOA in Mooreland Farms.
 287
 288 Mr. Lawrence- Okay.
 289
 290 Mr. Castleberg- Any other questions?
 291
 292 Mr. Johnson- Any questions from the Board or staff?
 293
 294 Mr. Blankinship- Is there anyone else in the room?
 295
 296 Mr. Johnson- Anyone in support? Is there anyone opposed?
 297
 298 Mr. Blankinship- There is no one on Webex.
 299
 300 Mr. Johnson- Okay. Thank you.
 301
 302 Mr. Broadway- Mr. Chairman, based on what we've heard today, that the
 303 plans have been revised to address the neighbor's concerns, I move that we approve this
 304 conditional use permit subject to the conditions recommended by staff.
 305
 306 Mr. Lawrence- Second.
 307
 308 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.
 309
 310 Board- Aye.
 311
 312 Mr. Johnson- All opposed? All in favor. Motion passed.
 313
 314 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **approved** case
 315 **CUP-2024-100759** subject to the following conditions:
 316
 317

1. This conditional use permit authorizes the construction of a driveway, a retaining wall and a chain link fence in the front and side yards. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the "Driveway Site Plan" prepared by Charels C. Townes, II, P.E. and revised May 10, 2024. Any additional improvements must 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 conditional use permit.
3. The retaining wall must be located at least 40 feet from the right-of-way of Brieryle Drive and at least 10 feet from the adjacent property. On the portion of the retaining wall parallel to Brieryle Drive, the fence on top of the wall must not exceed four feet in height (see Sec. 24-5407.C of the Zoning Ordinance). On the portion of the retaining wall adjacent to 8900 Tolman Road, any fence on top of the wall must not exceed ten feet in height. Any chain-link fence must be clad with black vinyl.
4. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant must delineate a tree-save area around the two 36-inch oak trees and one 42-inch oak tree near the front of the property, at least 10 feet out from each trunk. During the construction process, the applicant must make a good-faith effort to preserve the three oak trees.
5. The retaining wall must be landscaped as shown on the plan titled "Garland Residence" prepared by Garden Graces, LLC and dated May 2024. All approved landscaping must be maintained in a healthy condition at all times. Dead plant materials must be removed within a reasonable time and replaced during the normal planting season. Any exterior lighting must be shielded to direct light away from adjacent property and the street.
6. The applicant must obtain a building permit for the retaining wall by June 27, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
Negative:		0
Absent:		0

CUP-2024-100880 - Yahya Fatani: conditional use permit to allow an accessory dwelling unit at 1846 Grey Oaks Park Lane, Estates at Grey Oaks South, Three Chopt. Parcel 740-770-9850. Zoning: R-2AC, One-Family Residence District (Conditional). Code Section: 24-4406.

364
365 Mr. Blankinship- Alright, Conditional Use Permit 2024-100880, Yahya Fatani;
366 a conditional use permit to allow an accessory dwelling unit at 1846 Grey Oaks Park Lane,
367 in the Estates at Grey Oaks South, in the Three Chopt Magisterial District. Would
368 everyone who intends to speak to this case please stand and be sworn in. Raise your
369 right hands please. Do you swear the testimony you are about to give is the truth, the
370 whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley is giving
371 them a copy of some correspondence that was received, it was left on the table for you
372 this morning.

373
374 Mr. Johnson- Okay. Thank you.

375
376 Mr. Gidley- Thank you Mr. Secretary. Good morning, Mr. Chair, members
377 of the Board. The subject property is located off Pouncey Tract Road in the Grey Oaks
378 Subdivision. It contains a two-story 4,500-square-foot dwelling. The applicant recently
379 sought to amend his building permit to include an accessory dwelling unit on the first floor
380 to accommodate his mother. In order to revise the building permit and to get approval,
381 the applicant has applied for the required conditional use permit.

382
383 In evaluating this request, it is zoned R-2AC One-Family Residence District and is
384 designated Suburban Residential 1 on the Future Land Use Map. A single-family dwelling
385 is consistent with this designation and an ADU, as you know, can be approved by a
386 conditional use permit. As for compatibility with surrounding neighborhoods, this is the
387 first request for an ADU in this subdivision. However, due to the fact that the ADU would
388 be located within the residence, and would only be for an elderly parent, there should be
389 little impact on the scale or intensity of the neighborhood. Regarding the public's health,
390 safety, and welfare; again, this is a one-bedroom ADU inside the dwelling. As you can
391 see here, they have a significant driveway so parking should not be an issue. As a result,
392 staff does not expect any detrimental impact on nearby property. Finally, I would note that
393 HOA regulations in Grey Oaks apparently requires any dwelling that is rented to be done
394 so in its entirety. So, in other words, if the mother passes, they could not rent out just the
395 ADU while living in the house. It's all or nothing, basically, under their covenants. That
396 said, we were expecting to get something in writing from the Grey Oaks Homeowner's
397 Association confirming this and confirming that they are not opposed to this case but have
398 not received anything as of this meeting. Given there is an active HOA in Grey Oaks, staff
399 would recommend a deferral so the applicant can provide confirmation their HOA is, in
400 fact, acceptable with this request. This concludes my presentation. If you have any
401 questions, I'll be happy to answer those. Thank you.

402
403 Mr. Johnson- Okay. The floor area, is that 800 feet, or what is it?

404
405 Mr. Gidley- Is what 800 feet?

406
407 Mr. Blankinship- The floor area of the accessory dwelling.

409 Mr. Gidley- Oh, the floor area of the accessory dwelling unit. What does it
 410 say here? Actually, I don't think it's in here.

411

412 Mr. Johnson- I see they'd have sufficient parking spaces.

413

414 Mr. Gidley- They do have plenty of parking.

415

416 Mr. Johnson- Okay. Any questions from the Board of staff?

417

418 Mr. Lawrence- I have one question for staff, Mr. Chairman. Mr. Gidley, how
 419 do we regulate homeowners that are making internal improvements to their home, such
 420 as adding a kitchenette? Is this the type of thing they would flag? I guess they'd have to
 421 get a building permit. I'm asking that question because what if my wife decided she
 422 wanted to add a second kitchen in our home. How would the County be aware we're even
 423 doing that?

424

425 Mr. Johnson- Yeah.

426

427 Mr. Gidley- Typically, someone needs a building permit because you're
 428 dealing with plumbing and electrical work in there to accommodate that. At least if people
 429 followed the rules.

430

431 Mr. Lawrence- It's not strictly an honor system, there is a mechanism for the
 432 County to...

433

434 Mr. Gidley- There is. I get a lot of calls from appraisers saying, "I'm
 435 appraising this house, this is what's in it. Is it legal? Do they have building permits?"

436

437 Mr. Blankinship- Not to belabor the point, but if you put the concept plan back
 438 up, you'll see that they came in for a building permit and they had asked for a kitchenette
 439 and were told we can't approve that without going through this process. So, they amended
 440 the plan to show a coffee bar, and then in the top left corner you can see that was
 441 approved by the Permit Center staff so that they could get moving with the construction
 442 of the overall house. Then, at the same time, applied for this permit so that hopefully they
 443 would get this approval before they were through with the construction of the house.

444

445 Mr. Green- Mr. Lawrence, just to answer, there's a friend of mine that built
 446 a house in Twin Hickory. Like a six, 7,000-square-foot. That bottom level, they had a
 447 kitchen on the first floor, and they had, what looked like to me, a kitchen in the basement
 448 area. And I questioned him, and I said, "Well, did you get permission?" And he said he
 449 didn't have to simply because of the type of oven or microwave that he bought. That would
 450 allow him to do that. So, apparently, you can go online and buy these certain types of
 451 oven microwaves that would allow you to do that. And when he was building the house,
 452 he asked that question, and as long as it slides in, and I think it has something to do with
 453 the circuitry and all of that. So, to me, it looked like a kitchen, but he said it wasn't because
 454 of the way, what he was able to put in there.

455
456 Mr. Blankinship- I don't know if it's a similar case, but if there is a built-in
457 microwave, that will get rejected. Now if there's an outlet on a countertop, that won't get
458 rejected. As soon as you bring a microwave into a room you make it a kitchen and it's a
459 zoning violation. But all you have to do is carry the microwave out to another room. That's
460 probably what happened. They probably applied for a built-in microwave, and it was
461 rejected.

462
463 Mr. Green- Not when they built the house. They just built the house and
464 added all that stuff, so I guess that house is in violation then.

465
466 Mr. Blankinship- If they are using it as a kitchen, then yes. They would have to
467 go through this process.

468
469 Mr. Green- They moved. They subsequently....

470
471 Mr. Blankinship- That's not... A second kitchen is not illegal. An accessory
472 dwelling unit would be a violation. I would have to look at the plans to determine whether
473 that kitchen constituted a second dwelling.

474
475 Mr. Green- Because they subsequently sold and someone else is living
476 there. So, I don't know what they were doing but it looked like a kitchen to me.

477
478 Mr. Gidley- I remember one home I inspected had a second kitchen, but
479 it was in the middle of a large family room, and they entertained a lot. There wasn't
480 another dwelling unit. It was just there so they could provide enough cooking facilities for
481 all the guests they were hosting. So, you have to know how it's set up.

482
483 Mr. Blankinship- Mr. Johnson, to answer your question, the floor area of the
484 accessory dwelling unit is about 505 square feet.

485
486 Mr. Johnson- Okay.

487
488 Mr. Green- And did I hear you say that you want us to defer this until the
489 HOA weighs in?

490
491 Mr. Blankinship- That is the direction that we received, yes. As Mr. Lawrence
492 just mentioned, where there is an HOA, they have their own rules, we have our own rules.
493 But we do our best not to conflict with them. Mr. Gidley has communicated with the HOA
494 leadership, but they have not had an official HOA action. One of the emails that was left
495 for you on the table this morning is from an officer of the HOA, but it's not from, they're
496 expressing their own opinion as residents. We haven't heard from the HOA itself. So, our
497 recommendation is that you close the public hearing. I don't think there's any need for
498 additional input, except for an email from the HOA. But that you defer the decision of the
499 Board until we receive that email.

501 Mr. Green- Well, as someone who lives in a neighborhood with an HOA,
 502 you know, they're quick to jump on you as to what you have to do and how you have to
 503 do it. And so, if they didn't do what they should do in a timely fashion, I don't think any
 504 resident should be penalized because someone is taking their time.
 505

506 Mr. Blankinship- That is certainly the Board's prerogative.
 507

508 Mr. Green- You know, simply because there are various construction
 509 factors that the applicant has to consider and that's what an HOA's supposed to do. I
 510 painted something and they told me I couldn't do it. I had seven days to change it and I
 511 changed it and that was it. So, if they didn't send their reply in, I don't think we should
 512 hold the applicant because of what an HOA doesn't do.
 513

514 Mr. Broadway- I agree. I agree completely.
 515

516 Mr. Green- Thank you.
 517

518 Mr. Johnson- Okay.
 519

520 Mr. Blankinship- Are we ready for the applicant?
 521

522 Mr. Gidley- Yes, sir.
 523

524 Mr. Johnson- Yes, let's hear from the applicant.
 525

526 Mr. Fatani- Yahya Fatani. Thank you so much for your time. As far as the
 527 HOA's concerned, we actually called them before the construction had started because
 528 we had gotten the coffee bar permit. And they said as long as there's no external changes
 529 to the house, they don't need any kind of approval or, that was their... Furthermore, we
 530 have had the sign outside saying that there is this construction happening and there's
 531 been no objection to that. So, I don't think we should be penalized for their lack of
 532 communication. I have a 78-year-old mother who is actually in a different state, so the
 533 construction is ongoing for the coffee bar and followed by this. So, this would be quite a
 534 bit of a hardship for us if this is delayed.
 535

536 Mr. Johnson- Are you saying that they have a coffee bar and refer to it as a
 537 kitchen?
 538

539 Mr. Fatani- So, the initial approval was for the coffee bar until we got
 540 approval for that CUP to get the stove and a cooktop in. So, they're putting the cabinets
 541 in.
 542

543 Mr. Johnson- Okay.
 544

545 Mr. Gidley- As Mr. Blankinship noted, to move forward with the building
 546 permit, it just basically showed a coffee bar. But they really want a kitchen, and they'll

547 amend their building permit to show that, assuming the Board approves this case. But it
548 allowed them to go ahead with the construction of the overall house.

549
550 Mr. Blankinship- And they did that all upfront. It was nothing underhanded.

551
552 Mr. Johnson- Okay.

553
554 Mr. Pollard- And remind me, what's the purpose of the kitchen?

555
556 Mr. Fatani- I'm sorry?

557
558 Mr. Pollard- Why do you need the kitchen?

559
560 Mr. Fatani- My mother is 78 years old, and this would be attached to her
561 room. So, she doesn't have to walk further away and has the independence of doing what
562 she needs.

563
564 Mr. Johnson- Okay.

565
566 Ms. Fatani- She does not drive...

567
568 Mr. Johnson- Can you take the mic?

569
570 Ms. Fatani- Hi. This is Mrs. Fatani. I just wanted to say that she also does
571 not drive. We are basically, you know, taking care of her needs. She has trouble walking
572 over to the main kitchen for all of her meals. So, as stated before, we have started the
573 work by getting the initial building permit to at least get the cabinets in while she's gone
574 and get the process started. And we've now stopped to get the approval so we can get,
575 put the cooktop in. Which was the last piece.

