

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**  
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**  
4 **SPRINGS ROADS, ON THURSDAY, NOVEMBER 19, 2009, AT 9:00 A.M.,**  
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**  
6 **OCTOBER 29, 2009 AND NOVEMBER 5, 2009.**  
7

Members Present: Elizabeth G. Dwyer, Chairman  
Helen E. Harris, Vice Chairman  
Robert Witte  
R. A. Wright

Members Absent: James W. Nunnally

Also Present: David D. O'Kelly, Jr., Assistant Director of Planning  
Benjamin Blankinship, Secretary  
Paul Gidley, County Planner  
R. Miguel Madrigal, County Planner  
Carla Brothers, Recording Secretary

8  
9 Ms. Dwyer - Good morning. This meeting of the Henrico County  
10 Board of Zoning Appeals will come to order. Please rise for the **Pledge of**  
11 **Allegiance.**  
12

13 Good morning, and welcome to this session of the Henrico County Board of  
14 Zoning Appeals. Good morning, Mr. Blankinship.  
15

16 Mr. Blankinship - Good morning.  
17

18 Ms. Dwyer - Would you please read the rules for the Board this  
19 morning so everyone will understand the rules under which we operate?  
20

21 Mr. Blankinship - Good morning. The rules for this meeting are as  
22 follows. Acting as Secretary, I will announce each case, and as I'm speaking, the  
23 applicant should come down to the podium. We will then ask everyone who  
24 intends to speak to that case to stand and be sworn in. The applicant will present  
25 their testimony, and then anyone else who wishes to speak will be given the  
26 opportunity. After everyone has spoken, the applicant, and only the applicant,  
27 will have an opportunity for rebuttal. After the Board has asked any questions  
28 they have, they will take the matter under advisement, and they'll go on to the  
29 next case. They will render all of their decisions at the end of the meeting. If you  
30 wish to know their decision on a specific case, you can either stay until the end  
31 of meeting, or you can check the Planning Department website this afternoon, or  
32 you can call the Planning Department.  
33

34 This meeting is being recorded, so we'll ask everyone who speaks to speak  
35 directly into the microphone on the podium, state your name, and please spell  
36 your last name so we get it spelled correctly in the record. Out in the foyer, there  
37 is a binder that contains the staff report for each case, including the conditions  
38 that have been recommended by the staff.

39

40 Madam Chairman, we have one request for deferral this morning.

41

42 **A-015-09** **EMERALD LAND DEVELOPMENT** requests a  
43 variance from Section 24-95(b) to build a one-family dwelling at 1003A N  
44 Concord Avenue (Garden City (West)) (Parcel 784-756-7575 (part)), zoned R-3,  
45 One-family Residence District (Fairfield). The total lot area requirement and lot  
46 requirement are not met. The applicant has 6,600 square feet total lot area and  
47 50 feet lot width, where the Code requires 8,000 square feet total lot area and 65  
48 feet lot width. The applicant requests a variance of 1,400 square feet total lot  
49 area and 15 feet lot width.

50

51 Ms. Dwyer - I'll entertain a motion on the request for deferral for A-  
52 015-009, Emerald Land Development.

53

#### 54 **DECISION**

55

56 Mr. Wright - I move we defer A-015-009, Emerald Land  
57 Development to the next meeting.

58

59 Ms. Dwyer - Do I have a second?

60

61 Ms. Harris - Second the motion.

62

63 Ms. Dwyer - Motion by Mr. Wright, seconded by Ms. Harris. Any  
64 discussion?

65

66 Ms. Harris - Yes, I do have one question. Did they cite a reason  
67 for this request?

68

69 Mr. Blankinship - Mr. Baker is here and he may be able to answer that  
70 question.

71

72 Mr. Baker - Good morning, my name's Mark Baker. B-a-k-e-r. I'm  
73 here representing Emerald Development. After receiving staff's report, we  
74 realized we had a title issue. The actual scope of the variance, according to what  
75 we're hearing from staff, was greater than we had anticipated. We thought we  
76 were dealing with a single lot that was already a lot of record, finding that what  
77 we're proposing to do is also requiring a lot area variance according to what  
78 staff's interpretation of the title is. We received a title accord that we were good

79 to go on that lot. His attorney is reviewing that information and we'll get with staff  
80 and hopefully be on the same page for the next meeting.

81  
82 Ms. Dwyer - Any discussion or questions? Motion by Mr. Wright,  
83 seconded by Ms. Harris to defer the case to December. All in favor say aye. All  
84 opposed say no. The ayes have it; the motion passes.

85  
86 After an advertised public hearing, **A-015-09, EMERALD LAND**  
87 **DEVELOPMENT**, has been deferred until the December 17, 2009 meeting.

88  
89  
90 Affirmative: Dwyer, Harris, Witte, Wright 4  
91 Negative: 0  
92 Absent: Nunnally 1

93  
94  
95 Ms. Dwyer - Mr. Blankinship, we have some deferred cases from  
96 last month.

97  
98 Mr. Blankinship - Yes ma'am. And perhaps we should also announce—  
99 we usually do this if there's a member absent. It's an unusual feature of the  
100 Board of Zoning Appeals' rules that in order to approve a variance or a use  
101 permit, there has to be at least three affirmative votes. This morning, since there  
102 are only four members present, it's possible that you could have one member  
103 abstain and have a two to one vote, and you would think that your application  
104 had been approved. But you have to have three affirmative votes to have an  
105 approval. So, if you would prefer to have your case deferred until next month  
106 when the fifth member of the Board presumably will be present, you do have the  
107 right to request that.

108  
109 **A-006-09 EMERALD LAND DEVELOPMENT** requests a  
110 variance from Section 24-95(b) to build a one-family dwelling at 21 Evergreen  
111 Avenue (Bungalow City) (Parcel 817-727-6100), zoned R-3, One-family  
112 Residence District (Varina). The lot width requirement is not met. The applicant  
113 has 50 feet lot width where the Code requires 65 feet lot width. The applicant  
114 requests a variance of 15 feet lot width.

115  
116 Ms. Dwyer - Anyone who is interested in this case, who thinks they  
117 may speak to the case, please stand to be sworn.

118  
119 Mr. Blankinship - Raise your right hand, please. Do you swear the  
120 testimony you're about to give is the truth and nothing—I'm sorry; we'll wait just a  
121 moment.

122  
123 Ms. Dwyer - If you think you might testify but you're not sure—  
124

125 Mr. Blankinship - Anyone who intends to speak, please stand and raise  
126 your right hand.  
127  
128 Ms. Dwyer - Please stand.  
129  
130 Mr. Blankinship - Yes sir. Anyone who intends to speak to this case. Do  
131 you swear the testimony you're about to give is the truth and nothing but the truth  
132 so help you God? Thank you.  
133  
134 Ms. Dwyer - Will the applicant come forward.  
135  
136 Mr. Baker - Good morning Madam Chair, members of the Board,  
137 staff. I'm Mark Baker, Baker Development Resources. That's B-a-k-e-r. Mr.  
138 Blankinship, I think given the unanticipated nature, we were not aware Mr.  
139 Nunnally was not going to be here. Given the three to two vote that we had last  
140 year on this same item, it was contentious, I'm not sure if it's something I really  
141 care to do, based on the fact that we have a number of the community here and  
142 we want to be sensitive to that. But at the same time, we have to keep in mind  
143 that it may be a close vote, and I think I'd like to go ahead and defer it until  
144 December.  
145  
146 Ms. Dwyer - That will require a vote.  
147  
148 **DECISION**  
149  
150 Mr. Wright - I move we defer—  
151  
152 Mr. Blankinship - Madam Chairman, I wonder if it would be wise to go  
153 ahead and take testimony from the neighbors who came.  
154  
155 Mr. Wright - It will save them a trip back.  
156  
157 Mr. Blankinship - Right. This is an advertised public hearing and  
158 notices have been sent. We could hold the public hearing and then defer the  
159 decision until next month.  
160  
161 Mr. Wright - But the other member would not be here to hear the  
162 testimony.  
163  
164 Ms. Dwyer - The other problem with that that I see is that the  
165 neighbors may want to listen to the complete case as it's presented by the  
166 applicant before they respond.  
167  
168 Mr. Wright - I think the only fair thing to do would be to defer it.  
169  
170 Mr. Witte - I agree.

171  
172 Ms. Dwyer - All right. Do I have a motion to defer? I believe, Mr.  
173 Wright, you made that motion. Is there a second?

174  
175 Mr. Witte - Yes, I second it.

176  
177 Ms. Dwyer - Motion by Mr. Wright, seconded by Mr. Witte. Is there  
178 any discussion? All in favor say aye. All opposed say no. The ayes have it; the  
179 motion passes.

180  
181 After an advertised public hearing, **A-006-09, EMERALD LAND**  
182 **DEVELOPMENT**, has been deferred until the December 17, 2009 meeting.

183  
184  
185 Affirmative: Dwyer, Harris, Witte, Wright 4  
186 Negative: 0  
187 Absent: Nunnally 1

188  
189  
190 This case has been deferred to December when presumably we'll have a full  
191 compliment of Board members for the case. What's the date on that, Mr.  
192 Blankinship?

193  
194 Mr. Blankinship - I believe it's the 17<sup>th</sup>, but it will be the third Thursday  
195 of December. We will send you a new notice.

196  
197 Ms. Harris - May I asked a question, Mr. Blankinship? Could we  
198 have the minutes from that meeting, or do you want us to go into our archives  
199 and pull it out?

200  
201 Mr. Blankinship - We can certainly provide those, yes ma'am.

202  
203 Ms. Dwyer - You're referring to the minutes from the last time we  
204 heard this case.

205  
206 Ms. Harris - The last time we heard this case.

207  
208 Mr. Blankinship - All right.

209  
210 Ms. Dwyer - So that case has been deferred to December the 17<sup>th</sup>.

211  
212 **A-011-09 JOHN W. WRAY, JR. AND CATHERINE S. ROLFE**  
213 request a variance from Section 24-9 to reconsider conditions of a previous  
214 variance at 9480 Hoehns Road (Parcel 765-759-1344), zoned A-1, Agricultural  
215 District and R-3AC, One-family Residence District (Conditional) (Brookland). The  
216 public street frontage requirement is not met. The applicant has 0 feet public

217 street frontage where the Code requires 50 feet public street frontage. The  
218 applicant requests a variance of 50 feet public street frontage.  
219  
220 Ms. Dwyer - All those who want to speak to this case, if you think  
221 you might want to speak to the case, please stand and be sworn.  
222  
223 Mr. Blankinship - Raise your right hands, please. Do you swear the  
224 testimony you're about to give is the truth and nothing but the truth so help you  
225 God?  
226  
227 Mr. Wray - I do.  
228  
229 Ms. Dwyer - Please state your name.  
230  
231 Ms. Rolfe - Good morning, I'm Catherine Rolfe. R-o-l-f-e.  
232  
233 Mr. Wray - John Wray. W-r-a-y.  
234  
235 Ms. Rolfe - We are here because we were given an amendment  
236 to our variance request, and after more careful assessment of where the house  
237 is to be placed, we would like to have that setback requirement amended.  
238  
239 Ms. Dwyer - All right.  
240  
241 Ms. Rolfe - The report from your office outlines that the Zoning  
242 Ordinance required setbacks are 50 feet from the front and rear property lines.  
243 Least side setback must be 20 feet and the sum of the two sides must be 50  
244 feet. There is a sketch that I believe you have up there that shows the  
245 placement of where we're placing the house in relation to the trees that we're  
246 trying to save. The amendment that we wanted to have changed was the 100-  
247 foot requirement that was imposed.  
248  
249 Ms. Dwyer - Have you read the new conditions that have been  
250 proposed by staff?  
251  
252 Ms. Rolfe - Yes.  
253  
254 Ms. Dwyer - And you're in agreement with those? They state that  
255 the dwelling shall be located 50 feet from any property line and shall be oriented  
256 generally to the north.  
257  
258 Ms. Rolfe - Yes, that's correct.  
259  
260 Ms. Dwyer - Does that accurately reflect what you intend to do?  
261

262 Ms. Rolfe - Yes. I [unintelligible] the normal setbacks would allow  
263 us a little more leeway in placing the house, but at this point we're confident that  
264 this is where the house is going to go. So the 50-foot requirement is agreeable.  
265 Not ideal, but it's agreeable.

266  
267 Ms. Dwyer - Mr. Blankinship, since this has no road frontage, how  
268 has staff determined what the front and rear yards [voice fading out; inaudible].

269  
270 Mr. Blankinship - The access to the property comes on the east side.  
271 Hoehns Road runs along the east side of the property. So we determined that to  
272 be the property line.

273  
274 Ms. Dwyer - I know it's difficult to do when we have substandard  
275 lots without road frontage.

276  
277 Mr. Blankinship - Yes ma'am.

278  
279 Ms. Dwyer - So you did it based on the access to the lot.

280  
281 Mr. Blankinship - Yes ma'am. The east becomes the front, so the west  
282 property line is the rear.

283  
284 Ms. Dwyer - In any event, it's 50 feet back, so it's really not going  
285 to be critical.

286  
287 Mr. Blankinship - The condition would certainly simplify, yes.

288  
289 Ms. Dwyer - All right.

290  
291 Ms. Harris - Ms. Rolfe, did you not agree to the conditions we had  
292 before?

293  
294 Ms. Rolfe - The conditions were posed as an amendment after  
295 we had spoken, when we could no longer express any opinion. That's why we  
296 had to reappear.

297  
298 Ms. Dwyer - Questions by Board members? Anything else you'd  
299 like to say? Did we have another person who wanted to speak?

300  
301 Ms. Wright - For the record, I'm Sylvia Wright. I'm directly to the  
302 south of this property that's being developed. The property was formerly family  
303 property. I'm just here to support their effort. It's a very minimal use of the  
304 property and I'm definitely in favor of their use.

305

306 Ms. Dwyer - Thank you, Ms. Wright. Any questions of Ms. Wright?  
307 Any other questions or comments by Board members? Thank you, that closes  
308 the case.

309  
310 Do I have a motion on the case?

311  
312 **DECISION**

313  
314 Mr. Witte - I make a motion we approve the request. We  
315 approved it earlier with other conditions. These conditions don't really affect the  
316 dwelling or any of the neighbors in any adverse way that I can find. I have ridden  
317 by there several times and it's going to be an asset compared to what's there  
318 now.

319  
320 Ms. Dwyer - Do I hear a second?

321  
322 Ms. Harris - Second.

323  
324 Ms. Dwyer - Motion by Mr. Witte, seconded by Ms. Harris. Any  
325 other discussion?

326  
327 Ms. Harris - If I recall, they sort of agreed that what we were  
328 saying was okay. But then again, she did indicate that we made a decision after  
329 our conversation with her pertaining to her agreement. So, I do second this  
330 motion.

331  
332 Ms. Dwyer - All in favor say aye. All opposed say no. The ayes  
333 have it; the motion passes.

334  
335 After an advertised public hearing and on a motion by Mr. Witte, seconded by  
336 Ms. Harris, the Board **approved** application **A-011-09, John W. Wray, Jr., and**  
337 **Catherine S. Rolfe's** request for a variance from Section 24-9 to reconsider  
338 conditions of a previous variance at 9480 Hoehns Road (Parcel 765-759-1344),  
339 zoned A-1, Agricultural District and R-3AC, One-family Residence District  
340 (Conditional) (Brookland). The public street frontage requirement is not met. The  
341 Board approved an amendment of the conditions of the previous variance to now  
342 read as follows:

343  
344 1. This variance applies only to the public street frontage requirement for one  
345 dwelling only. All other applicable regulations of the County Code shall remain in  
346 force.

347  
348 2. Only the improvements shown on the plot plan filed with the request for  
349 rehearing may be constructed pursuant to this approval. The dwelling shall be  
350 located at least 50 feet from any property line, and shall be oriented generally to  
351 the north. Any additional improvements shall comply with the applicable



352 regulations of the County Code. Any substantial changes or additions to the  
353 location of the dwelling may require a new variance.

354

355 3. At the time of building permit application, the applicant shall submit the  
356 necessary information to the Department of Public Works to ensure compliance  
357 with the requirements of the Chesapeake Bay Preservation Act and the code  
358 requirements for water quality standards.

359

360 4. The applicant shall present proof with the building permit application that a  
361 legal access to the property has been obtained.

362

363 5. The owners of the property, and their heirs or assigns, shall accept  
364 responsibility for maintaining access to the property until such a time as the  
365 access is improved to County standards and accepted into the County road  
366 system for maintenance.

367

368

369 Affirmative: Dwyer, Harris, Witte, Wright 4

370 Negative: 0

371 Absent: Nunnally 1

372

373

374 **UP-018-09** **TERESA JONES** requests a conditional use permit  
375 pursuant to Section 24-12(e) to allow a noncommercial kennel at 10810  
376 Branberry Lane (Cross Keys South) (Parcel 747-755-1040), zoned R-3, One-  
377 family Residence District (Three Chopt)

378

379 Ms. Dwyer - Anyone who is here to speak to this case please  
380 stand.

381

382 Mr. Blankinship - Madam Chairman, let me call your attention to an e-  
383 mail message that was left on the desk pertaining to this case. There are three  
384 for the next case and one for this case.