576
577 Mr. Blankinship- Right.

578
579 Mr. Johnson- Okay. Thank you. Are there any other questions for the
580 applicant? Are there any in support?

581
582 Mr. Blankinship- Or opposition, if you're the only one.

583
584 Ms. McAllister- My name is Cary McAllister, M.C.A.L.L.I.S.T.E.R. I am a
585 resident of Grey Oaks and am here as an individual. I have communicated with Mr. Gidley.
586 I'm also on the HOA board. I am not here in that capacity. My husband and I are
587 completely in favor of the Fatani's request with one requested modification. That, because
588 as Mr. Gidley explained to me that if there is an accessory dwelling approved within the
589 single-family home, they could, at some point in the future, be rented separately. My only
590 request is that the approval be done contingent that the two, the single-family home and
591 accessory dwelling unit, can only be rented in the future as one unit. That would remove
592 any problems with subdividing, theoretically subdividing the property into two-family units

and it would keep with Grey Oaks being a single-family home and condo community. Thank you.

Mr. Johnson- Alright.

Mr. Green's looking at me. As I noted earlier, their covenants evidently, this is my read and Ms. McAllister's read as well, require that any rental of a home in Grey Oaks be done as a whole and not a piece. So, you know, they couldn't rent out just a portion of that. That's what she's referring to there.

Mr. Blankinship- But if the Board wanted to add a condition to the use permit to spell that out, we could certainly do that.

Mr. Gidley- Yes. That would bring us in line with the...

Mr. Broadway- But they are already under that restriction.

Mr. Blankinship- Yes, sir.

Mr. Gidley- They are, yes. It just lets any future owner know that's there.

Mr. Green- Well, a future owner would know that, just read the HOA rules. We don't need to over police. And folks have got to recognize what could potentially happen. That little guy could grow up and move back home and mother and father decide "okay, if you're going to stay here, you're paying some rent."

Mr. Blankinship- Right.

Mr. Green- You know what I'm saying. Once the mother decides that she's no longer there, or the mother's no longer there, their son might do that. And that just happens all the time. And that's a family thing. And so, based on that, I'm going to move that we approve.... You can't go back miss. I'm ready to make a motion.

Mr. Blankinship- Okay.

Mr. Johnson- Yes. Let her go ahead.

Ms. McAllister- If you read that email, it says in the request "no non-related party." I have no problem with it being occupied, leased, whatever to a family member. But that still makes it a single-family dwelling, maybe split into two units. However, leasing to unrelated parties, I do not believe should be allowed.

Mr. Blankinship- And it is not.

Mr. Johnson- Yes.

639 Mr. Green- And where you all live is a very expensive neighborhood and
640 I just don't see that happening. And I think that's an issue that the HOA needs to deal
641 with, not us.

642
643 Mr. Pollard- Can we hear from the applicant again? As far as last words.

644
645 Mr. Blankinship- I'm sorry?

646
647 Mr. Pollard- I was saying, do we need to hear from the applicant?

648
649 Mr. Blankinship- They have the opportunity, if they have any rebuttal.

650
651 Mr. Johnson- Do you have any comments?

652
653 Ms. Fatani- We have no interest in renting out that part of the home. The
654 home, the downstairs level, we're basically turning the study into a kitchenette. Which is
655 pretty much in our living room. It would be way too close to do that. We're not interested
656 in doing that. But I understand the concern.

657
658 Mr. Blankinship- Thank you.

659
660 Mr. Johnson- Yes.

661
662 Mr. Blankinship- Want to see if there's anyone else?

663
664 Mr. Johnson- Anyone else wish to support? If not, any in opposition. None.
665 Alright.

666
667 Mr. Blankinship- I don't believe there's anyone on Webex.

668
669 Mr. Johnson- Okay. None on Webex. Hearing is over.

670
671 Mr. Green- I move that we approve this conditional use permit subject to
672 the conditions recommended by staff. It is consistent with the Comprehensive Plan and
673 the Zoning Ordinance. The dwelling is a part of the principal dwelling unit so it would not
674 be seen by neighbors. This dwelling unit would allow for family members to have an
675 independent living area in the home.

676
677 Mr. Pollard- I seconded the motion.

678
679 Mr. Green- And before you say that I would like to say something. We're
680 seeing more and more secondary dwelling units. And typically, they're outside the house.
681 And this one is inside a home. Which, probably, you will never know. So, that is admirable
682 to me. Especially as an accessory dwelling unit. So, that is admirable. To place, you know,
683 to place additional restrictions on this family, and I think they've already stated that they
684 are trying to deal with moving the mother in, that's the concern now. And that's what we

should deal with. And hopefully the mother will be there another 30, 40 years with you. So based on that, we'll worry about that in 30 years.

Mr. Johnson- Mr. Pollard, you seconded?

Mr. Pollard- I second it.

Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

Board- Aye.

Mr. Johnson- All opposed? None opposed. Motion passed.

On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** case **CUP-2024-100880** subject to the following conditions:

1. This conditional use permit authorizes an accessory dwelling unit within the dwelling on the property. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the design filed with the application. Any additional improvements must 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 conditional use permit.
3. The applicant must obtain a building permit for the proposed accessory dwelling unit by June 27, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
Negative:		0
Absent:		0

CUP-2024-100955 - James Crispino: conditional use permit to keep up to six hens in the rear yard at 9326 Three Chopt Road, Three Chopt Estates, Three Chopt. Parcel 752-750-3452. Zoning: R-3, One-Family Residence District. Code Section: 24-4420.G.

Mr. Blankinship- Alright, the next case is Conditional Use Permit 2024-100955, James Crispino: a conditional use permit to keep up to six hens in the rear yard at 9326 Three Chopt Road, in the Three Chopt Estates, in the Three Chopt Magisterial District. 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 are about to give is the truth, the

731 whole truth, and nothing but the truth, so help you God? Thank you. Oh, I'm sorry, you
732 also? Just swear or affirm. Thank you. Ms. Rozmus.

733
734 Ms. Rozmus- Thank you so much. As Mr. Blankinship said, this is a home
735 located off of Three Chopt. 9326 Three Chopt Road. It's about halfway between
736 Pemberton Road and North Parham. This is a 1,200-square-foot tri-level home that was
737 built in 1966 and purchased by Mr. Crispino in 2016. The applicant would like to have up
738 to six chickens in his yard. I will say that this site map is incorrect. I apologize. We had a
739 different version. It is actually going to be over here.

740
741 Mr. Blankinship- Yeah, the packages that were mailed out to you are correct.

742
743 Ms. Rozmus- I apologize.

744
745 Mr. Blankinship- This is a previous version.

746
747 Ms. Rozmus- This is a change, originally Mr. Crispino, upon my
748 recommendation, had his coop set up against his house. And after we had our pre-BZA
749 meeting we determined we did not necessarily want it against his house. He didn't want
750 it there anyway. So, he's going to be putting it... He has a fence over here that he's going
751 to be putting it against. So, this is the new location of the coop. It is against his fence on
752 his driveway side.

753
754 Mr. Johnson- Okay.

755
756 Ms. Rozmus- It's right over here. Mr. Crispino also has, excuse me, a plan
757 for the coop. He has sent me a screenshot of the style that he would like to use. It's your
758 typical coop. It has a roof, that sort of thing. And he has a run already built. Mr. Crispino
759 is a, he takes care of fowl, and has a lot of experience doing it. He took care of some
760 ducks for his friend. So, he's definitely ready to do this. He has everything set up, ready
761 to go. Staff has no opposition to this. We think that the impact will be very minimal if he
762 keeps the area clean and stores his food in the appropriate location. Those conditions
763 are included in the staff report.

764
765 Mr. Johnson- Okay.

766
767 Ms. Rozmus- And I can take any questions.

768
769 Mr. Green- Just a side question. So, folks can have ducks too?

770
771 Ms. Rozmus- You can have ducks, yeah.

772
773 Mr. Green- Same as chickens?

775 Ms. Rozmus- Yeah. Yeah, you can only have six total. So, you could have
 776 three ducks and three chickens, or however you want to split that up. But yeah, you can
 777 also have ducks.
 778
 779 Mr. Blankinship- If you remember, we did approve one case, about a year and
 780 a half ago, for some ducks at a residence.
 781
 782 Mr. Green- I'm old, I can't remember that...
 783
 784 Mr. Johnson- And now the house there and also the... Is that connected to
 785 the fencing area for the chickens, turkeys, or ducks, whatever?
 786
 787 Ms. Rozmus- Yes, so this coop is going inside this kind of metal structure.
 788 This is called a run, and the coop is actually the enclosed structure. So, it's going inside.
 789
 790 Mr. Johnson- Okay.
 791
 792 Ms. Rozmus- And it meets the code requirements for the square footage.
 793
 794 Mr. Johnson- Yes, I just wanted to make sure that it was together rather
 795 than separate.
 796
 797 Ms. Rozmus- Yes. One unit. Yeah. Mr. Crispino told me he didn't want to
 798 invest in buying a coop if this project was going to be rejected. They're not cheap, so.
 799
 800 Mr. Johnson- Okay. Any other questions from the Board or staff? We'll now
 801 hear from the applicant.
 802
 803 Mr. Crispino- Good morning, everybody. My name is James Crispino,
 804 C.R.I.S.P., as in Paul, I.N.O. I'm just looking to raise poultry. Save a little money on egg
 805 consumption. I probably eat a dozen a week myself. I was taking care of some ducks,
 806 due to a friend who had a back injury at work on the farm, and they were too young to be
 807 left alone. They're pretty much full grown and ready to move on out of my yard. I apologize
 808 to anybody if they squawked a little too much. That'll be resolved. I just wanted to let
 809 everybody know that there were ducks back there. I have a beautiful picture of them. I
 810 really don't have much to say. I appreciate your time.
 811
 812 Mr. Johnson- Also, with the ducks, or whatever you're going to be having,
 813 how are you going to take care of the food and things that you're going to ...
 814
 815 Mr. Crispino- I have these feed storage containers that I leave inside of my
 816 house. I wouldn't leave them in the shed because it's too hot in the shed. I have these
 817 large...
 818
 819 Mr. Johnson- You said they're going to be inside your house?
 820

821 Mr. Green- The food.
822

823 Mr. Crispino- Yeah, it's large feed storage containers. There about like a
824 13-gallon trash can. I would call them trash cans. But for storing feed containers. Airtight.
825

826 Mr. Johnson- That's what I was concerned with.
827

828 Mr. Green- I think she said he had a lot of experience in this area, so.
829 Yeah, a lot of experience.
830

831 Mr. Crispino- I take care of about 100, 100 Canadian Goose and wild
832 Mallards for several people. Birds get a bad rep, especially geese.
833

834 Mr. Johnson- Any other questions for the applicant?
835

836 Mr. Lawrence- I was just curious, if this case gets approved, if Mr. Crispino is
837 going to invite us over for duck soup.
838

839 Mr. Blankinship- Maybe chickens, the ducks are gone now. If there was duck
840 soup it's already been eaten.
841

842 Mr. Crispino- As a gourmet chef I highly recommend duck eggs. Some may
843 think they're too rich.
844

845 Mr. Blankinship- He might have us over for omelets.
846

847 Mr. Crispino- Yeah, I don't eat any animals that are in my yard.
848

849 Mr. Lawrence- Thank you.
850

851 Mr. Johnson- Are there any others in support who would like to speak? In
852 support.
853

854 Ms. Miller- Yes, my name is Ellen Miller. I live next door. I'm one of his
855 neighbors. I just want to say the chickens, or a dog, don't bother me; don't come in my
856 yard and poop or cause a lot of noise, then I don't have a problem with that. He can go
857 ahead and have his dogs and his chickens.
858

859 Mr. Johnson- Okay.
860

861 Mr. Blankinship- Thank you for coming out.
862

863 Mr. Green- Just a point of clarification, this is chickens, not ducks.
864

865 Ms. Rozmus- Just chickens, yeah. I'm sorry, that was confusing. It's just
866 chickens.

867
868 Mr. Blankinship- There were ducks temporarily, but they're gone now.
869
870 Ms. Rozmus- Right, there were ducks there temporarily.
871
872 Mr. Green- Alright.
873
874 Mr. Johnson- Okay. Anyone else in support? Any in opposition? Anyone
875 online?
876
877 Mr. Blankinship- There is no one on Webex.
878
879 Mr. Johnson- Okay.
880
881 Mr. Crispino- I was going to say that my entire rear yard has a six-foot
882 privacy fence, and chickens can't fly, so they're not coming out. But I understand their
883 concern, and I appreciate that.
884
885 Mr. Johnson- Okay. That's one of our concerns as well. Thank you. Alrighty.
886
887 Mr. Lawrence- I just want to apologize to the applicant too. I think I
888 mispronounced your name. I think I said Crispono, and it's Crispino, so. My eyesight's
889 getting a little shaky in my older years, so my apologies sir.
890
891 Mr. Crispino- No problem.
892
893 Mr. Johnson- Okay. With that, all in favor....
894
895 Mr. Green- No. No. I move that we approve this conditional use permit
896 subject to the conditions recommended by staff. It is consistent with the Comprehensive
897 Plan and the Zoning Ordinance. The coop will be screened by a privacy fence and mature
898 landscaping. The conditions of approval address food storage and pest control.
899
900 Mr. Pollard- I second the motion.
901
902 Mr. Johnson- It's been motioned and seconded. All in favor say Aye.
903
904 Board- Aye.
905
906 Mr. Johnson- All opposed? None opposed. All in favor. Motion passed.
907
908 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** case **CUP-**
909 **2024-100955** subject to the following conditions:
910
911

1. This conditional use permit authorizes keeping up to six hens (no roosters). All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the plot plan and building design filed with the application. Any additional improvements must 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 conditional use permit.
3. The applicant must comply with all of the requirements of Sec. 24-4420.A and G of the Zoning Ordinance. This includes requirements that the hens be kept in a covered enclosure and not allowed to run free, and that the activity must not produce any objectionable odors or vermin.
4. The coop and run must be 25 feet from the side lot lines, 40 feet from the rear lot line, and 10 feet from the primary dwelling, and must be constructed in a similar style to the existing accessory structures on the property.
5. Any feed stored on the site must be kept indoors, in a metal container with a secure lid or other sealed container impervious to vermin.
6. Waste from the hens must be composted in a responsible manner or removed from the property weekly.
7. Within 30 days of bringing the hens to the property, the applicant must submit an inspection report from a license pest control company addressing recommendations to prevent any infestation of vermin related to the keeping of hens. This condition must be satisfied by June 27, 2026, or this conditional use permit will expire.

Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
Negative:		0
Absent:		0

CUP-2024-101025 - Trang T. Lu: conditional use permit to build a detached accessory dwelling unit at 2600 Lafayette Avenue, Hilliard Park, Brookland. Parcel 778-750-4850. Zoning: R-3, One-Family Residence District. Code Section: 24-4406.

Mr. Blankinship- Alright, the next case is **Conditional Use Permit 2024-101025**, Trang T. Lu: a conditional use permit to build a detached accessory dwelling unit at 2600 Lafayette Avenue, in the Hilliard Park Subdivision, in the Brookland Magisterial District. 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 are about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you.

Mr. Gidley- Is the applicant here?

Mr. Blankinship- Are any of you the applicant? You are the applicant. Okay. Great. We did receive some correspondence that was left at the table for you. Mr. Gidley's giving that to the applicant.

Mr. Johnson- Alright. Thank you.

Mr. Gidley- Thank you, Mr. Secretary. The subject property is located in the Lakeside area just northwest of Hilliard and Woodman Roads' intersection. The applicant owns a Cape Cod-style home that was purchased in May of last year. This home has typically been rented out to long-term tenants. In addition to the rental home, the applicant wants to construct a 740-square-foot detached accessory dwelling unit in the rear yard that would also be rented out. A specific location in the rear yard is not shown on the concept plan, however the building would measure 37 feet by 20 feet. A couple of sketches have been presented showing the proposed accessory dwelling unit. One of which is here, and then the second one is here. The applicant is requesting the required conditional use permit to allow this accessory dwelling unit.

In evaluating this request, the property is zoned R-3 One-Family Residence District and is designated as Suburban Residential 2 on the land use map. A single-family dwelling is consistent with these designations. This is the backyard of the home. As far as compatibility with the surrounding area, the property does have a large rear yard that could accommodate the accessory dwelling unit and the driveway is large enough to accommodate the required parking. However, a number of the residents in the neighborhood have expressed concern about the appropriateness of taking an existing rental property and adding yet another rental unit in the backyard. While rental properties play an important part in providing housing, adding an additional rental unit to an existing rental property would be out of character with the surrounding area. In addition, unlike previous accessory dwelling unit requests this Board has received, the owner would not reside on the property and would not be present to help ensure there are no negative impacts on the neighborhood.

In conclusion, the applicant owns an existing rental property purchased last year. She would like to add an accessory dwelling unit in the rear yard that would be used as an additional rental unit. While the rear yard is large enough to accommodate the accessory dwelling unit, immediate neighbors have expressed concerns that such an arrangement is not appropriate for a single-family neighborhood. Previous requests before this Board have been to accommodate an elderly family member, or at least were on owner occupied property. Staff too is concerned today's request is out of character for the neighborhood. As a result, we recommend denial of this request. This concludes my presentation. If you have any questions, I will be happy to answer those. Thank you.

1002 Mr. Johnson- Any questions for the staff?
1003

1004 Mr. Lawrence- I have some questions, Mr. Chairman, but I want to wait until
1005 after we hear from the applicant.
1006

1007 Mr. Johnson- Okay.
1008

1009 Mr. Vasconcelos- Yes, my name is Marten Vasconcelos. I am the contractor on
1010 this unit. My last name is V.A.S.C.O.N.C.E.L.O.S. First name is Marten, M.A.R.T.E.N.
1011

1012 Mr. Gidley- Thank you sir.
1013

1014 Mr. Vasconcelos- She approached us to build the unit in the back. And the unit,
1015 according to the County, we'd be able to build the unit over there in the back for a mother-
1016 in-law suite. And the purpose of that and... She does not live in that house, but when she
1017 rents that house, she wants to rent it also with that unit for that purpose. And I'm here
1018 now to see if we can put a kitchen there. The property with the County, they say they can
1019 approve the square footage. It's 720 square footage, 727 not 40.
1020

1021 Mr. Green- I have a question.
1022

1023 Mr. Johnson- Go ahead.
1024

1025 Mr. Green- Sir, you said that... I think you're being a little, somewhat
1026 deceptive when you say that could be a mother-in-law suite. But she's not intending that
1027 to be used as a mother-in-law suite. So, I think that terminology, while that's what most
1028 accessory dwelling units can be used for, I think we need to be clear that this one that the
1029 applicant is asking for, is not for that purpose. Am I correct? Will her mother-in-law, in-
1030 law be in this suite?
1031

1032 Mr. Vasconcelos- {inaudible}
1033

1034 Mr. Green- No, I'm asking this. Yes, or no?
1035

1036 Mr. Vasconcelos- Say again.
1037

1038 Mr. Blankinship- Who is going to live in this unit?
1039

1040 Mr. Vasconcelos- I don't know. I don't know.
1041

1042 Mr. Johnson- And also, you mentioned that you want a kitchen in that unit
1043 as well?
1044

1045 Mr. Vasconcelos- Yes, that's what we're here for, the kitchen. If not, then we
1046 have to build without the kitchen. If it's approved.
1047

1048 Mr. Johnson- A kitchen is not compatible...
 1049
 1050 Mr. Vasconcelos- The kitchen is not the issue, but we'd like to see if we'd be
 1051 able to.
 1052
 1053 Mr. Johnson- Any other questions for them?
 1054
 1055 Mr. Lawrence- I just had one, Mr. Chairman. For the applicant. Sir, I wasn't
 1056 able to determine from the staff report exactly where you're proposing to construct this on
 1057 the property.
 1058
 1059 Mr. Vasconcelos- Say again.
 1060
 1061 Mr. Lawrence- What's the location on the property where you intend to build
 1062 this, if approved?
 1063
 1064 Mr. Vasconcelos- It's going to be on the back, I think, you can see... It's going
 1065 to be on the back, they have a... Right there, right there. That location right there. They
 1066 have plenty of driveway. Where there's the pink on the right-hand side over there, used
 1067 to be a garage. It's no longer there. The pink on the right, on the driveway. So, she's
 1068 demolished that over there. The driveway it's... That's correct. It's clean over there. It has
 1069 a slab over there where there used to be a garage.
 1070
 1071 Mr. Johnson- And that house would be just for that particular person, or just
 1072 whoever is coming in?
 1073
 1074 Mr. Vasconcelos- For that same person renting the house also rent in the back,
 1075 big family with their elderly folks.
 1076
 1077 Mr. Blankinship- But you said you don't know who's going to live there.
 1078
 1079 Mr. Gidley- Yeah.
 1080
 1081 Mr. Vasconcelos- Say again.
 1082
 1083 Mr. Blankinship- You said you don't know who's going to live there.
 1084
 1085 Mr. Vasconcelos- That's what she told me. I don't know because I don't own the
 1086 property.
 1087
 1088 Mr. Green- Is the applicant here?
 1089
 1090 Mr. Vasconcelos- No, she's not here.
 1091
 1092 Mr. Green- Okay. If the applicant is here, that sends a strong signal too.
 1093 Based on what I'm hearing and read, the unit is already rented. So, it's rented to

1094 potentially one ...I'm talking, sir. It's rented, potentially rented to one family occupant and
1095 this is a secondary unit that could potentially be rented to somebody else. I can see why
1096 the neighbors have the concern that that's out of character. So, there could always be
1097 some ebb and flow out of the neighborhood. I think we need to make that clear. It is not
1098 a mother-in-law suite. It is a separate unit that the individual would like to rent out. They
1099 are not going to be at the property. At the main house, or that secondary unit. And it would
1100 just be individuals who are in and out renting. That's how I assess this. If I'm wrong, tell
1101 me.

1102
1103 Mr. Vasconcelos- At this point, the house is not rented. She's been waiting for
1104 the process to get that built to rent the entire unit, back and the front. That's what I know.

1105
1106 Mr. Green- What house? What house are you talking about? The main
1107 house?

1108
1109 Mr. Johnson- The main house?

1110
1111 Mr. Vasconcelos- The main house, that's correct.

1112
1113 Mr. Green- Well.

1114
1115 Mr. Johnson- Okay.

1116
1117 Mr. Green- Well, okay, but what does the main house have to do with the
1118 secondary dwelling unit, the accessory dwelling unit?

1119
1120 Mr. Vasconcelos- Yes, the last time I spoke to her, she was waiting for this to
1121 rent both of them. But if it's already rented, so it would have to be separate.

1122
1123 Mr. Johnson- If it was a family member at that one in the back, then they are
1124 not to have a kitchen, or anything like that, in that facility. The only kitchen would be in
1125 the main house.

1126
1127 Mr. Vasconcelos- Okay. Okay.

1128
1129 Mr. Lawrence- Mr. Green, I believe the house is rented because I drove by
1130 there and there was a car in the driveway and there was a woman sitting in the backyard.
1131 It could've been the owner, I guess, but there's somebody in the house. But it sounds like
1132 it probably has been rented.

1133
1134 Mr. Green- No, and I guess what I'm trying to assess is if this person is
1135 trying to build an accessory dwelling unit and have two rentals, as you all stated. Which
1136 is clear. Versus one rental. And so that's as simple as that. And what we typically see
1137 with accessory dwelling units is with in-laws, or like the former case, where someone is
1138 trying to bring an elderly parent. So, I just think we need to be clear with what is happening
1139 here.

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Mr. Lawrence- Well, to follow up on your question, Mr. Green. As I recall, because I sat through the work sessions the Board of Supervisors had before the ordinance was adopted that allowed for accessory buildings. Those discussions clearly focused on allowing short-term rentals to allow children to have aging parents to live on the same property. To avoid being placed in nursing homes or long-term care facilities. I don't think the primary intent was to, was for the County to use ADUs as additional rental units on properties that are not owner occupied. Now, I know that when the ordinance was ultimately adopted, the Board decided not to put specifically in writing that stipulation there. But I think there's some clear legislative intent if you go back to the discussions that were held. Mr. Blankinship could probably elaborate on that. But, having said that, let's hear from, if nobody has any other questions, let's hear from the neighbors and hear what they have to say. We've got some of their correspondence already.

Mr. Johnson- In addition, yes. Well, now hear from the neighbors.

Mr. Blankinship- Thank you.

Mr. Green- Is this for, or against?

Mr. Blankinship- That's a good question. Is there anyone to speak in favor of the request? Okay.

Mr. Pollard- So, everyone's against?

Mr. Johnson- These all are in opposition? Okay. Thank you. Yeah, pull the mic closer to you.