385

386 Ms. Dwyer - Thank you. From Bob Bensley? Is that the one?

387

388 Mr. Blankinship - Yes ma'am.

389

390 Ms. Dwyer - All right. Everyone who thinks that they might speak  
391 to this case, please stand and be sworn.

392

393 Mr. Blankinship - Raise your right hands, please. Do you swear the  
394 testimony you're about to give is the truth and nothing but the truth so help you  
395 God?

396

397 Ms. Dwyer - Will the applicant come forward and state your case.

398

399 Ms. Jones - My name is Teresa Jones. J-o-n-e-s. My purpose is  
400 just to be legal. I work with a dog rescue group and I would like to on occasion  
401 foster dogs and socialize them with the three dogs I currently have, which is the  
402 Henrico limit. I didn't want any of my neighbors to be upset if they saw me with  
403 four dogs thinking I'm breaking the law. I'm not putting out any out buildings, I'm  
404 not leaving the dogs out unattended, as you should have the dog ownership  
405 beliefs I sent in. I don't let my dogs annoy the neighbors. If they're barking, I  
406 see to them right away. I clean up after them. I clean up when we walk. I'm very  
407 appreciative of the e-mail my next door neighbor to the immediate left of me sent  
408 saying that he supports my efforts. I'm not going to breed dogs. I believe my  
409 initial appeal was for six, and that would be my limit. The dogs are kept inside at  
410 night and whenever I am not home. That's all.

411

412 Ms. Dwyer - Any questions by Board members of Ms. Jones?

413

414 Mr. Wright - Yes. Tell us something about these dogs.

415

416 Ms. Jones - They're rescue dogs. The one I have now, the reason  
417 I got him from the rescue farm was because he's so very shy of people. He was  
418 very hard to deal with when volunteers would go in and try to clean his crate.  
419 They try to walk the dogs at the farm. No one could get a leash on him. And it's  
420 hard to take care of a dog if you can't take it out and take it for a walk. The dog  
421 is with me, and he's more relaxed being around calm dogs, which I have three  
422 other rescues, which are licensed in Henrico. He goes for walks with us now.  
423 He's meeting neighbors. He's learning to relax. I'm hoping that at some point  
424 he'll be able to be approached by anybody and be petted. He's just a little hound  
425 dog, but for whatever reason, he ended up at the shelter. I'm just trying to get  
426 him more people friendly so that he can find a good home, or maybe stay with  
427 me if I get this appeal.

428

429 Mr. Wright - What size home do you have?

430

431 Ms. Jones - I don't know the exact square footage; I guess it's like  
432 2100. It's typical for this—

433

434 Mr. Wright - Rancher or?

435

436 Ms. Jones - No, it's a two-story.

437

438 Mr. Wright - A two-story house?

439

440 Ms. Jones - Yes.

441

442 Mr. Wright - And it's about 2100.

443

444 Ms. Jones - Something like that, yes.  
445  
446 Mr. Wright - And you now have three dogs that you own.  
447  
448 Ms. Jones - Yes.  
449  
450 Mr. Wright - What type of dogs are they?  
451  
452 Ms. Jones - They're all mutts, rescues. The biggest one is a Rottie  
453 mix. She's 88 pounds. The other two are—one's a hound dog; he's 50 pounds,  
454 and the one is a terrier shepherd mix; he's about 50 pounds. They stay in crates  
455 at night and when I'm not home. Neither neighbors nor anybody else has  
456 complained that they are barking when I'm not home. I don't hear barking when I  
457 come home. From outside, I don't hear any barking. My immediately adjacent  
458 neighbors are certainly open enough to me to come and say, "What's going on?  
459 We heard them barking." They would certainly come up and say, "I have a  
460 problem with the dogs." And nobody's ever said anything. And Mr. Bensley was  
461 kind enough to reiterate that in his e-mail.  
462  
463 Mr. Wright - How old are these dogs?  
464  
465 Ms. Jones - The oldest is—she's four. Four, three, and two.  
466 That's basically their ages.  
467  
468 Mr. Wright - What you're trying to obtain here is permission to  
469 keep five dogs at all times.  
470  
471 Ms. Jones - No, not at all times. No.  
472  
473 Mr. Wright - Excuse me?  
474  
475 Ms. Jones - Not at all times, sir.  
476  
477 Mr. Wright - What do you mean?  
478  
479 Ms. Jones - Like the fourth one is a foster dog. I'm only keeping  
480 him long enough so that he is able to be socialized and to meet anybody. I could  
481 take him then—BARK is the rescue group and they do adoptions on the  
482 weekends—once he's relaxed enough around people. Which he wasn't getting  
483 that at farm where they keep them because they're all in kennels 90% of the  
484 time. This way he gets out, he meets people, he walks twice a day every day.  
485 He's with my dogs, who are relaxed. And once he's learned that life can be good,  
486 he can go to the adoption stand and find a forever home.  
487  
488 Mr. Wright - Yes, but let's say that dog, you do whatever you have  
489 to do to make him social, and then you're going to get another dog.

490  
491 Ms. Jones - Not right away. He was a special case.  
492  
493 Mr. Wright - I mean, you want to be able to—  
494  
495 Ms. Jones - I want to be able to.  
496  
497 Mr. Wright - You want to be able to have five dogs at all times.  
498  
499 Ms. Jones - No, not at all times. Like I said, at any time.  
500  
501 Mr. Wright - All right, I'll use the word *anytime*.  
502  
503 Ms. Jones - Yes. It's possible.  
504  
505 Mr. Wright - It is. You'll be taking care of these dogs, trying to—  
506  
507 Ms. Jones - Rehabilitate them.  
508  
509 Mr. Wright - Over a period of time.  
510  
511 Ms. Jones - Yes.  
512  
513 Mr. Wright - That's your intent.  
514  
515 Ms. Jones - And the kids really want a cat.  
516  
517 Mr. Wright - You say they stay in your house all day?  
518  
519 Ms. Jones - No. I don't work at the moment, so I am with them to  
520 let them out in the morning, walk them in the morning. I'm there all the time.  
521  
522 Mr. Wright - What happens if you—Do you intend to look for  
523 work?  
524  
525 Ms. Jones - I will be looking for work. My circumstances now are  
526 that I do not have to find a full-time job. I went to school for a while and I was  
527 gone five hours in the mornings three times a week. They would stay in their  
528 crates. They are perfectly able to do that. I come home, I walk them. Again, no  
529 neighbor has ever said, "While you were at school, we could hear them barking  
530 their heads off." They don't do that. They get walked before I leave; they're tired.  
531 They pretty much just sleep.  
532  
533 Mr. Wright - So, when you're not there, you have them in cages.  
534  
535 Ms. Jones - Right, yes.

536  
537 Mr. Blankinship - Where are the crates, in the house or outdoors?  
538  
539 Ms. Jones - They're indoors.  
540  
541 Mr. Wright - How many do you take at one time when you go  
542 outside?  
543  
544 Ms. Jones - When I had the three, I walked all three at one time.  
545 They are able to walk. Everybody was always amazed; they stay right by my  
546 side.  
547  
548 Mr. Wright - You walk them in the neighborhood?  
549  
550 Ms. Jones - Yes. In the neighborhood, all around the  
551 neighborhood, the next neighborhood, and through the park. Now I do two and  
552 two; I take two at a time.  
553  
554 Mr. Wright - Do you clean up after them when you—  
555  
556 Ms. Jones - Absolutely. I always have my poop bags with me.  
557  
558 Mr. Wright - I'm in a neighborhood; we're very conscious of that.  
559  
560 Ms. Jones - Yes, yes. I don't blame you at all. There is another  
561 dog that is not on a leash and people complain to me about it, but.  
562  
563 Mr. Wright - You said your neighbor, is his name Bensley?  
564  
565 Ms. Jones - Yes.  
566  
567 Mr. Wright - You said he favored this.  
568  
569 Ms. Jones - Yes. He says he's willing to give it a try.  
570  
571 Mr. Wright - Have you read this thing?  
572  
573 Mr. Blankinship - I just handed it to her; it came at 7:58 this morning.  
574  
575 Mr. Wright - It doesn't really—He's on the fence.  
576  
577 Ms. Jones - Oh, okay.  
578  
579 Mr. Wright - He doesn't have any problem with the dogs, but he's  
580 talked to a real estate agent and the real estate agent tells him that if he would

581 try to sell his home and the purchaser found out there were five dogs living next  
582 door, they wouldn't buy it.

583

584 Ms. Jones - Well—

585

586 Mr. Wright - That's what he says in here. He's concerned that it  
587 affects the value of his property.

588

589 Ms. Jones - I understand, I understand. But—

590

591 Mr. Wright - He wants you to do it—

592

593 Ms. Jones - Right.

594

595 Mr. Wright - —and yet he says he wants some way to protect  
596 himself.

597

598 Ms. Jones - I understand.

599

600 Mr. Wright - So I don't know if there is any solution to that.

601

602 Ms. Jones - Certainly you can see he has no problem with me at  
603 the current time or never has in the past. And if he was concerned that he's  
604 showing the house, I would make sure the dogs were inside. But since he  
605 doesn't have a problem now, and if the people that wanted to buy the house  
606 weren't dog people—I mean, I do have some people in the neighborhood who  
607 are not dog people. Amazingly enough, they don't seem concerned about my  
608 dogs. But like I said, to have five is pushing it. I have four; that would probably  
609 be my limit because the kids want a cat. That would be the fifth animal.

610

611 Mr. Wright - That's a lot of dogs in a house, especially if they're  
612 large dogs. You see some of these little dogs about that big, you could step on  
613 them and you could eliminate them, but big dogs I would think would be a  
614 problem.

615

616 Ms. Jones - They're not because they're well-exercised and well-  
617 trained.

618

619 Ms. Dwyer - Any other questions for Ms. Jones?

620

621 Ms. Harris - Ms. Jones, what prompted you to come before this  
622 Board?

623

624 Ms. Jones - Well, like I said, I didn't want to have any neighbors  
625 see me walking several dogs saying, "Why does she have so many dogs; the  
626 legal limit is three." I wanted to be sure that I was legal within the—Even though

627 the fourth dog I'm keeping at the moment is not legally mine, I didn't want to risk  
628 the fact that somebody would complain, and the Board would be notified, and  
629 they'd say, "No, even a foster counts as an animal; you have to get rid of it."  
630

631 Ms. Harris - I heard you say that. So you did not receive a  
632 citation.  
633

634 Ms. Jones - No. No ma'am. I'm just preemptive, thinking ahead.  
635

636 Mr. Wright - One other thing. Some of our information indicates  
637 that you intend to acquire a cat also.  
638

639 Ms. Jones - The kids have been asking me for a cat. It would be  
640 kept indoors. I have never had an outdoor cat.  
641

642 Mr. Wright - So you'd want a permit for five dogs and a cat.  
643

644 Ms. Jones - Well, Henrico just says "animals." It's not separated.  
645

646 Mr. Wright - Yes, that's right, but that's what you would be doing.  
647

648 Ms. Jones - I would really consider it pushing it to have five dogs  
649 and a cat. I would say four—the one foster and a cat.  
650

651 Mr. Wright - So now you're saying that you would go along with  
652 four dogs.  
653

654 Ms. Jones - Yes.  
655

656 Mr. Wright - And a cat.  
657

658 Ms. Jones - Yes. If need be.  
659

660 Mr. Wright - Cats are sort of quiet.  
661

662 Ms. Jones - Yes.  
663

664 Mr. Wright - They don't seem to bother you too much.  
665

666 Ms. Jones - No. My brother's cat has actually stayed with me on  
667 several occasions. I have a baby gate at the top of my stairs and the cat stays  
668 upstairs when he's away on vacation, and the dogs are downstairs, and they  
669 don't have a problem.  
670

671 Ms. Dwyer - How do you keep the dogs from barking?  
672

673 Ms. Jones - It's just a matter of having them exercised. Tired dogs  
674 don't bark. So, that's why I make sure every morning that I take them out for a  
675 walk. They come home, they eat their breakfast, and they just conk out. Even  
676 when I'm home I see them do that, so I know that's what they're doing when I'm  
677 not there as well.

678  
679 Ms. Dwyer - I assume it's a matter of training as well.

680  
681 Ms. Jones - Yes, yes. But mostly it's the same with humans. If  
682 you're too tired, you're not going to have any energy to make a fuss. Obviously, if  
683 there's somebody trying to break in they would wake up. I've never had that  
684 happen. I've never had them just start barking crazily in the middle of the night.

685  
686 Mr. Wright - The conditions that are proposed, have you read  
687 these conditions?

688  
689 Mr. Blankinship - Yes, they're in the staff report.

690  
691 Ms. Jones - Oh, yes.

692  
693 Mr. Wright - It says three dogs, a cat, and up to two rescue dogs.  
694 So if the conditions were three dogs, a cat, and up to one rescue dog, would that  
695 take care of your situation?

696  
697 Ms. Jones - Well, honestly, I would like the flexibility just because  
698 at the rescue farm you never know who's going to need the help. This one I  
699 have, I talked with other foster parents—for lack of a better word—and some  
700 dogs come around faster than others. This one that I have, he must have been  
701 terribly abused because he comes to me now, but I've had him four weeks. And  
702 other dogs, I've heard they go home, they hang out for a while, and then the next  
703 two weeks they're at the adoption stand. So I can't predict how fast a dog is  
704 going to turn around. If it is the deciding factor, yes, I will say one foster dog and  
705 a possible cat.

706  
707 Ms. Dwyer - I'm thinking, Mr. Wright, that it might be easier to say  
708 five animals as to specifying how many she might own, or how many rescue, or  
709 how many cats. Or it might be a rescue dog that you would decide to adopt  
710 yourself. I think if I were looking to rewrite this condition, I might consider  
711 identifying that five animals—or some number of animals—would be permitted.  
712 Then you could opt not to get the cat and to have two rescues.

713  
714 Ms. Jones - Right.

715  
716 Ms. Dwyer - So you would have some flexibility--

717  
718 Ms. Jones - Yes.



719  
720 Ms. Dwyer - —on the number of animals, which I think is the point.  
721  
722 Ms. Jones - Yes. I think originally I did say my top limit I could ever  
723 imagine would be six animals, but, like I said, if it is the deciding factor that you  
724 feel five is more amenable, I could go along with that, yes.  
725  
726 Ms. Dwyer - Anymore questions for Ms. Jones?  
727  
728 Ms. Harris - Are we going to limit these conditions to the dogs that  
729 she has now? I know most often the condition is only for so many dogs. But are  
730 we going to limit it to the dogs that she has now?  
731  
732 Mr. Wright - Like I was were saying, we just say five animals.  
733  
734 Ms. Harris - So these are in the future as well, not only—  
735  
736 Mr. Wright - Yes. Which could include a cat—four dogs and a cat.  
737  
738 Ms. Harris - My point is, if one of these animals, one of these  
739 dogs, for example, expires, then she can replace it.  
740  
741 Mr. Wright - Yes.  
742  
743 Ms. Harris - Okay.  
744  
745 Ms. Dwyer - Any other questions of Ms. Jones? Thank you. If  
746 there are others who want to speak, please come forward. Please state your  
747 name and spell the last name, please.  
748  
749 Ms. Newton - My name is Robin Newton. N-e-w-t-o-n. I'm the  
750 current president of Cross Key Civic Association and I live at 10810 Westek  
751 Drive. We have 127 houses in our neighborhood. Yes, she does a wonderful job  
752 walking the dogs, taking care of the dogs, and rescue dogs. But what we're  
753 concerned with is our long-term property value. If you set a precedent giving an  
754 unconditional kennel in our neighborhood, then that could mean, technically, that  
755 every other house could have it. And that would adversely affect our property  
756 values. I'm not sure if you have on this the size of her property, but I would think  
757 that would come into play with the number of animals that are allowed. Not  
758 necessarily the backyard, but the dimensions. She is above some of her  
759 neighbors and there is a drainage ditch behind her house. What concerns us  
760 also is she started speaking to you and said with three, and then as the  
761 conversation progressed, it went up to six. She currently has three animals  
762 registered. She's had a fourth for a month prior to coming and getting approval.  
763 It concerns us that this number could keep growing. As far as we saw in the

764 Henrico Code, there is nothing that states a maximum number, so that's a  
765 concern.  
766  
767 Ms. Dwyer - What we've been talking about, the maximum of  
768 perhaps five animals, that would include the three that she already has. It  
769 wouldn't be the three plus the six.  
770  
771 Ms. Newton - No, no, no. I know that.  
772  
773 Ms. Dwyer - Okay.  
774  
775 Ms. Newton - But see, she has three now; she's already had a  
776 fourth for a month before she's been approved for that. So that's a concern.  
777 There are neighbors that do complain. I have a voice mail of a neighbor who  
778 opposes this, an immediate neighbor. We just don't want this precedent set in  
779 our neighborhood.  
780  
781 Mr. Wright - It isn't a matter that she's added on because I have  
782 her application here which says she would like to have up to six animals. She  
783 started with that.  
784  
785 Ms. Newton - Right.  
786  
787 Mr. Wright - Another point I would like to make, we consider these  
788 cases on a case-by-case basis. There is no precedent as such. We have to  
789 explore how it's going to impact the neighborhood, and other neighbors and all  
790 this on every case. So just because we would grant this one would not mean we  
791 would grant another one if the situation were such that we shouldn't do it.  
792  
793 Ms. Dwyer - The other issue is when I think people hear the term  
794 *kennel*, they're concerned that it might be some sort of a business, and that's not  
795 permitted by this.  
796  
797 Ms. Newton - Correct.  
798  
799 Ms. Dwyer - Okay. Just wanted to be clear on that point.  
800  
801 Ms. Newton - Correct.  
802  
803 Ms. Dwyer - Okay.  
804  
805 Ms. Newton - We just think that especially the lot and everything  
806 versus the size of the animals that it's a problem.  
807  
808 Ms. Harris - Ms. Newton you said *unconditional kennel*, but we do  
809 have conditions. You read those and so forth.