Mr. McCurdy- My name is Charles McCurdy. I live across the street from this house that she's trying to do. First of all, the house is rented. And there's multiple families already there. We're not sure how many actually live there. There're people coming and going quite a bit. She does not live there. She actually lives in another subdivision, and her house has more land than this. So, I think if she wanted an extra apartment, she could build it behind the house that she lives in now. Instead of coming here and doing this. We've been fighting traffic problems. People already cut through there. With all the new buildings and apartments that have been built, we're already having trouble with traffic. We have a lot of elderly people that walk, people walk their dogs. It's becoming a big issue. She does not monitor what happens there. Her other rental property that she owns is not in good condition. This one is already starting to show signs of not being taken care of. There was a refrigerator out front for almost a year. We contacted the County about that because she left the doors on it and everything, that was a safety issue. And nothing was ever done about that response. The other problem we have is down the street they allowed the same thing at 2705 Lafayette Avenue. The guy applied for the same thing. There were no meetings held on it that we are aware of. He has built a unit there that is not in the plans that was submitted. This lady didn't even submit plans. She just submitted a drawing on a piece of paper. This guy built an illegal complete house behind another

186 house that is on .4 acres. And supposedly it was supposed to have a garage in the
187 basement, in the bottom of it. And it's not. It's a full house. And he is renting it out at night.
188 They're going in there at night working on it. And nothing has ever been done to address
189 this, and there's been multiple complaints on that. And the house he owns on the corner,
190 he doesn't even live at that property. And the house on the corner that he owns, he has
191 three apartments in that house. So, it's bringing in more and more people that we have
192 no idea who's coming there. There's been some other issues that's come to our attention.
193 The State Department was at this house the other day. And Daniel has some information
194 on that that will explain the activity going on there with her, with prior states and residence
195 that they owned. And that, you know, that's a lot of our concerns, that we're turning a
196 family friendly neighborhood into we don't know. I'm saying this upfront. I've lived here 20
197 years. I've owned four properties here. I've spent \$1.6 million dollars in that neighborhood.
198 That exact neighborhood. 7000 Minter Avenue, you can look it up. I had 1.4 acres there.
199 I built a new home there. Y'all told me I did not have enough land to have a detached
200 garage. I had to go back and spend \$20,000 to have new plans drawn and have a
201 breezeway attached to my garage, because I didn't have enough land to have that
202 garage. So, how can you tell me that someone can have another apartment on .4 acres
203 that is not hers. She doesn't live there. She's going to rent it to whoever's has any money
204 to go in there. And, to me, it's not right and I think there are things that can be done about
205 this if it is approved.

1206
1207 Mr. Johnson- Okay. Thank you.

1208
1209 Mr. Lawrence- Can I ask a question? Sir, your name is Mr. McCurdy?

1210
1211 Mr. McCurdy- Yes, it is.

1212
1213 Mr. Lawrence- And you live in the house directly across the street.

1214
1215 Mr. McCurdy- I do.

1216
1217 Mr. Lawrence- I just wanted to compliment you on the appearance of your
1218 property.

1219
1220 Mr. Johnson- Yes.

1221
1222 Mr. McCurdy- Well, I took care of a problem. And I know you know what I'm
1223 talking about.

1224
1225 *Laughter {inaudible}

1226
1227 Mr. McCurdy- And I did that for the neighbors. I want you to know that
1228 because I care about my neighborhood. And every house that I've owned, and every bit
1229 of the \$1.6 million dollars that I have spent has been in that circle. And I have bought
1230 houses that were in disrepair. I found families to live in there. I made no money on some
1231 of the houses because I wanted nice family members in our neighborhood. And I tried to

1232 bring the neighborhood back up. I've spent a lot of money and a lot of time. And you know
1233 the house, the 2600 house, was a problem with the people that lived there with the goats,
1234 the dogs, the hogs, the flies, the smells, the complaints. I bought them out and I put
1235 \$600,000 in that house to renovate that property and bring it back to being something
1236 special and bring back our neighborhood.

1237

1238 Mr. Lawrence- Thank you for your efforts, sir.

1239

1240 Mr. McCurdy- And I will spend a lot of money to stop this as well.

1241

1242 Mr. Green- I have a question. He addressed an issue. Another house, and
1243 I know we're dealing with this house, but since he brought up another house. Can we look
1244 into that and see what the status of that is?

1245

1246 Mr. McCurdy- Yes. We really need to look into that.

1247

1248 Mr. Blankinship- I can respond, if I may. There was no conditional use permit
1249 request for an accessory dwelling unit for that house. So, this Board has not seen anything
1250 with respect to that house. There was a building permit to construct a guest house. If it is
1251 not being used as a guest house, or if what they built is not consistent with what was
1252 approved, then that is an enforcement matter that we can certainly take up.

1253

1254 Mr. McCurdy- The inspector came out when they were there and talked to
1255 the neighbor. And the inspector in the home even told the lady that lived behind her, or
1256 these people, that it was not the plans that they submitted, and I don't understand why
1257 the construction wasn't stopped then.

1258

1259 Mr. Green- Sir. Sir. We've got to deal with this one. I just brought that up
1260 just to try to help you.

1261

1262 Mr. McCurdy- Well it continues to happen. And it really doesn't matter what
1263 we do or say, it's not being addressed. And at some point, we've got to do something to
1264 stop it.

1265

1266 Mr. Green- Yeah, but with all due respect, we've got four other people
1267 behind you and other cases.

1268

1269 Mr. McCurdy- Okay, I'll shut up.

1270

1271 Mr. Lawrence- Maybe we can we have staff follow up on the concerns, Mr.
1272 Green?

1273

1274 Mr. Gidley- Yeah. I wrote it down.

1275

1276 Mr. Green- Thank you.

1277

278 Mr. Pollard- And, in the interest of time, everyone will have a chance to
 1279 speak, but if something has already been said, summarize. And definitely if something
 1280 hasn't been said, say that.
 1281
 1282 Ms. Weems- Well, I handed you all a copy of my narrative, which I was just
 1283 going to read here. My name is Faye Weems, by the way. W.E.E.M.S. I believe it's on the
 1284 handout I gave you. So, just briefly, I assume you all have read everything that I've put in
 1285 my narrative. Is that correct.
 1286
 1287 Mr. Green- Yes.
 1288
 1289 Mr. Pollard- Yes, ma'am.
 1290
 1291 Ms. Weems- Well, that's basically all I wanted to say. I do agree that there's
 1292 no need to repeat that. And I understand from County records that Ms. Lu owns, let me
 1293 see, in addition to 2600 Lafayette, at least four other small house properties within the
 1294 county. I think she recently purchased one on Dickens Avenue. There're two on Lafayette
 1295 and another one on Lincoln. To me, that would seem sufficient rental units for someone.
 1296 I don't think we need, in our particular neighborhood, that second rental unit. Thank you.
 1297
 1298 Mr. Pollard- Thank you.
 1299
 1300 Mr. Green- Thank you.
 1301
 1302 Mr. Lawrence- Thank you for your comprehensive comments, Ms. Weems.
 1303 That was very helpful.
 1304
 1305 Mr. Johnson- Yes.
 1306
 1307 Ms. Bonovitch- I'll be brief. My name is Natalie Bonovitch. B.O.N.O.V., as in
 1308 Victor, I.T.C.H. I live at 2308 Lafayette. About a block from there, and I walk often around
 1309 the block. We've also put a lot of money into our property. We've put a two-story addition
 1310 on the back so it would not impact the façade of the house in the front. We've done
 1311 numerous repairs. Come this August, it's 34 years. Just recently we put in a concrete
 1312 driveway with brick in-lay. I very much love my neighborhood. I love my neighbors. And
 1313 it's a great place to live and I'd like to keep it that way. And I would just like to say that I'm
 1314 just very much opposed to this.
 1315
 1316 Mr. Johnson- Thank you.
 1317
 1318 Mr. Pollard- Thank you, ma'am.
 1319
 1320 Mr. Johnson- Okay.
 1321
 1322 Ms. Hancock- My name is Catherine Hancock, H.A.N.C.O.C.K. I agree with
 1323 what's been said before. I agree that having two rental units on one lot is out of character

1324 with the neighborhood. Especially since we're not certain who's living in the house now.
1325 We've seen a variety of people, so. Thank you very much.

1326
1327 Mr. Johnson- Thank you.

1328
1329 Mr. Pollard- Thank you.

1330
1331 Mr. Merritt- My name is Daniel Merritt, M.E.R.R.I.T.T. I live in a house a
1332 block down the road. And, like has been mentioned before, it's one thing if a homeowner
1333 has an additional dwelling unit for a family member, or even a part-time rental. But when
1334 it's a landlord who's already renting out the primary home and additionally trying to do an
1335 additional dwelling unit, it's a different thing. And they've already shown to be not attentive
1336 with the fridge in the yard for a year. On top of that, if you look at her primary residence,
1337 previous ownership was between them and another person, who's name I'm not going to
1338 state. But if you search those names together, they have a history of stashing illegal aliens
1339 in different houses around Richmond and were arrested for it in 2010. And the same thing
1340 in 2005, in Maryland. So, I have serious concerns about their intent with all of these small
1341 homes and rentals, and additional dwelling units that they're trying to get approved. So,
1342 I'm in stark opposition to this. Thank you.

1343
1344 Mr. Johnson- Thank you very much.

1345
1346 Mr. Pollard- Thank you.

1347
1348 Mr. Blankinship- Mr. Chair, there are two people on Webex. A Mr. Oddin and
1349 Ms. Nora, who are in opposition to this case, but do not wish to speak. They just wanted
1350 to give their support to the neighbors.

1351
1352 Mr. Johnson- Okay. We have two additional. Thank you. Alright.

1353
1354 Mr. Blankinship- The applicant?

1355
1356 Mr. Johnson- Where's he at?

1357
1358 Mr. Blankinship- Do you have anything to say in rebuttal, sir?

1359
1360 Mr. Vasconcelos- I want to say the gentleman that mentioned the house is not
1361 in good living condition. But I've been inside of the house, and the house is completely
1362 remodeled. According to the County Inspector, the house is completely brand new on the
1363 inside.

1364
1365 Mr. Blankinship- Thank you.

1366
1367 Mr. Pollard- Thank you.

1368
1369 Mr. Johnson- Okay, we will now close the hearing.

370

1371 Mr. Lawrence- I just have a couple of comments, if I could Mr. Chairman, and
1372 then we'll have a motion on this case. I did inspect the property. I didn't go on the property.
1373 The house itself looks like it's in decent condition. Nice condition. Reasonably good
1374 condition. But I noticed the yard, there looked like, you know, tall grass and weed issues
1375 in the back yard. And maybe some other debris. Also, if I'm not mistaken, Mr. Gidley,
1376 when we have these ADUs they have to share the same address, right?

1377

1378 Mr. Gidley- Same mailbox.

1379

1380 Mr. Lawrence- If you've got family members living in an ADU that's obviously
1381 not a problem. But if you've got a rental unit, then another entity shares an address and
1382 a mailbox, to me, that presents all kinds of logistical, potential logistical problems and
1383 nightmares. Having said all that, I also would feel more comfortable if the applicant was
1384 here. I'd like to hear directly from them, though we have the applicant's representative,
1385 and certainly no disrespect to you Mr. Vasconcelos. I'm not sure if I pronounced your
1386 name properly. We appreciate your coming here to present the case. It would be helpful,
1387 I think, if we had the owner here. Having said that, Mr. Chairman, I move that we deny
1388 the conditional use permit. The neighbors have submitted a petition in opposition.
1389 Allowing two rental units on one lot is not consistent with a single-family neighborhood.

1390

1391 Mr. Broadway- I second.

1392

1393 Mr. Johnson- It's been motioned and seconded.

1394

1395 Mr. Green- Before he says we vote. I just want everybody to know that
1396 we have a good individual, Mr. Lawrence, serving on our Board. He has a ton of
1397 experience in the County in his former capacity. As he stipulated, he sat through a lot of
1398 the work sessions with the Board of Supervisors, as it relates to accessory dwelling units.
1399 So, we have some high-level expertise with his credentials sitting here. And you can pay
1400 me afterwards.

1401

1402 Mr. Lawrence- Thank you, Mr. Green.

1403

1404 Mr. Johnson- Thank you. It's been motioned and seconded. All in favor?

1405

1406 Board- Aye.

1407

1408 Mr. Johnson- All opposed? None. Motion passed.

1409

1410 Mr. Lawrence- And just to clarify, Mr. Chair, that's in favor of denying the
1411 request.

1412

1413 Mr. Blankinship- Yes, motion to deny.

1414

1415 Mr. Johnson- Yes. Thank you.

1416
1417 Mr. Lawrence- Thank you all.