810  
811 Ms. Newton - Yes.  
812  
813 Ms. Dwyer - Any other questions of Ms. Newton? Thank you.  
814 Anyone else wish to speak?  
815  
816 Ms. McAuliffe - Hi, I'm Francis McAuliffe. It's M-c-a-u-l-i-f-f-e. I live  
817 on Westek Drive. I just wanted to say that I'm concerned that three dogs—I  
818 mean, I'm not opposed to rescue dogs. I have a rescue dog; I have two animals.  
819 I think it's wonderful. I'm concerned that our neighborhood, the lots are not that  
820 big. We have close access to Deep Run Park. We have numbers of people  
821 walking through the neighborhood with their dogs that do not clean up after their  
822 dogs. We have poo everywhere. I'm not saying that's the problem with Ms.  
823 Jones, but it is a concern in our neighborhood. Added dogs are also a concern.  
824 My other concern is she was already in violation before the appeal with her four  
825 dogs. My concern is down the road will there be another violation.  
826  
827 Ms. Dwyer - Any questions?  
828  
829 Mr. Wright - I could say this. If we grant this and limit it to five—  
830 which would include a cat, four dogs and a cat—and you notice that she had  
831 more, if you would call Mr. Blankinship or whomever, we would see that that was  
832 rectified.  
833  
834 Ms. McAuliffe - I understand.  
835  
836 Mr. Wright - We have a way that we can enforce what we would  
837 do. That's your backup, your safety.  
838  
839 Ms. McAuliffe - Right, right.  
840  
841 Ms. Harris - Ms. McAuliffe, in all fairness to Ms. Jones, it takes a  
842 while to come before our Board. It might take 30 days or more.  
843  
844 Ms. McAuliffe - Right, okay. I understand that. And like I said, I  
845 understand the whole rescue process. But like I also said, I'm concerned that the  
846 lot is that—the property lots, they're not that big.  
847  
848 Mr. Wright - Just to follow up on that, this application was filed on  
849 October the 7<sup>th</sup>.  
850  
851 Ms. McAuliffe - Okay. Thank you.  
852  
853 Ms. Harris - What are the dimensions of your lots, sort of an  
854 average?  
855

856 Ms. Jones - [Talking off microphone; inaudible.]  
857  
858 Ms. Dwyer - You need to come down to the podium please; thank  
859 you.  
860  
861 Ms. Jones - Cross Key South is a smaller addition to our  
862 neighborhood. Cross Keys is about quarter-acre lots. I believe lots at Cross Key  
863 South are smaller than that. Just as an aside, Cross Key South merged into  
864 Cross Keys years and years and years ago, so I'm not sure why it's still on  
865 record as Cross Key South. It's just a single street.  
866  
867 Mr. Blankinship - I think the subdivision plats still have the separate  
868 titles. You all have one homeowners' association, but on our records, they're still  
869 separate. The zoning is R-3, so the minimum lot size is 11,000 square feet.  
870 They're going to be at least a quarter of an acre each.  
871  
872 Ms. Jones - Can I add something?  
873  
874 Ms. Dwyer - Let's see if there's anyone else. Anyone else want to  
875 speak? Okay, Ms. Jones.  
876  
877 Ms. Jones - It's just that when I sent in the application, I sent in  
878 the fencing dimensions. It's not in my packet; I was hoping you had it. I sent you  
879 two copies. When I had the fence put in way before I got dogs, they, obviously,  
880 had to measure it for pricing. I turned it in. I don't know why it's not in your  
881 packet.  
882  
883 Mr. Blankinship - I remember seeing that in the file, I don't know why  
884 we didn't copy that for you. It's in the file if anyone wants to see it.  
885  
886 Ms. Jones - Yes. It's an odd-shaped lot as you saw, but it's bigger  
887 than many of my neighbors. There are a lot of trees, as you can see from the  
888 other pictures. And there's not actually a ditch in the back; it's flat.  
889  
890 Mr. Wright - How long have you lived there?  
891  
892 Ms. Jones - Since 1995.  
893  
894 Mr. Wright - Did you have dogs when you first moved there?  
895  
896 Ms. Jones - No, I did not.  
897  
898 Mr. Wright - You acquired the dogs since you moved in?  
899  
900 Ms. Jones - Yes.  
901

902 Ms. Dwyer - Ms. Jones, this is a conditional use permit and not a  
903 variance. One of the technical issues is that we need to have your agreement  
904 with the conditions.

905  
906 Ms. Jones - Yes.  
907

908 Ms. Dwyer - Just thinking ahead as we discuss this case and  
909 render our decision later in the meeting, it might be that the Board would be  
910 inclined to grant a permit for only four animals. Would that be something  
911 agreeable?  
912

913 Ms. Jones - Like I said, if that is the limit, that's more than I have  
914 now, so yes. As you know, the application and the foster happened at the same  
915 time. Even though I talked to one of the volunteers and they said that Henrico  
916 does not consider a foster an actual owned animal, I just wanted to be sure I was  
917 on the up and up when I took him in.  
918

919 Ms. Dwyer - We should note, then, if we decided to grant this that  
920 the animal limit under the conditions would include foster or rescue animals.  
921

922 Mr. Wright - Would include what?  
923

924 Ms. Dwyer - The rescue or foster animals. All right, any other  
925 questions for Ms. Jones? Thank you Ms. Jones; that concludes the case.  
926

927 **DECISION**  
928

929 Mr. Wright - I move we approve this application. I would like to  
930 have the conditions read, "four dogs and one cat." The reason is because I think  
931 cats are unseen. I think four dogs would be sufficient.  
932

933 Ms. Dwyer - One in addition to what is already allowed.  
934

935 Mr. Wright - Yes.  
936

937 Ms. Dwyer - Any other changes to conditions?  
938

939 Mr. Wright - We didn't talk about any other changes.  
940

941 Ms. Dwyer - Do I hear a second?  
942

943 Mr. Witte - I second it.  
944

945 Ms. Dwyer - Motion by Mr. Wright, seconded by Mr. Witte. Any  
946 discussion?  
947

948 Ms. Harris - Question. I thought Ms. Jones agreed to five animals,  
949 and I was wondering why we're saying four dogs and one cat.

950  
951 Mr. Wright - The reason I want to do that is I'd like to—Cats really  
952 don't cause any problem. Cats don't bark. At least I haven't heard one bark. If  
953 we said five animals, it could be five dogs, and I'd just like to limit it to four dogs.

954  
955 Ms. Harris - And those dogs are sort of large. That was the only  
956 question.

957  
958 Mr. Witte - Yes, I think the cat minimizes the impact. When I  
959 stopped in front of the property the other day when I rode by, I noticed that there  
960 was a big black dog. He or she came up to the fence, but didn't make any noise.  
961 The property was very well maintained. It is heavily wooded in the back yard, so  
962 I think the impact would be minimal by one more dog.

963  
964 Ms. Dwyer - I was impressed by the statement made by Ms. Jones  
965 by her tenants of responsible dog ownership. It appears that the dogs are not  
966 being a nuisance at the present time, that she is very conscientious. The dogs  
967 are very well cared for. The motivation for the extra dog is to rehabilitate rescue  
968 dogs and socialize them. So, it appears that there probably will not always be  
969 that many dogs, that they will kind of come and go as there is a need. And it's  
970 certainly a community service that she's providing. From the presentation she  
971 made today, I think I have an assurance that these animals are very well cared  
972 for, and that she's very conscious about exercising them and doesn't leave them  
973 outside unattended for long periods of time.

974  
975 Mr. Wright - I agree with that. I think if we limit it to four dogs, that  
976 gives her an opportunity to rescue one dog at a time rather than two.

977  
978 Ms. Dwyer - Any other discussion? We have a motion by Mr.  
979 Wright, seconded by Mr. Witte. All in favor say aye. All opposed say no. The  
980 ayes have it; the motion passes.

981  
982 That includes the change to Condition 1, which is part of your motion, Mr. Wright.

983  
984 Mr. Wright - Right, it was.

985  
986 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
987 Mr. Witte, the Board **approved** application **UP-018-09, Teresa Jones'** request  
988 for a conditional use permit pursuant to Section 24-12(e) to allow a  
989 noncommercial kennel at 10810 Branberry Lane (Cross Keys South) (Parcel  
990 747-755-1040), zoned R-3, One-family Residence District (Three Chopt). The  
991 Board approved the conditional use permit subject to the following conditions:  
992

- 993 1. [AMENDED] This approval is only for no more than four dogs and one cat at  
 994 any time. This approval is not for the boarding or breeding of dogs.  
 995  
 996 2. The perimeter of the side and rear yard shall be fenced, and there shall be no  
 997 outdoor pens or enclosures on the property.  
 998  
 999 3. All animals shall be kept indoors except when supervised by the applicant.  
 1000  
 1001 4. The applicant shall maintain the property so that noise and odors are  
 1002 controlled.  
 1003  
 1004

1005	Affirmative:	Dwyer, Harris, Witte, Wright	4
1006	Negative:		0
1007	Absent:	Nunnally	1
1008			
1009			

1010 **UP-019-09**                                 **HERBERT DAVIS** requests a conditional use permit  
 1011 pursuant to Section 24-12(e) to allow a noncommercial kennel at 5001  
 1012 Sandpiper Drive (Meadowood) (Parcel 792-743-0773), zoned R-2A, One-family  
 1013 Residence District (Fairfield).  
 1014

1015 Mr. Blankinship -                         Madam Chair, let me again call your attention to the  
 1016 three e-mail memoranda that were left on the table. And let me give you a copy  
 1017 of this.  
 1018

1019 Ms. Dwyer -                                 Thank you, Mr. Blankinship. All those who are  
 1020 interested in speaking to this case, even if you're not sure if you're going to  
 1021 speak, please stand to be sworn.  
 1022

1023 Mr. Blankinship -                         Raise your right hand. Do you swear the testimony  
 1024 you're about to give is the truth and nothing but the truth so help you God?  
 1025

1026 Mr. Davis -                                 I do.  
 1027

1028 Ms. Dwyer -                                 I assume you're the applicant.  
 1029

1030 Mr. Davis -                                 Yes. My name is Herbert Davis. Last name D-a-v-i-s.  
 1031 I live at 5001 Sandpiper Drive. I'm asking for a conditional use permit for seven  
 1032 beagles. I have seven beagles that I use for my own purpose, with my grandkids,  
 1033 and with friends and family to hunt, rabbit hunt. All seven of these dogs are from  
 1034 7 to 11 months. They are under the 13-inch class, which means they are small  
 1035 beagles. What I do, my dogs are well-trained. I haven't had any complaints from  
 1036 any of my neighbors about my dogs. I have two kennels, 10 by 10 kennels, and I  
 1037 have an A-shaped frame on each one of them. Then because of the rain,  
 1038 sometimes my dogs would get wet and I didn't like that. So, I had a shed built—

1039 which you can probably see overtop of both kennels—so that they can be nice  
1040 and dry, and it will be pleasant for them to live.

1041  
1042 From November to the end of February when we are hunting with them, they get  
1043 plenty of exercise. Like the lady said, they don't bark because they are tired from  
1044 plenty of exercise. During the spring and the summer, I take three dogs out at a  
1045 time and walk them in the yard before we feed them. And then sometimes I take  
1046 them across street, which I have a wooded area over there. And I take all seven  
1047 dogs over there at a time. They do not go on anybody else's property other than  
1048 the woods there because that's the way I have them trained. I train them with a  
1049 tone, which is a beeper. I don't have to put the beeper on them. And then my  
1050 neighbor in front of me, she has a home business there; the people come out  
1051 and want to pet them and play with them.

1052  
1053 Before I applied for this permit, I went to my backdoor neighbor; I went to both of  
1054 my neighbors to the right. I went to three of my neighbors in front of me. They all  
1055 supported and encouraged me to apply for this. I wasn't going to apply for it at  
1056 first because Mr. Nick Georges came and told me I needed a conditional use  
1057 permit for more than three dogs. I was not going to apply for it until my neighbors  
1058 approved. All of them supported me. That's the reason that I'm here. They're all  
1059 happy that I have the dogs. They come down. My next door neighbor, her  
1060 grandkids, when they come in town they play with my dogs.

1061  
1062 Yes, my dogs have barked at night; I have to admit that. I think on three  
1063 occasions. And when they bark, my wife gets up or I get up and we go. And the  
1064 reason why that these dogs bark is because right on the corner there on Lark  
1065 Drive, people come there at night and park and do any other activity. And they  
1066 make us aware of it. I get up, put on my pants, and go out there, cut my lights  
1067 on, and then they take off. On a couple of occasions, they have barked and we  
1068 caught people running from 5003 through our yard. Now, that's the only times  
1069 that my dogs barked at night. If anybody has complained about it, the dogs were  
1070 barking to make us aware and protect our property. That's what beagles will do.

1071  
1072 When I had my little house built out there, before I had it built, I called Henrico.  
1073 They said anything less than 150 square feet you don't need a building permit.  
1074 To be honest, I did not call on the shed because I talked to the man that was  
1075 helping me build them. He was a contractor, but he built sheds and things. He  
1076 said if it doesn't have sides on it, you don't have to get a building permit. But then  
1077 I called up here and found out that I still should have gotten one because it was  
1078 more than 150 square feet. That's what was told to me, so I have to admit to  
1079 that.

1080  
1081 I received an e-mail from Mr. Blankinship late last night that the community  
1082 association was opposed to this. Then this morning, I got up, went to my  
1083 neighbors. I talked the one at 5003 because she came in from doing her  
1084 exercise. She said, "Mr. Davis, I didn't go to the meeting the other day, but I



1085 supported you, I told you to do it.” She said, “You know I have a dog. The only  
1086 time I hear your dog bark is when my big dog gets out and comes there to visit  
1087 your dogs. That’s when I know that my dog is out.” Then I went to my neighbors  
1088 in front of me. They gave me their name and said that, “Mr. Davis, if I would have  
1089 known about this, we would have written a letter”—they couldn’t come because  
1090 they were working—“to support you.” I have to admit that down on Lark Drive,  
1091 there is a lady down there that has a beagle. I have to admit that it is a loud-  
1092 mouth beagle. I talked to her and she said, “I think they’re getting my dog mixed  
1093 up with yours.” When her dogs get out, all of the people in the neighborhood,  
1094 they come to my house with the dog in their arms, thinking it’s my dog. My dogs  
1095 are in a fence and it’s locked.

1096  
1097 At this time, I’m just asking that we can continue to keep my beagles because I  
1098 use them for my recreation and for my grandkids. I also use the word *ministry*  
1099 because I take elderly people hunting with me. When I kill, I eat the rabbit, I give  
1100 it to different people that said they thought they’d never have rabbit. That’s what I  
1101 do and that’s why I’m asking you. If I have to put a complete privacy fence  
1102 around my kennels, if that’s what it comes to, I will do that. It will stop them from  
1103 seeing people, but they also would not be able to warn us when people come on  
1104 our property. That’s the problem that we have by living on the corner there in the  
1105 woods. Last year when I took my dogs out—you know, year before last—hunting  
1106 and I let them go across the road—I keep my pens nice and clean; I keep them  
1107 odor free because I put some chemicals down for them—not while the dogs are  
1108 in there but when we take them out. When I take them across the road and  
1109 they—I saw one of the dogs sniffing and I found a lady’s purse that was stolen  
1110 out in the county and they had thrown it over there. So I called the man and he  
1111 came and got it. So, my dogs are assets to not only me, but to my neighbors.  
1112 They admit that when my dogs bark, they know that there is something going on  
1113 there that shouldn’t be. That’s why I’m asking you for this permit.

1114  
1115 Ms. Dwyer - Any questions of Mr. Davis by Board members?  
1116  
1117 Ms. Harris - Yes, I have several. Mr. Davis, how long have you  
1118 lived at 5001 Sandpiper?  
1119  
1120 Mr. Davis - I think it was 26 years.  
1121  
1122 Ms. Harris - And how long have you had your dogs?  
1123  
1124 Mr. Davis - I’ve had my dogs for I think it was like four years. I  
1125 had like three and four. And what happened, to be honest with you, I was very  
1126 scared of dogs until six years ago when my mother passed away. Everybody was  
1127 surprised that that fear for dogs left. My wife and I decided one day that I wanted  
1128 to continue hunting and I wanted my own dogs. Now I’ve become attached to  
1129 them, and my family’s become attached to them. And so I had the dogs for I  
1130 think it was—My mother’s been dead I think five or six years.