1418
1419 On a motion by Mr. Lawrence, seconded by Mr. Broadway, the Board **denied** case **CUP-**
1420 **2024-101025.**

1421
1422
1423 **Affirmative:** Broadway, Green, Johnson, Lawrence, Pollard 5
1424 **Negative:** 0
1425 **Absent:** 0
1426

1427
1428 **CUP-2024-101042 - Shah Bano Khalid: conditional use permit to operate a large**
1429 **family day home at 5137 Pouncey Tract Road, Three Chopt. Parcel 738-771-2813.**
1430 **Zoning: A-1, Agricultural District. Code Section: 24-4205.**
1431

1432 Mr. Blankinship- Conditional Use Permit 2024-101042, Shah Bano Khalid: a
1433 conditional use permit to operate a large family day home at 5137 Pouncey Tract Road,
1434 in the Three Chopt Magisterial District. Would everyone who intends to speak to this case
1435 please stand and be sworn in. Raise your right hands please. Do you swear the testimony
1436 you are about to give is the truth, the whole truth, and nothing but the truth, so help you
1437 God? Thank you. Ms. Rozmus.
1438

1439 Ms. Rozmus- Hello everyone. Once again. This is an application for a large
1440 family day home. Which normally has up to 12 children. We have in our condition that it
1441 is going to be 10 children. Ms. Khalid has lived at this address, 5137 Pouncey Tract Road,
1442 since 2022. The property is zoned A-1, Agricultural and is situated on this lot. It's over an
1443 acre. And just some details on the lot. The lot is cleared up until right about here. And the
1444 remainder of the lot, the back half, about 300 feet is dense wooded area. I will also add
1445 that the lot next door has recently been purchased and a single-family home will be built
1446 there. But they have the same situation of, there is a large densely wooded area in the
1447 rear of the lot.
1448

1449 Mr. Blankinship- It shows it well on the aerial.

1450
1451 Ms. Rozmus- There you go. That really is a little clearer. So, this case has
1452 had some opposition from some neighbors. I would like to point out that the neighbors
1453 that are in opposition of this live over in the Grey Oaks Villa area. They're not adjacent
1454 neighbors to this property, but they are in the general vicinity. Some issues that the
1455 neighbors have brought up, we've actually already taken care of. We've talked to the
1456 applicant, and we've put some conditions in place. The neighbors were a little concerned
1457 about traffic impact. This is Pouncey Tract Road. It tends to be a little busy at times. And
1458 there is like a turn lane, more or less, coming out of Grey Oaks, which tends to get backed
1459 up, according to the neighbors. So, some of these issues have been addressed with some
1460 improvements to Ms. Khalid's property. She intends to put in a U-shaped driveway in the
1461 front of her property. She already has those spaces marked out so that cars can come

and go for drop off and pick-up more easily and be able to get out on Pouncey Tract without backing into it. And Ms. Khalid also has plans to fence in the cleared portion of the rear yard, as she intends to have her day home in her walk-out basement. So, the children will be occupied in that area. And then they can walk out, and the fence will be kind of in this area, which is also going to shield any potential impact on any neighbors on the right side. And, I think, that about covers it. Pick-ups and drop-offs will be staggered during commuting hours. So, in the morning and afternoon. The hours, I have written as conditions, will be 6:00AM to 5:00PM, Monday through Friday. And will not be conducted on Saturdays, Sundays, or holidays. And I think that about sums it up. I won't take up any more time. I see we have a lot of people here. But I can answer any questions.

Mr. Johnson- Okay. Are there any questions? Any questions for staff from the Board? None. Okay, we'll now hear from the applicant.

Ms. Khalid- Hello, my name is Shah Bano Khalid. I have been at this residence since 2022. I built it for my parents and me. We're a family of four. Two are my parents, me, and my daughter who is ready for medical school. And my parents, they are literally bored. I said, okay what are we supposed to do. I said, okay, let's open a family daycare. Because my mother, she's been very busy with her grandkids all her life because, part of my family, we used to live very close to each other. So, after the 23 grandkids have all grown up and are ready to go out, she needs something. So, I said, alright, I will help you, let's put this up so that way you'll stay busy, you know. Plus, the support is going to help them, because who doesn't need income nowadays, in this inflation. Plus, the property size and everything, I didn't think it would be that much of a problem. When I met with Sara she shared her concern about the traffic. And some neighbor's concern. And I explained to Sara that, before even hearing about the concerns, I had already been talking with a builder to get me a curved driveway. It would be a lot easier, especially for my folks coming in, and also for the daycare. Other than that concern, there was a noise concern. But this is a dense wooded lot. Probably 500 feet way back. If you look at the plat, that is not at all adjacent to any of the Grey Oaks. Or {inaudible}. And other than that, I would request to have it approved. It's kind of, sort of a community service also. Even just because of the yard size. I've had five families stop by, knocking at the door saying are you, when are you planning to open? And I said I'm still waiting for the hearing to be done and I'll be in touch with them. And the reason I couldn't address the folks of Grey Oaks is because my father recently had a stroke, and we were in the hospital. So, my entire family and I were very much busy with them. That's why I couldn't address this with you guys, otherwise I would have done that. That's all I will say.

Mr. Johnson- Okay.

Ms. Rozmus- I will also note that Ms. Khalid's home is not in an HOA.

Mr. Johnson- It's not, okay.

Mr. Pollard- And currently there's...

1508 Mr. Johnson- Go ahead.
1509
1510 Mr. Pollard- Currently there's no daycare there now?
1511
1512 Ms. Rozmus- No. No.
1513
1514 Mr. Blankinship- She's not keeping up to five? I thought she had.
1515
1516 Ms. Rozmus- No, not existing yet.
1517
1518 Mr. Blankinship- That's my misunderstanding.
1519
1520 Mr. Johnson- That's what I was wondering.
1521
1522 Mr. Pollard- That kind of leads to my other question.
1523
1524 Mr. Johnson- Go ahead.
1525
1526 Ms. Rozmus- I believe the plans were winter if approved.
1527
1528 Mr. Johnson- Okay.
1529
1530 Mr. Green- Point of clarification. While this is not part of an HOA, I'm sure
1531 Grey Oaks bumps up some, I suspect someone from Grey Oaks has some concern about
1532 it.
1533
1534 Mr. Blankinship- Yes, we have heard a great deal from the Grey Oaks
1535 community.
1536
1537 Mr. Green- Exactly.
1538
1539 Ms. Rozmus- Yes, and they are all in this general row. And then, I guess the
1540 aerial doesn't go all the way up, but it kind of curves over and then there's more on the
1541 other side.
1542
1543 Mr. Pollard- Is a conditional use permit required for five?
1544
1545 Mr. Blankinship- No, it's required from six to 12. Up to five does not require the
1546 use permit.
1547
1548 Mr. Pollard- Okay.
1549
1550 Mr. Lawrence- Pouncey Tract Road, along that stretch, is that two lanes or
1551 four lanes?
1552
1553 Ms. Rozmus- It's two. I'm not sure exactly what you would call that...

554
 1555 Mr. Blankinship- It's sort of a two-way turn lane.
 1556
 1557 Ms. Rozmus- Yeah, it's kind of a turn lane. And it's towards Grey Oaks.
 1558 That's the direction of Grey Oaks. So, it's kind of further down here, and it kind of tappers.
 1559 But it ends, I would say, closer to the property that's on the left side of the subject property.
 1560 It's where that turn... it's weird, it's like a weird opposite direction merge.
 1561
 1562 Mr. Blankinship- It's the transition lane.
 1563
 1564 Ms. Rozmus- Transition, yes. Thank you.
 1565
 1566 Mr. Lawrence- So, what I guess I'm trying to get at is if somebody is coming
 1567 in from the other direction, I'm mixed up in terms of north, south, east, and west, but...
 1568
 1569 Ms. Rozmus- Yes, this way.
 1570
 1571 Mr. Lawrence- ... if I wanted to make a left turn into the property, is there a
 1572 left turn lane, or a middle turn lane there?
 1573
 1574 Ms. Rozmus- So, coming from this direction, it would be a right. Coming
 1575 from this direction a left. No, but it's the same situation for getting into any of these other
 1576 neighborhoods, any other house. You still have to pause and take a left.
 1577
 1578 Mr. Lawrence- Including Grey Oaks?
 1579
 1580 Ms. Rozmus- Yeah.
 1581
 1582 Mr. Green- Mr. Lawrence, I take that road to go to my mother-in-law's
 1583 house. It's busy, it's narrow, and I have some major concerns about the whole traffic
 1584 aspect of it. And then, you're right there close to Kaechele Elementary, so that creates
 1585 more traffic. But they built for that.
 1586
 1587 Ms. Rozmus- And I will say, I did consult with the traffic engineer who had
 1588 no notes. He said that he did not see, or that there wasn't going to be a significant impact
 1589 on Pouncey Tract.
 1590
 1591 Mr. Blankinship- Their concern was that there not be traffic backing onto
 1592 Pouncey Tract.
 1593
 1594 Ms. Rozmus- Yes, that was their man concern. And I believe that is going
 1595 to be alleviated with a U-shaped driveway. And then, if she had people there now, which
 1596 she does not, they could still turn around. I mean, you can see our county car. We turned
 1597 around in this little bump out here.
 1598
 1599 Mr. Lawrence- So, the current traffic count is 20,000 vehicles per day?

1600
1601 Mr. Blankinship- 12,000.
1602
1603 Mr. Lawrence- 12,000. And how many do we estimate that this would add?
1604
1605 Ms. Rozmus- I mean, if she has 10 children and they each have a single-
1606 family car with 10 individual children, then 10 cars. But daycares tend to, you know, you
1607 have one kid, you take both of them there. Or... I'm sorry. If you have two kids, you take
1608 the two kids there. So, you can't really plan for exactly how many cars you'll have, but
1609 you can estimate 10.
1610
1611 Mr. Lawrence- Okay. Thank you.
1612
1613 Mr. Blankinship- Let me clarify one thing, Mr. Chair. We were kind of talking
1614 over each other.
1615
1616 Mr. Johnson- Okay.
1617
1618 Mr. Blankinship- If you're coming south on Pouncey Tract, you'll turn left into
1619 Grey Oaks Drive, and there is a left turn lane at that point. And that's where the right-of-
1620 way begins to taper, and that's where this is in between the three-lane section and the
1621 two-lane section.
1622
1623 Ms. Rozmus- Yes. But past that there's not, you know, any of these homes
1624 or any of these subdivisions past Ms. Khalid's property. You just have to make a left like
1625 you would normally make a left. There's no turn lane.
1626
1627 Mr. Lawrence- I used to drive out to that area frequently, but in recent years
1628 I haven't. So, I wasn't too familiar with how that's developed and what the situation of the
1629 road is.
1630
1631 Mr. Green- While I'm certainly objective and going to listen to the
1632 concerns of all parties... My personal advice when you build a house... I think folks built
1633 houses to live in, and not necessarily to turn into businesses. So, that is a concern that I
1634 have. Especially, you know, on that side. Because across the street, you know, you got
1635 the whole Wyndham area. And, just, at what point are we going to keep homes, homes,
1636 and not turn them into businesses.
1637
1638 Mr. Lawrence- That's a good point Mr. Green raises. I know what the
1639 ordinance says, but if the applicant wanted to establish a commercial daycare center...
1640
1641 Ms. Rozmus- No.
1642
1643 Mr. Lawrence- No, I said if she did. What would the zoning classification
1644 require for that?
1645

1646 Ms. Rozmus- She wouldn't be able to do it at her residential home.
1647

1648 Mr. Blankinship- Yeah. Any of the office districts or business districts, but not
1649 in a residential district.
1650

1651 Mr. Pollard- I can definitely understand the concern. A home is a home. Or
1652 keep your homes a home. With that said, as a Board we see family day homes all the
1653 time.
1654

1655 Ms. Rozmus- Yes, we had one last month.
1656

1657 Mr. Pollard- And we approve them all the time. So, it's nothing out of the
1658 ordinary.
1659

1660 Mr. Blankinship- And they do provide an important service to the community.
1661 But each case needs to be looked at on its own merits.
1662

1663 Mr. Johnson- Own basis, yes. Okay. Any other questions?
1664

1665 Mr. Green- Yeah. I mean, point of clarification, and this is going to sound
1666 kind of controversial. But folks are building homes, and they are spending as much money
1667 as some of them. Houses in Grey Oaks are million-dollar houses. And when they're
1668 spending as much money and surrounding... That whole area is expensive. They're
1669 building homes. They're not building businesses. And what we're seeing in other areas,
1670 and I guess I'm not trying to be prejudicial, but the other houses are not multi-million-
1671 dollar homes. And I see why folks are trying to supplement their income, to do that. But
1672 when you get into certain areas you just don't want to see that occur because you're
1673 moving it into... you're trying to move into it for your family and other families, not
1674 daycares. And I'll be honest with you. In my neighborhood, I would pitch a fit if anybody
1675 wanted to even put two or three kids in there.
1676

1677 Ms. Rozmus- But she would be allowed to do that by right.
1678

1679 Mr. Green- And I acknowledge that, but I'm just talking about my biases.
1680 And, like I said, at some point we've got to recognize that when you're building these
1681 houses in certain areas there's the anticipation that... And I'm real curious, I wish the
1682 person who bought the lot next door... I'd be really curious to see what the person next
1683 door thinks of, you know, someone now potentially coming in and doing that. Because I
1684 think that they're thinking they're building a house and there'd be a family on the side of
1685 them and now to see all of this potential activity. That's just my personal bias. But I'm
1686 objective and I have to listen to everything.
1687

1688 Mr. Pollard- The last thing that I'll say on this, and it's tough to be objective.
1689 In the ones that we approve when it's six or more, a lot of times they've gone, they've
1690 been five, or under, for a while. And they work with the neighbors to see how the
1691 neighbors feel about it. So, I definitely get that every neighborhood is unique. And so,

1692 what always has a bearing with me and how I decide is how the neighbors feel. I always
1693 encourage the applicant to get with the neighbors and see how they feel about the
1694 significant changes, just to be neighborly.

1695
1696 Mr. Lawrence- Mr. Pollard makes an excellent point. The cases that have
1697 come before us, since I've been on the BZA, have all been existing daycare operations.
1698 We do have a track record. We don't in this case. I was under the impression there was
1699 already childcare being provided on the property. I guess I misread the staff report.

1700
1701 Mr. Johnson- Also, is there a privacy fence around there?

1702
1703 Ms. Rozmus- Not yet. She has plans to put up one. Obviously, that's an
1704 investment, so it's contingent on approval.

1705
1706 Mr. Johnson- Okay.

1707
1708 Mr. Rozmus- Unless she just wanted to have a privacy fence. We didn't
1709 discuss that.

1710
1711 Mr. Johnson- Okay. Any other questions from the Board or staff? Okay, we'll
1712 now hear from the applicant.