1131  
1132 Ms. Harris - You mentioned that you did go to some of your  
1133 neighbors to seek their approval. Do you have that written down? Did they give  
1134 you any type of—  
1135  
1136 Mr. Davis - No, no. They did not give me anything. They had told  
1137 me—they gave me their phone number and name, a couple of them did this  
1138 morning. They didn't know that I was going to need it. They said to me if I need  
1139 it, they will write it out. They couldn't be here this morning to support me.  
1140  
1141 Ms. Harris - I think you do need it because we have at least three  
1142 letters opposing this.  
1143  
1144 Mr. Davis - Okay.  
1145  
1146 Ms. Harris - Why didn't you go to your neighborhood association?  
1147  
1148 Mr. Davis - Because I had custody of my grandson. This Tuesday  
1149 night, he sang with the Richmond Boys' Choir, and we had a parent meeting  
1150 there that night he had to practice. That's why I didn't make it to this.  
1151  
1152 Ms. Harris - Would you consider reducing the number of dogs?  
1153  
1154 Mr. Davis - Yes, I would, to be very honest with you. If it came  
1155 down to that, I would.  
1156  
1157 Ms. Harris - How many?  
1158  
1159 Mr. Davis - I would like to have at least have five because to run  
1160 the rabbits they pack together.  
1161  
1162 Mr. Wright - How old are there dogs, Mr. Davis?  
1163  
1164 Mr. Davis - The oldest dog that I have there is five years old, and  
1165 the youngest one has just turned a year old.  
1166  
1167 Mr. Wright - I was wondering how you happened to come to have  
1168 seven. That's a lot of dogs.  
1169  
1170 Mr. Davis - When hunting, they got into the habit of when they're  
1171 running the rabbit, when they lose the rabbit and come to a check, the more  
1172 dogs you have will help pick the scent back up. And at first, I only had two and  
1173 then it went up. That's how I just came up with seven. Just a nice number for  
1174 when you're out there looking for the rabbits, you know.  
1175  
1176 Mr. Wright - The size of these dogs.

1177  
1178 Mr. Davis - What size are they? They are 12 inches tall. They're  
1179 under the 13-inch title. These are registered dogs that I have papers for. They  
1180 are 12 inches. I only have the small dogs. I had the opportunity to get some  
1181 large beagles, but I refused them. I wanted small dogs because I know the space  
1182 that I have.  
1183  
1184 Mr. Wright - They won't grow any larger?  
1185  
1186 Mr. Davis - Oh, no, no. They are full grown. Some of them are  
1187 even 11 inches, but they are all under 13 inches. They call it the 13 inch class.  
1188  
1189 Ms. Dwyer - Mr. Davis, when you run the dogs, where do you run  
1190 them, in the woods?  
1191  
1192 Mr. Davis - During hunting season, I travel all over the state  
1193 hunting. But after hunting season, I take them across the street, plus that's just  
1194 for maybe about 15 to 20 minutes. But I have a place in Caroline County and  
1195 also in Hanover County. A friend of mine has land up there. If I don't take them,  
1196 my brother will take them two to three times a week to exercise them. That's  
1197 where we take them.  
1198  
1199 Ms. Dwyer - Who owns the property where you take them?  
1200  
1201 Mr. Davis - Tyrice Holms up in Caroline County.  
1202  
1203 Ms. Dwyer - I mean in this neighborhood.  
1204  
1205 Mr. Davis - Oh, across the street. My neighbor owns part of it  
1206 and the other is from the cemetery. I think it's about 40 yards in the woods, and  
1207 then there's a creek and you go up the hill. There's a cemetery over there that  
1208 owns all of that property.  
1209  
1210 Mr. Wright - So it's not built upon, no house or—  
1211  
1212 Mr. Davis - Oh, no, no. All down through there—That's why there  
1213 are deer and everything in there.  
1214  
1215 Mr. Wright - All wooded.  
1216  
1217 Mr. Davis - Yes.  
1218  
1219 Ms. Dwyer - One of the conditions says that you have to get a  
1220 building permit for the shed?  
1221  
1222 Mr. Davis - Yes.

1223  
1224 Ms. Dwyer - Since it's on an easement. There may be some other  
1225 issues with it. You might have to move all of that.  
1226  
1227 Mr. Davis - Okay.  
1228  
1229 Ms. Dwyer - Are you prepared to do that?  
1230  
1231 Mr. Davis - Yes. The shed is just sitting on block anyway. The  
1232 shed is not in the ground. The house is sitting on cinderblocks. We just had it  
1233 brought in and moved it there. But the shed, there are six posts in the ground,  
1234 that we put in the ground for that to cover the dogs.  
1235  
1236 Mr. Wright - It looks like from our information that those sheds are  
1237 really to the back of the houses that are around you.  
1238  
1239 Mr. Davis - Yes, it is.  
1240  
1241 Mr. Wright - What is that, Flicker Drive?  
1242  
1243 Mr. Davis - Yes, that's the word.  
1244  
1245 Mr. Wright - This would be behind that house. The one on  
1246 Sandpiper, it would be to the back and on the back side of it.  
1247  
1248 Mr. Davis - Yes, it is. Everything is to the back there.  
1249  
1250 Ms. Dwyer - Have you seen the e-mails that we've received in  
1251 opposition to this?  
1252  
1253 Mr. Davis - No. I only read one of them from the community.  
1254  
1255 Ms. Dwyer - I wonder if you could comment. One e-mail states  
1256 that they're opposed to the kennel in part because the dogs are a nuisance  
1257 because they bark day and night, and every time anything comes close to the  
1258 kennel.  
1259  
1260 Mr. Davis - Every time what?  
1261  
1262 Ms. Dwyer - Anything comes close to the kennel.  
1263  
1264 Mr. Davis - Well, that's what I said. At night when they bark, it is  
1265 because some activity is going on there. During the day when they bark, they  
1266 bark when I come out there to feed them. I only have like one or two—one of  
1267 them that barks, the puppy that I'm training. I'm in and out most of the day.  
1268 When I go on vacation, we leave—my brother comes down to clean the pen and

1269 feed them. If we're gone for a long period of time, we move the dogs off the  
1270 premises. I have someone else to house my dogs for me.

1271

1272 Ms. Dwyer - Another one also complains about the barks, saying  
1273 they often wake neighbors barking. Have you received complaints?

1274

1275 Mr. Davis - I've never seen any complains since I've had the  
1276 dogs. All my neighbors in the back and on the side, they assured me this  
1277 morning that they were okay. I don't know where. I know when I went to the  
1278 meeting some time ago, other people had dogs that were barking, and big dogs.  
1279 No one indicated that to me. I never received any complaints whatsoever. Like I  
1280 said, during hunting season, I don't have any problems with them. After hunting  
1281 season, we keep them exercised.

1282

1283 Ms. Harris - Mr. Davis, you indicated if it were required, you would  
1284 fence your yard in.

1285

1286 Mr. Davis - Yes, I would fence my yard, or either just maybe a  
1287 private fence around the kennel itself.

1288

1289 Ms. Harris - Are there guidelines with your neighborhood  
1290 association regarding fencing?

1291

1292 Mr. Davis - I don't know; I will have to check into that.

1293

1294 Ms. Dwyer - All right, are there any other questions for Mr. Davis?  
1295 Thank you, sir. You'll have an opportunity to speak again after everyone else  
1296 has spoken, if you choose to do that. Anyone else to speak in favor of this case  
1297 please come forward.

1298

1299 Mr. Clinton Davis - Good morning. My name is Clinton Davis. I'm Herb  
1300 Davis' brother. Having the dogs is therapy for me and for him. I also assist him  
1301 in keeping the dog pen clean and checking on the dogs. When he's not there,  
1302 I'm there. I just go down there and sit and talk to the dogs. I've become very  
1303 fond of the little puppies. I'd like to have the dogs just for fellowship and  
1304 friendship. I've come to be very fond of them, just like therapy. When I'm off, I  
1305 go down and visit them, and just help keep the dogs clean. And we have fun  
1306 hunting. That's my relaxation time, just hunting when I'm not working. So I've  
1307 come to be very attached to the dogs. I try to assist him in any aspect. So when  
1308 the gentleman came by that day, I was in the yard just checking on the dogs,  
1309 giving them water. I have keys and access to anything on his property. So the  
1310 dogs are well taken care of. When he's not there, I'm there all the time. I just  
1311 hope that you will let us keep the dogs we already have because you get  
1312 attached to them. Once you get attached to them, you hate to let them go.  
1313 Thank you for your time.