1713
1714 Mr. Green- We heard from her. I have a question, since she's still at the
1715 podium. I guess the question that I have, as Mr. Pollard stated, we typically folks have
1716 grow from up to six and then expand. Why are you just jumping into a large number and
1717 not starting smaller?

1718
1719 Ms. Khalid- Okay, I'm going to run it as a professional. Because I'm a
1720 businesswoman personally. I'm a professional real estate agent and a businesswoman.
1721 It's my mother's desire, like I said, but if I'm going to invest, or if I'm going to come into it,
1722 I want it a little more professional like. We have two people already, tentatively, in line for
1723 the payroll who are going to work there to help my mother. So, that way she's not going
1724 to be all burdened up, and all that. So, for that purpose, for me the viable was supposed
1725 to be not five, but because of running the payroll, at least, because nobody is going to be
1726 willing to work for me for just \$1,500 or \$2,000. They payroll is going to be run for more
1727 than that. For that purpose, I'll suggest that it has to be six or 12, or something like that.
1728 But when I talked to Sara, they recommended that 10 would be the one to reduce the
1729 traffic flow and address the concerns of Grey Oaks neighborhood in the back. That is the
1730 purpose of going more than six.

1731
1732 Mr. Green- So, the other question is if this is denied, will you still go to,
1733 would you start smaller or are you just going to abandon the project?

1734
1735 Ms. Khalid- If denied, and I did explain with Sara in our meeting, then I
1736 would not do the daycare. Because to me it wouldn't be more... good for me. You know.
1737 I mean, I'm doing it for, honestly, like you guys have said, this neighborhood. And yes,

1738 this residence, and everything, is building fast. But this thing was to engage my parents,
1739 keep them busy, plus it would give them something to do, and of course bring in a set
1740 income for them as well. But if not, my involvement is not there, then of course it's not
1741 going to happen.

1742
1743 Mr. Green- Okay. Thank you.

1744
1745 Mr. Johnson- Alright.

1746
1747 Ms. Rozmus- But she could have five without our permission.

1748
1749 Mr. Blankinship- She could.

1750
1751 Ms. Rozmus- She could.

1752
1753 Mr. Green- Yeah, but I just wanted to clarify. Like Mr. Pollard said, they
1754 typically start, we see them, and then they expand. If she didn't, if we said no would she
1755 still have five? She's saying no.

1756
1757 Mr. Johnson- Okay. Alrighty.

1758
1759 Mr. Green- Opposition.

1760
1761 Mr. Broadway- Can we hear from the opposition?

1762
1763 Mr. Pollard- Is anyone for?

1764
1765 Mr. Blankinship- Yeah, does anyone intend to speak in favor of the case?

1766
1767 Mr. Johnson- Are those the opposition?

1768
1769 Mr. Pollard- Step up to the mic please. And state your name.

1770
1771 Ms. Hobgood- Good morning. My name is Sylvia Hobgood, spelled H.O.B,
1772 as in boy, G.O.O.D. I am the President of the Board of Directors for the Grey Oaks Villas
1773 located at Grey Oaks Parks Drive. I'm here today representing 85 owners, homeowners
1774 in opposition to the rezoning request of 5137 Pouncey Tract Road. This opposition is
1775 based on traffic safety concerns on Pouncey Tract, both north and south bound. For those
1776 of you who may not know, there is already a unique traffic pattern at this location. Vehicles
1777 turning left, exiting Grey Oaks Park Drive, turn into a designated merging lane. The
1778 vehicles in this merging lane then merge right into a single lane at the point where the
1779 daycare vehicles will be stopping to execute a left turn into the 5137-property. As well,
1780 there will be vehicles in the 5137-driveway attempting a left-hand turn, which is
1781 southbound, onto Pouncey Tract, at this same merge point. Added to this scenario there
1782 will be northbound daycare vehicles stopped in a single lane executing a 90-degree right
1783 turn off of Pouncey Tract, as there is no turning lane for the driveway. In addition, at this

1784 point, there is only a single entry and exit driveway for 5137 Pouncey Tract. Vehicles
1785 turning into the driveway will have to wait for exiting vehicles to clear the drive, causing
1786 further backup of traffic on both sides of Pouncey Tract. This, again, is at the point of the
1787 merging southbound lanes and the daycare vehicles attempting a left turn into the
1788 driveway. Further complicating the situation is traffic coming northbound on Pouncey
1789 Tract coming from the Shady Grove / North Gayton intersection. Visualize if you've been
1790 there. The lefthand is a merging lane into a single righthand lane. The left merging lane
1791 then extends as a left turning lane only into the Bentley community. At any given point,
1792 any time of the day, this merge is complicated by rapidly accelerating vehicles trying to
1793 beat out the vehicles in the right lane before ending up in the left turn only lane. Many
1794 times, travelers not familiar with the area, or not as experienced in rapid acceleration, end
1795 up stopping in the left turn only lane waiting to turn right. Again, all of this is culminating
1796 at the cluster point that's at the driveway of 5137 Pouncey Tract where vehicles will be
1797 stopping to turn into the driveway. I'm sure for those who aren't very familiar with the area
1798 that this sounds very confusing. And it is because it is a safety cluster of accidents waiting
1799 to happen at peak commuting times at a common point of traffic converging north and
1800 southbound, merging, stopping, turning, and entering travel lanes. I thank you for your
1801 time and consideration in rejecting this proposed rezoning permit for the safety of not only
1802 the surrounding communities, but also for the many that use corridor of Pouncey Tract as
1803 their travel connection to outlying neighborhoods, schools, churches, shopping,
1804 recreation, and medical facilities. Please also recognize that the profile of this section of
1805 Pouncey Tract is that of well-established residential communities, not businesses. In fact,
1806 our neighborhood, the Grey Oaks Villas' covenants are written expressively to protect the
1807 usage as private residential uses only. Specifically excluding home occupations such as
1808 daycare. Thank you for your time and consideration in opposing this zoning request.

1809
1810 Mr. Pollard- Thank you for your comments.

1811
1812 Mr. Johnson- Okay. Go ahead.

1813
1814 Mr. Lloyd- Good morning. My name is Chris Lloyd, L.L.O.Y.D.

1815
1816 Mr. Johnson- Okay, Mr. Lloyd.

1817
1818 Mr. Pollard- One second, Mr. Lloyd.

1819
1820 Mr. Johnson- We don't want to repeat what's already been said.

1821
1822 Mr. Lloyd- Yes, sir. I'll keep this brief. You have my comments from a
1823 couple weeks back. I stand by those comments, and I stand in opposition to this. And I
1824 have nothing further to say, as Ms. Hobgood has covered my points completely. Thank
1825 you.

1826
1827 Mr. Blankinship- Thank you.

1828
1829 Mr. Johnson- Okay. Thank you.

1830
1831 Ms. Rother- Good morning. My name is Alice Rother. It's R.O.T.H.E.R.
1832 And I'm a resident of Grey Oaks Villas. I'm here, also in opposition, primarily based on
1833 the traffic safety concerns that have already been expressed. So, I won't go into all of
1834 those issues. What I would like to do though is to respond to the evaluation that was
1835 provided by the Planning Department. Number one, the proposed use is consistent to the
1836 County goals and purposes. I disagree. To the regular citizen of Henrico County, as
1837 myself for the last almost 70 years, property zoned suburban residential, this to me means
1838 residential. This does not mean we include a small business being run from a residence
1839 with clients that come and go throughout the day. Another point, the proposed use is
1840 appropriate for the area, I disagree. The property is surrounded by only residential homes.
1841 The neighborhood pool that got noted in the comments was used as a comparison. The
1842 pool is only open for the summer and is part of our neighborhood association, not a private
1843 commercial business. The third issue, proposed use will not adversely impact the public's
1844 health or safety, I disagree. As noted previously, a business at this Pouncey Tract corridor
1845 will pose a safety concern, in my opinion. If not, why would the Planning Department
1846 recommend, and actually discuss having a regular circular driveway be installed at a later
1847 date. {inaudible} It is my belief that you really should reject this request. If you don't, and
1848 you do approve it, then I think you should require that the driveway and the fence be
1849 installed prior to the approval being granted. If you felt strongly enough to require that as
1850 a condition, why wait for a year to make it a requirement. Thank you for your time and
1851 consideration in rejecting the proposal.

1852
1853 Mr. Johnson- Thank you. Okay. Next one.

1854
1855 Mr. Chesley- Good morning. My name is Everett Chesley, C.H.E.S.L.E.Y.
1856 I won't talk about traffic. I would like to thank Sara for sending out your report. And what
1857 I'd like to do is address some places where we may have some differences on this
1858 application for 12 children. Staff has tried to negotiate it to 10. The application is for 12. It
1859 says the proposed use is consistent with the goals and policies of the Comprehensive
1860 Plan. Staff pointed out, which we would like to support, that the 2026 Future Land Use
1861 Map considers the lots in question to be residential, not business, but residential. All the
1862 surrounding areas are residential. Number two, the proposed use complies with
1863 applicable standards. Yes, it does. Their property, to build a house in A-1 requires one
1864 acre. This property has 1.001 acre. So, they did meet that requirement. The proposed
1865 number three, the proposed use with the location is compatible with the general character
1866 of surrounding land types, scale, and intensity of uses allowed in the zoning district where
1867 proposed. The staff report says the area's surrounded by medium to high density family
1868 homes and townhomes. Gentlemen, I don't know if you feel like this. We don't know of
1869 any townhomes. There are no townhomes in Grey Oaks Villas. No townhomes in Grey
1870 Oaks. No townhomes in Bentley across the street. There are no townhomes in The
1871 Preserve next to it. This is a single-family residential area. There was something about
1872 large agricultural lots, but I don't know where that is. To the reference that a family day
1873 home provides needed service to the community by providing childcare for families, we
1874 are not opposed to childcare. What we are opposed to is having it in a residential area.
1875 Put the childcare on the other side of Shady Grove where there is already a mixed-use of

businesses and things like that. As far as the need, I don't have the resources to address it, so I tried to use a little bit of low-grade technology. So, I said, "Hey, Siri. What daycare centers are near me?" And gentlemen, I'm sorry I don't have to give you this in paper. Siri came back and found me 18 right around me. So, is there a need? Sure. Is it being supplied? I don't know, but there's certainly a lot of opportunities for it to be supplied currently there. Then staff goes on to refer to a safe and comfortable home environment. Two paragraphs down it says they're keeping these kids in the basement. Well, I found it interesting again that all these, the applicant's, papers were sent to the Fire Department, Construction, Police, the County Attorney. But no one sent it, in reference here, to childcare or Social Services. And I think this ought to be about the children. Not about... It's not about, you know, having four or five people, or five kids there. So, I think if you're going to consider this, you really should consider the safety of the children in this process. The other comment here is that the family day home is compatible with the character of the surrounding area. I think that's already been addressed, but that is not correct. Then number four, the proposal will not adversely impact public health, safety, and welfare. This lot, which is referred to as covered in dense trees, as long as they don't decide to cut the trees. And if anything, because, actually, in the staff recommendation it would be fenced with a minimum, minimum of the current cleared area. So, if they decided to clear more land, then nothing's stopping them. Then we go on in this same area. The wooded lot, with the distance that's referred to, maybe some of the people... I don't live right behind it, but I do live in Grey Oaks Villas. If you're going to sell your house, you better sell it when the trees and the leaves are in force. Because you can't sell your house in February because you can still see through there. They're talking about putting up a privacy fence. I don't know what a privacy fence means. It's not specified. If you've ridden down Three Chopt Road, just beyond Thamesford, you know that great big white fence. That's a privacy fence. I don't know. It makes you wonder who would buy the house next door, as some gentleman brought up, if you're going to spend what you're going to spend there and there's this big six-foot white fence there. But I don't know if that will be fact or fiction. The last comment on this then is, that staff says the operation of a family day home should not have any detrimental impact on nearby property. Again, I respect the authority of staff, but I am not sure that I would want them to be doing real estate evaluations. Our concern is we've spent a lot of money to buy these homes in Grey Oaks Villas, and people did in Grey Oaks. A lot of people are sort of retired, so it's part of your retirement funds also. So, we bought there, spent the money, and trusted Henrico County to support us living in a single-family residential area. Which that whole area is. And where we invested our money, if it changes, someone else is coming in to ... going, "Oh, well look at what you have in your backyard. I wonder what's going to be next door in that vacant lot?" So, I think it's going to be detrimental, in my opinion, to the potential as we want to sell. And, as you know, if one house in the area goes down, then the comps go down and it affects the total neighborhood.

Mr. Johnson- Okay. Thank you.

Mr. Chesley- I ask that you do refuse this application.

Mr. Pollard- Thank you. Thanks for your comments.

1922
1923 Mr. Johnson- Thanks. Next.

1924
1925 Mr. Pietras- Good morning. Name is John Pietras, P.I.E.T.R.A.S. I'm a
1926 resident of the Grey Oaks Villas. I'm here as an individual to oppose this request for a
1927 zoning variance. And I just want to support what Board Member Green said regarding the
1928 community of single-family homes. You go across the street. You go next door. You go
1929 to Grey Oaks. That whole area is single-family homes. They're not commercial
1930 businesses. The other thing is the applicant is asking, in my opinion, to go into a
1931 commercial business. This does not fit what the community is. So, I ask that the Board
1932 consider this request and reject the request. Thank you.

1933
1934 Mr. Johnson- Okay.

1935
1936 Mr. Casey- My name's Tom Casey, C.A.S.E.Y. I'm here in opposition to
1937 what has been proposed. I ask the Board to consider Pouncey Tract Expressway, or
1938 Speedway. Because it's becoming more and more a corridor of high traffic. When
1939 someone is going to be turning in and out of this business, they're going to be in jeopardy
1940 of either having a bad accident or losing a life. You really need to take a look at that area
1941 and what's been built up in there. Everybody's racing to get in front of another one so they
1942 can get ahead of them to the traffic light, or as they leave the traffic light. It's a major
1943 safety issue when you're turning in and out of this facility. And you really need to consider
1944 that. Thank you.

1945
1946 Mr. Johnson- Thank you. Okay. Anyone else? Is that all?

1947
1948 Mr. Blankinship- Ms. Khalid.

1949
1950 Ms. Khalid- I hear everyone's concerns. Two major concerns and I would
1951 like to address them. One is traffic. Traffic is an issue, but that issue is because from the
1952 light until our residence there is one turn lane that is going towards The Reserve. And
1953 then from The Reserve at Pouncey Tract neighborhood, to the Grey Oaks neighborhood,
1954 that's the second turn lane, coming from the Gayton side. My concern is that my residence
1955 is 120 feet wide, the next lot is 150 feet wide, this is the only portion. And when there is a
1956 turn lane from the traffic sign to this, yes, people, for whatever purposes, are going to
1957 race up. But this is in between that. But there is a traffic sign that states 35, or 40 mph
1958 over there. And everybody has to slow down by the Grey Oaks. And they have... This is
1959 how the layout of this 271 is. And that's been that way for a long time. Plus, new
1960 constructions are happening. New communities are going to come over there. The new
1961 communities are going to have their needs. New families. And they're going to require the
1962 childcare service. And one said commercial is not good in this area, or they can go to
1963 Shady Grove, and all that. My concern is that this is not an area bound, or area specific
1964 services, childcare. I'm providing a 1,600-square-foot basement that is very well done.
1965 And Ms. Sara, they have visited it. The residence is very well done. I spent almost 1.4
1966 million on this residence. But of course, if I'm providing this service, from what I believe
1967 truly from the bottom of my heart, I'm going to provide very good service to the community

1968 and the family people. To the safety part for the road, Traffic, they have already addressed
1969 that issue. So, I am not going to say anything further about that. And, okay, one had said
1970 that what if we are going to remove the trees in the back. If you would look in that back
1971 lawn area, we could not do anything. Because in 1903, or some time as I was told by the
1972 Board of Zoning appeals when I was telling them to let me have the public sewer, they
1973 told me that that area is called wetlands. Technically it's not wetlands, because of the
1974 protected species over there. And those protected species are out in that. So, that was
1975 1903 law. I would request for you guys to please take a look because I was told this by a
1976 zoning guy. I forgot his name, but he was the engineer that was helping me get the permit
1977 for the sewer line. Of course it cost me money. Twenty-four grand I had put up front.
1978 Plus, I had a bond for which many a year they brought that sewer line due to the
1979 topography of this land. So, that is that nobody can cut the trees further than what I have.
1980 Further than I think it's 30-feet behind the residence. Anybody would have to get the
1981 Engineering Corp permission. Even when they were bringing the sewer line, they didn't
1982 let my builder, David Hamlin, to come and remove trees or do anything. The city was the
1983 one. The city was the one who did everything. So, that is the back of the property concern
1984 for somebody. And I just request for this. Yes, it is a business. Like I said, if there is a
1985 concern of property value devaluing, I am also a concerned party. Grey Oaks
1986 neighborhood, we hear a lot of noise. I heard an issue coming through the back yard, and
1987 all that. And we're adjacent to their pool area and a lot of noise comes from that area. We
1988 have a dense vegetation in between our residences. You cannot even literally walk over
1989 a walk path there because it's very vegetative over there. And, like I said, we couldn't
1990 have it cleared because we have to have... it was not going to be possible. No one is
1991 going to touch it. Even the next-door lot that has been purchased by Monaco Builders,
1992 that is also a multi-million-dollar builder, that is going to build it for someone else, I don't
1993 know who they're going to build it for, but they are not going to be able to cut the trees
1994 until up to 30 feet by, whatever my yard is. They can't go further back. The fence
1995 requirement, I understand and totally agree, needs to be there. Which is also in my plans,
1996 but I just moved there, and I have to commute back and forth due to my work and
1997 everything. I didn't need the fence before, but with this kind of facility safety is important,
1998 and yes, I will provide the fencing for the safety of the kids and all. But right now, I don't
1999 have any kids at home. We are all adults, and the fence was not needed. But, yes, it will
2000 be provided.

2001
2002 Mr. Johnson- Okay.

2003
2004 Ms. Khalid- And I thank you for your time. Hopefully you guys will consider
2005 it and approve it.

2006
2007 Mr. Pollard- I'm just curious as to whether this might be step one for you.
2008 Have you done anything in terms of licensing?

2009
2010 Ms. Khalid- Yes, I have already taken the classes. I have already taken
2011 the CPR classes. There was a requirement that you have to attend an eight-hour class. I
2012 have already done that. I already have the license for that. So, yeah, the basic thing has

2013 already been done. I didn't know that it would be that much opposed, so... Otherwise, I
2014 would have done everything later.

2015
2016 Mr. Pollard- Thank you.

2017
2018 Ms. Khalid- No problem.

2019
2020 Mr. Johnson- Okay. Thank you. The public hearing is now closed. A motion
2021 would be in order.

2022
2023 Mr. Green- Before I make a motion, I would like to publicly state that what
2024 I gave was my opinion. My role here is to be objective, to read the staff reports, to listen
2025 to both sides, and to weigh in. And I am only one vote, and you can always be out voted.
2026 I'm very sensitive to this issue because, you know, in my neighborhood I'm seeing some
2027 things occur. When folks talk about tree cutting, if you want to cut a tree down in my
2028 neighborhood you have to get HOA permission. But someone moved into the
2029 neighborhood and cut all of the trees down, in the front and the rear yard. And it has just
2030 created chaos among my neighbors. So, there seems to be a whole permission for trees
2031 and people seem to ignore that. The other thing that I've seen, and this is just in my
2032 neighborhood, coming up in a certain area, and it's embarrassing. Because when I pull
2033 out, the back of the individual's house has nothing. And they have two small kids. But it
2034 looks like a daycare back there because of the trampoline, bouncy houses, and all of that
2035 other stuff. And I think the thing that bothers me about that is as I'm walking, people in
2036 the general area, not necessarily in the neighborhood, stop, look, and point at the house.
2037 And I've even called, myself personally, Planning complaints about that place. But some
2038 things you cannot do. I'm a strong believer that when you move into a neighborhood, you
2039 move and you're buying a house for your family. And, in some instances, you may need
2040 to expand because your kids are coming home, and/or you have elderly parents that you
2041 want to put accessory dwelling units in. And I say that because ... I'm going to recommend
2042 that we deny this simply because the drop off and pick-up is going to cause traffic
2043 concerns. The neighborhood may be distracting by houses. And the other thing, the
2044 County can look at it, but you have to remember that Goochland line is right there. And
2045 it's a lot going on that Henrico cannot control, as it relates to Goochland. I travel that road
2046 all the time because my wife's mother lives in Montpelier. So, that's the route we go to
2047 get to Montpelier. And it's a beautiful development. But like I said, even on that Wyndham
2048 side, Goochland is right down there, and things are developing. So, I move that we deny
2049 based on the conditions that I said.

2050
2051 Mr. Pollard- I second the motion. And I had a couple of comments on this.
2052 So, I'm very sensitive to the rights of the homeowner. But we have zoning for a reason.
2053 The zoning is residential. This is supposed to be for primary residential, but there is room
2054 in there for home day cares for a reason. But what I didn't hear in there when you were
2055 speaking was the passion for childcare. I don't deny, I don't doubt that you would do a
2056 great job. It sounds like you're taking it seriously. But the home daycare is a huge
2057 undertaking from what I've been hearing. Now, I have not done it myself, but just from
2058 hearing from the applicants, it's a 24-hour type of thing. And it's something where we see

2059 when people jump out there with a lot of children early, they come back to us and things
2060 have to go in the opposite direction. And a lot of times people have to start small so they
2061 can have conversations with the neighbors, and things like that. In good conscience I
2062 cannot approve it because so many neighbors are in opposition to it. I think the traffic
2063 could be addressed. I think the trees won't be a problem. With that said, there's just not
2064 that track record there providing childcare. It just isn't there. So, that's one of the reasons
2065 I seconded it.

2066
2067 Mr. Johnson- Okay. It's been motioned and seconded for this decision.

2068
2069 Mr. Broadway- And the motion is to...

2070
2071 Mr. Green- To deny.

2072
2073 Mr. Blankinship- The motion is to deny.

2074
2075 Mr. Lawrence- And I think it's important Mr. Chairman, that we reiterate for
2076 the residents in a -- like that. I know the applicant has said that she does not plan to
2077 operate childcare unless this is approved. But under the County Ordinance she does still
2078 have the opportunity, without any further review by the County, to... She'd have to go
2079 through the State agencies or Social Services, but she'd still have the right to operate a
2080 daycare for five or fewer children. I just think it's important that the residents understand
2081 that we don't, under the current ordinance, the BZA doesn't have any jurisdiction over
2082 that.

2083
2084 Mr. Johnson- Okay.

2085
2086 Mr. Green- And to follow up on that, and what Mr. Pollard had said, you
2087 know, what I heard was economic concerns. That's why we asked the question, are you
2088 going to start with five. No, because of economic reasons I need all of it. So, that takes it
2089 from childcare to business. That flips a switch for me.

2090
2091 Mr. Johnson- Okay. It's been motioned and seconded. All in favor of the
2092 motion to deny?

2093
2094 Board- Aye.

2095
2096 Mr. Johnson- All opposed? None. Motion denied.

2097
2098 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **denied** case **CUP-2024-**
2099 **101042.**

2100
2101
2102 **Affirmative:** Broadway, Green, Johnson, Lawrence, Pollard 5
2103 **Negative:** 0
2104 **Absent:** 0

2105
2106
2107 **CUP-2024-101077 - Richard Wynn: conditional use permit to build a detached**
2108 **garage in the front and side yard at 5404 Great Oaks Circle, Oaks at Long Bridge,**
2109 **Varina. Parcel 845-689-0219. Zoning: A-1, Agricultural District. Code Section: 24-**
2110 **4404.A.1.**

2111
2112 Mr. Blankinship- Alright. The last case is Conditional Use Permit 2024-101077,
2113 Richard Wynn: a conditional use permit to build a detached garage in the front and side
2114 yard at 5404 Great Oaks Circle, in the Oaks at Long Bridge, in the Varina Magisterial
2115 District. Would everyone who intends to speak to this case please stand and be sworn in.
2116 Raise your right hands please. Do you swear the testimony you are about to give is the
2117 truth, the whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley.
2118

2119 Mr. Gidley- Thank you, Mr. Secretary. The subject property is located
2120 roughly a mile west of the intersection of Darbytown and Charles City Roads. It contains
2121 an existing single-family dwelling on a 1.197-acre lot. The dwelling is served by a well
2122 that is located at the end of the driveway, and a septic system that takes up a good portion
2123 of the front yard. Beside the driveway, as you can see right here, is a 12 x 28-foot storage
2124 building. The applicant would like to replace this storage building with a three-car garage
2125 that would measure 36 feet in width and 24 feet in depth. And this is the proposed garage.
2126 The proposed structure can't be located behind the driveway due to the well, so the
2127 applicant is requesting to place it on the existing pad beside the driveway, partially in the
2128 front, and partially in the side yard. In evaluating this request, the property is zoned A-1,
2129 Agricultural district. The lot complies with the lot area, lot width, and setback requirements
2130 for this district. The proposed three-car garage may go in the side and front yards with a
2131 conditional use permit. As you can see here, the surrounding homes are located on lots
2132 ranging from one to five acres. Each of which contain at least one detached accessory
2133 structure. The proposed garage would be subordinate to the existing home and would be
2134 over 200 feet from all but one of the neighbors. The closest neighbor is this one here,
2135 which is the side neighbor. The proposed garage would be 60 feet from this home, but
2136 there won't be any lights or doors facing it. So, while it will be visible, the impact should
2137 be minimal. In conclusion, the applicant's lot is over an acre in size, they intend to replace
2138 a small storage building with a three-car garage. Due to the well at the end of the
2139 driveway, the garage cannot go into the rear yard. Other zoning requirements would be
2140 met by the garage, and it would be consistent with the surrounding neighborhood.
2141 Accordingly, staff recommends approval of this request, subject to the conditions in your
2142 staff reports. This concludes my presentation. If you have any questions, I'll be happy to
2143 answer those. Thank you.
2144

2145 Mr. Johnson- The facility would be where they already have an existing
2146 carport?
2147

2148 Mr. Gidley- Yes, sir.
2149

2150 Mr. Johnson- That would be removed?

2151
2152 Mr. Gidley- Yes, sir. It would be removed, and the new garage would go
2153 right here on this pad.
2154
2155 Mr. Johnson- Okay. And with that... You said the well is also located...
2156 Where's that?
2157
2158 Mr. Gidley- Right here, the circle. So, as you can see, as the driveway
2159 goes back, here you get right up, abutting the well.
2160
2161 Mr. Johnson- Right, and that would obstruct the building.
2162
2163 Mr. Gidley- Right. You couldn't put it near that. And as you can see here,
2164 most of the front yard has a septic system.
2165
2166 Mr. Johnson- Septic System, yes. Okay.
2167
2168 Mr. Blankinship- Ready to hear from the applicant?
2169
2170 Mr. Johnson- Any other questions. If not, we'll hear from the applicant now.
2171
2172 Mr. Wynn- Good morning. My name is Richard Wynn, W.Y.N.N.
2173
2174 Mr. Blankinship- Can you pull that mic up?
2175
2176 Mr. Wynn- My name is Richard Wynn, W.Y.N.N. I believe the gentleman
2177 here summed it up for us. We really don't have any other room to put this garage. If we
2178 did, we would. We've already moved the existing shed. That's gone. The pad is just a pad
2179 there right now.
2180
2181 Mr. Johnson- Yes. I was out there, and that was one of the things I was
2182 noticing, was if you're going to put something there, were you going to move it. And I see
2183 you've already had that taken care of.
2184
2185 Mr. Wynn- Yes, sir.
2186
2187 Mr. Johnson- Okay. And that well would be a problem as well. Which
2188 prevents him from moving it back further anyway. Alrighty. Anyone else in support? Okay,
2189 that's...
2190
2191 Mr. Blankinship- There's no one on Webex.
2192
2193 Mr. Johnson- None on Webex. Okay, since there's none, I'm ready.
2194
2195 Mr. Pollard- What's your motion.
2196

2197 Mr. Johnson- I'm ready to make a motion. I move that we approve this
2198 conditional use permit subject to the conditions recommended by staff. And it is consistent
2199 with the Comprehensive Plan and the Zoning Ordinance. And the proposed garage would
2200 be 30 feet behind the front of the house. And the garage will not change the look of the
2201 property from the street.

2202
2203 Mr. Green- Second.

2204
2205 Mr. Johnson- It's been motioned and seconded. All in favor say Aye.

2206
2207 Board- Aye.

2208
2209 Mr. Johnson- All opposed? All in favor. Motion passed.

2210
2211 Mr. Wynn- Thank you.

2212
2213 Mr. Johnson- Thank you.

2214
2215 Mr. Blankinship- Thank you very much.

2216
2217 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **approved** case **CUP-**
2218 **2024-101077** subject to the following conditions:

- 2219
2220 1. This conditional use permit authorizes the construction of a garage in the front and
2221 side yards. All other applicable regulations of the County Code remain in force.
2222
2223 2. This conditional use permit applies only to the improvements shown on the plot
2224 plan and building design filed with the application. Any additional improvements
2225 must comply with the applicable regulations of the County Code. Any substantial
2226 changes or additions to the design or location of the improvements will require a
2227 new conditional use permit.
2228
2229 3. Any exterior lighting must be shielded to direct light away from adjacent property
2230 and streets.
2231
2232 4. The new construction must match the existing dwelling as nearly as practical in
2233 materials and color.
2234
2235 5. Approval of this request does not imply that a building permit will be issued.
2236 Building permit approval is contingent on Health Department requirements based
2237 on proximity to the existing well location.
2238
2239 6. The applicant must obtain a building permit for the proposed garage by June 27,
2240 2026, or this conditional use permit will expire. If the building permit is cancelled or
2241 revoked after that date due to failure to diligently pursue construction, this
2242 conditional use permit will expire at that time.

2243
2244
2245 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**
2246 **Negative:** **0**
2247 **Absent:** **0**
2248
2249
2250 Mr. Pollard- I just want to thank y'all. This might be the easiest case.
2251
2252 Mr. Blankinship- Yeah. You just never know. Mr. Chair, I'd like to introduce
2253 you to Ella Goldschmidt, who is an intern in the Planning Department for the summer.
2254 Ella is doing some wonderful GIS work for us already. And we hope she's going to do
2255 some illustrations for the Zoning Ordinance over the summer as well. And I guess these
2256 three folks just wanted to get out of the heat and get into the air conditioning. Okay,
2257 which department are you in?
2258
2259 Unknown audience members- {inaudible}
2260
2261 Mr. Blankinship- Oh, okay.
2262
2263 Mr. Green- Ella. Ella, make sure Mr. Blankinship buys you lunch!
2264
2265 Mr. Blankinship- I will buy her lunch!
2266
2267 Mr. Green- Oh, not us! It's on record that he'll buy lunch, and he's going
2268 to pick up the lunch for the others as well.
2269
2270 Mr. Pollard- Congrats on the internship and good luck.
2271
2272 Mr. Johnson- Alright. The other item.
2273
2274 Mr. Blankinship- We do have the minutes from May 23rd. Mr. Lawrence did his
2275 usual careful review, and his notes are provided to you this morning.
2276
2277 Mr. Green- So moved with approval of the edits made by Mr. Lawrence.
2278
2279 Mr. Johnson- Yes. Very good.
2280
2281 Mr. Pollard- I have a question about a couple of the edits. Oh, no never
2282 mind.
2283
2284 Mr. Blankinship- Is there a second?
2285
2286 Mr. Johnson- I seconded it.
2287
2288 Mr. Blankinship- Okay.

2289

2290 Mr. Pollard- Third.

2291

2292 Mr. Johnson- All in favor?

2293

2294 Mr. Pollard- You're reading minds.

2295

2296 Mr. Johnson- All in favor?

2297

2298 Board- Aye.

2299

2300 Mr. Johnson- All opposed? Motion passed.

2301

2302 On a motion by Mr. Green, seconded by Mr. Johnson, the Board **approved as amended**
2303 **the minutes of the May 23, 2024 Board of Zoning Appeals meeting.**

2304

2305

2306 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**

2307 **Negative: 0**

2308 **Absent: 0**

2309

2310

2311 Mr. Johnson- Thank you.

2312

2313 Mr. Green- Is our annual meeting the next meeting?

2314

2315 Mr. Blankinship- Next meeting you will get the calendar for 2025. And at the
2316 August meeting you will elect officers. I did put an item on the agenda to discuss the
2317 Court of Appeals case that we mentioned to you very briefly last month. I don't know if
2318 the Board really wants to take the time to go into that now.

2319

2320 Mr. Green- Yes.

2321

2322 Mr. Pollard- Yes.

2323

2324 Mr. Blankinship- Okay. We did attend, Sara and I, I don't think Paul was there,
2325 but attended a Webex put on by some attorneys from Sands Anderson on the subject of
2326 this Court of Appeals case. And it was very interesting to hear their point of view. Sands
2327 Anderson is a practice that provides support to local governments. There are several
2328 small rural localities that contract with them to provide their county attorney services,
2329 basically. So, they see these requests from both sides. They represent property owners
2330 in some cases, and they represent the local government in other cases. Sara will agree
2331 that the most interesting thing that came out of the Webex is that they were all completely
2332 surprised by this decision. Nobody anticipated this, so it really was kind of a sea change.
2333 It is the first time that the Court of Appeals has heard a case on variances since the most
2334 recent amendment to the statute. And it is a major shift in jurisprudence. Up to now, as

2335 you know, the first thing we ask when we review a request is "do you have any other
2336 reasonable use of your property?" And if there is any other reasonable use, that's usually
2337 the end of the analysis. Unless there's been a change in the code or there's something
2338 dealing with a person with a disability. You can't grant a variance under the old statute
2339 unless there is no reasonable use of the property. That is no longer the standard. The
2340 change has removed the words "unnecessary hardship". They have retained the words
2341 "unreasonably restrict" the use of the property. So, the question now is not "is there any
2342 use?" The question is "is the restriction reasonable with respect to this property?" And I'm
2343 going to quote a little bit here from the court case. They said, the Court of Appeals said a
2344 restriction is quote, "reasonable if it is fair, proper, or moderate under the circumstances,
2345 sensible." In contrast, "an unreasonable restriction" is one "not guided by reason,
2346 irrational, or capricious." So, a BZA must issue a variance if the effect of the Zoning
2347 Ordinance is to limit the use or enjoyment of the property in a way that is irrational,
2348 capricious, or not fair or sensible under the circumstances. A BZA must decide whether
2349 to grant a variance based on the particular facts of an application, including the precise
2350 extent of the relief sought. Reasonableness and fairness thus include evaluating the
2351 unique circumstances of the property, the applicant, and the proposed deviation from the
2352 ordinance. Though financial loss is a factor, alone it is not enough to prove an
2353 unreasonable restriction. So, in my view, your work just got a lot harder on variance
2354 applications. Because it's a pretty simple analysis, unfortunate, but simple to say, "you
2355 have reasonable use of your property, we can't grant a variance." We are no longer in
2356 that boat. Now we're in a boat where you're going to have to make this reasonableness
2357 determination on a case-by-case basis. Looking at the applicant, the property, the history
2358 of the property, the surrounding development, and all those factors. And you're going to
2359 be tasked with determining what is reasonable and what is not. Which, in my view, is
2360 much more challenging. But there we are.

2361
2362 Mr. Green- Can you send us that? What you just said.

2363
2364 Mr. Blankinship- Yeah, I will. I provided it to you last month, but yes.

2365
2366 Mr. Green- Yeah, but the way you have specifically written that out.

2367
2368 Mr. Blankinship- Certainly, I will send the excerpt as well.

2369
2370 Mr. Green- That way we will have it. Because I've got that opinion sitting
2371 on my desk. Reading and re-reading it.

2372
2373 Mr. Blankinship- Have you got any inside scoop for us?

2374
2375 Mr. Green- Not yet.

2376
2377 Mr. Blankinship- That concludes my remarks. Unless you have any questions.
2378 I think we'll have a lot of questions over the next year.

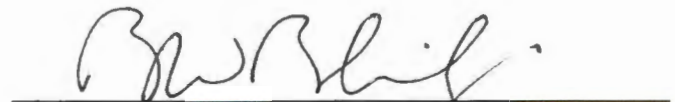
2379

2380 Mr. Lawrence- So, how many years before we reverse that opinion and go
 2381 back to the Cochran decision again?
 2382
 2383 Mr. Blankinship- Let's hope I'm retired by then.
 2384
 2385 Mr. Lawrence- Is this the Supreme Court of Virginia?
 2386
 2387 Mr. Blankinship- This was the Court of Appeals. But Louisa County who lost at
 2388 the Court of Appeals did not appeal to the Supreme Court.
 2389
 2390 Mr. Lawrence- They did not appeal to the Supreme Court.
 2391
 2392 Mr. Blankinship- So, this is a final decision, and binding on Circuit Courts and
 2393 Boards of Zoning Appeals statewide.
 2394
 2395 Mr. Green- It was issued by a senior judge. Or a judge that is basically
 2396 retired from there, so they've got plenty of time to look at that.
 2397
 2398 Mr. Lawrence- Were any of these judges around when the Cochran decision
 2399 was made?
 2400
 2401 Mr. Blankinship- I don't know. But they did specifically base this on the changes
 2402 to the statute since Cochran.
 2403
 2404 Mr. Lawrence- Okay.
 2405
 2406 Mr. Blankinship- So, this is the first time since Cochran that we've had this kind
 2407 of guidance under the new statute.
 2408
 2409 Mr. Lawrence- Okay.
 2410
 2411 Mr. Blankinship- They're not overturning Cochran.
 2412
 2413 Mr. Lawrence- Right. Right.
 2414
 2415 Mr. Pollard- In my mind it shouldn't be... Well, of course, once we get a
 2416 case it's going to blow that up. But in my mind the standards should almost be the same
 2417 as we have been doing in the past. Except for when sometimes we had to deny something
 2418 and we're like "I hate to deny this", you know. But now we can approve that one. But you
 2419 know that's going to.... Talking about it's easy. In the hypothetical it makes perfect sense.
 2420
 2421 Mr. Blankinship- Exactly.
 2422
 2423 Mr. Pollard- Kind of the whole standard.
 2424
 2425 Mr. Lawrence- Hopefully most of those cases will be in Fairfield.

2426
2427 Mr. Pollard- Probably not.
2428
2429 Mr. Blankinship- Based on this morning, they're probably all going to be in
2430 Three Chopt.
2431
2432 Mr. Blankinship- There are some on the agenda next month that are going to
2433 be challenging, but not because of this case.
2434
2435 Mr. Lawrence- In Three Chopt?
2436
2437 Mr. Blankinship- They're in Varina, I believe.
2438
2439 Mr. Lawrence- Varina.
2440
2441 Mr. Pollard- That was a good question.
2442

2443 **The Board adjourned.**
2444
2445
2446
2447

2448
2449 
2450 Walter L. Johnson, Jr., Chair
2451
2452

2453
2454 
2455 Mr. Benjamin W. Blankinship, Secretary
2456