1314

1315 Mr. Wright - Where do you live, sir?  
1316  
1317 Mr. Clinton Davis - Just right through the woods, the next subdivision  
1318 over.  
1319  
1320 Mr. Wright - Oh, you're in the same neighborhood?  
1321  
1322 Mr. Clinton Davis - Yes.  
1323  
1324 Mr. Wright - You live in the same neighborhood.  
1325  
1326 Mr. Clinton Davis - Yes.  
1327  
1328 Mr. Wright - Do you have any dogs at your house?  
1329  
1330 Mr. Clinton Davis - No. I would like to have some dogs; I'm trying to  
1331 convince my wife.  
1332  
1333 Mr. Wright - Could you maybe take a couple of his dogs?  
1334  
1335 Mr. Clinton Davis - I have to sweet-talk my wife a little bit.  
1336  
1337 Mr. Wright - Yes, but they're so small she wouldn't know the  
1338 difference.  
1339  
1340 Ms. Harris - Mr. Davis, were you aware that there is maximum  
1341 number required by the County of Henrico as to how many?  
1342  
1343 Mr. Clinton Davis - I've just been informed that there is.  
1344  
1345 Ms. Harris - When did you find out?  
1346  
1347 Mr. Clinton Davis - Since he informed me.  
1348  
1349 Ms. Harris - So, recently?  
1350  
1351 Mr. Clinton Davis - Yes. See, the dogs work better when you have them  
1352 altogether rather than separating them. We have found that out. They get  
1353 attached, they bond together when you keep all seven of them together. When  
1354 you separate them, there's a problem.  
1355  
1356 Ms. Harris - There's a problem in Henrico when you keep them  
1357 altogether.  
1358  
1359 Mr. Clinton Davis - True.  
1360

1361 Ms. Dwyer - Any other questions for Mr. Davis? Thank you, sir.  
1362  
1363 Mr. Clinton Davis - Thank you.  
1364  
1365 Ms. Dwyer - Do we have opposition? Mr. Blankinship, do we have  
1366 County folks? Would anyone from the Board like to speak to a County  
1367 representative?  
1368  
1369 Mr. Blankinship - They came all this way.  
1370  
1371 Mr. Georges - My name is Nick Georges. I'm with Community  
1372 Maintenance. I'm an inspector for the area. How this came about was that it was  
1373 brought to my attention of a possible zoning violation on the property. I went by  
1374 there, and being that it was a corner lot, I could visibly see it from the street. The  
1375 day that I went by there, Mr. Davis was sitting out front and I approached him. He  
1376 said, "Oh yes, I have dogs in the back," and he took me back there and showed  
1377 it to me. He allowed me to take photos of the animals. I presented him with a  
1378 card and a brochure, and explained to him the process. That day he said he  
1379 would take care of calling to get the right conditions, or permits, or what he  
1380 needed. He's always been in contact with me. I've never had to write a violation.  
1381 The day I was there, and stood in front of the kennels, and took the picture, the  
1382 dogs did not even back. They jumped up on the cage, but they did not bark.  
1383 Everything I observed from the care of the animals and everything, they're in  
1384 good—the cages do not smell; you didn't get any of that. Other than just being  
1385 able to see it from the roadway, that was all. He's been very cooperative with me  
1386 and everything.  
1387  
1388 Mr. Wright - Could we see the pictures?  
1389  
1390 Mr. Georges - Yes sir.  
1391  
1392 Ms. Harris - Mr. Blankinship, even though we know each case is  
1393 judged on its own merit, when we've had cases like this before, do you  
1394 remember, or does anyone on the Board remember, how many animals we  
1395 limited the resident to?  
1396  
1397 Mr. Blankinship - It does depend on the specifics. In some cases,  
1398 people come to us already owning or having owned for years more than the  
1399 number of animals, and they have no desire to ever acquire any more, and the  
1400 Board will put a condition on those permits that as those animals run away or  
1401 whatever else happens to them, they can't be replaced, bringing it down to three.  
1402 But normally they're in the range of 5, 6, or 7. I can't remember a case of more  
1403 than say 10.  
1404  
1405 Ms. Harris - In this case, these dogs cannot be replaced.  
1406

1407 Mr. Blankinship - Did we put that in the condition? We often do. We  
1408 didn't, of course, in the Jones' case because she specifically wanted to be able  
1409 to rescue.  
1410  
1411 Ms. Dwyer - No, we didn't put it in there.  
1412  
1413 Ms. Harris - Let's look at Condition 1.  
1414  
1415 Mr. Blankinship - Yes, it's only for those seven dogs.  
1416  
1417 Ms. Dwyer - You could interpret it that way.  
1418  
1419 Mr. Wright - Sounds like to me, though, that he would like to be  
1420 able to have dogs. If this one goes, he'd want to get another one. He's looking  
1421 for dogs to help with hunting and so forth.  
1422  
1423 Mr. Blankinship - Possibly.  
1424  
1425 Ms. Harris - Then we probably need to change Condition 1  
1426 because it says, "presently owned by the applicant."  
1427  
1428 Mr. Wright - Yes. We'll need to talk to him about that when he  
1429 comes back up.  
1430  
1431 Mr. Blankinship - Seven animals.  
1432  
1433 Ms. Dwyer - All right. Anything else you would like to add? Any  
1434 question for Mr. Georges? So, the whole time you were there, you never heard a  
1435 dog bark?  
1436  
1437 Mr. Georges - No ma'am.  
1438  
1439 Ms. Dwyer - But one of them is barking in the picture.  
1440  
1441 Mr. Georges - It may look like it, but he was not.  
1442  
1443 Ms. Dwyer - Head raised and his mouth open.  
1444  
1445 Mr. Georges - Okay. Well, he wasn't. I took a picture and maybe as I  
1446 walked away he did; I don't know. I didn't hear him. I've ridden by there. I go  
1447 through that neighborhood several times during the week, checking on other  
1448 violations in the neighborhood. I usually ride with my window down. He's right at  
1449 the corner, so you have to stop at the stop sign. I've been down to the dead end  
1450 and stopped, and have sat there to update my computer or whatever, and I've  
1451 never heard the animals—any dog barking while I was there during the day. I  
1452 can't attest to what happens in the evenings or after hours. But I know during the



1453 day, the few times I have been down there, I haven't. I just received a possible  
1454 complaint about a zoning violation; it wasn't dogs barking or anything.

1455  
1456 Ms. Dwyer - Thank you. Any other questions for Mr. Georges? I  
1457 appreciate you coming; thank you. All right. Mr. Davis, do you have any follow-  
1458 up comments you'd like to make? We have some questions for you.

1459  
1460 Mr. Wright - Mr. Davis, the present condition, if this were  
1461 approved, says that you could have only the seven beagle dogs presently  
1462 owned. That means if they die off, you wouldn't be able to replace them with  
1463 dogs. What is your intent? Would you like to have a permit to have so many  
1464 dogs?

1465  
1466  
1467 Mr. Davis - To be honest with you, I would like to have a permit to  
1468 have seven dogs. As the lady said before, would I be willing to take five? Sure, I  
1469 would be willing to have five.

1470  
1471 Mr. Wright - But, I mean, you would like to—

1472  
1473 Mr. Davis - I would like to replace them because one of my  
1474 dogs—to be honest with you—I went out there one day and he had expired. It  
1475 was on Good Friday, matter of fact. We kept the dog, hoping that Easter Sunday  
1476 he was going to rise up. But yes, we would love to keep seven dogs at all times.  
1477 Small dogs. I do not like large dogs. They have to be under the 13 inch class. If  
1478 they don't do what I want them to do, I move them on. I have a place, someone  
1479 in my hometown, which is Halifax, that I pass them on to. If they're noisy, if they  
1480 bark too much, I pass them on because I'm considering my neighbors. That's  
1481 one reason that, like I say, I talked to my neighbors right beside me and behind  
1482 me.

1483  
1484 Mr. Wright - This condition, you have to maintain the property so  
1485 noise and odors are controlled.

1486  
1487 Mr. Davis - Right. I disinfect my pen two to three times a week,  
1488 or as needed. When my neighbor has a function, like I say, the family, they  
1489 come over and the kids play with them. I've never had any complaint.

1490  
1491 Mr. Wright - But you have testified that if we limited it to five, you  
1492 would, of course, go along with that.

1493  
1494 Mr. Davis - Sure I will. Sure. But I would like to have six or seven.  
1495 But seven would be the maximum that I would want because I'm aware of the  
1496 space that I have. And that's why I wanted small dogs there.

1497

1498 Mr. Wright - How about the type of dog? This condition says  
1499 beagle dogs. Is that all you want?  
1500  
1501 Mr. Davis - That's all I want; I don't like large dogs.  
1502  
1503 Ms. Dwyer - Under 13 inch class.  
1504  
1505 Mr. Davis - Those are the small ones. You have some beagles—  
1506 those are the small ones that I'm asking for.  
1507  
1508 Ms. Dwyer - Mr. Davis, would it be fair to say that if it were this  
1509 Boards' preference, you would be willing to accept any limit over the County limit  
1510 of three.  
1511  
1512 Mr. Davis - Yes.  
1513  
1514 Ms. Dwyer - In terms of fencing, you would agree to put a fence in  
1515 your yard?  
1516  
1517 Mr. Davis - Yes, fence in the yard, or either fence in the kennel,  
1518 or whatever it would take for me to keep the dogs. I just couldn't go out here and  
1519 do it within the next two weeks, you know. I will have to have some time and the  
1520 type of fencing that I would want to put there to keep my—All of my stuff is  
1521 uniform; my house and the shed and everything matches. I would like to have  
1522 something—I live on a corner property and I want to have it—I have my flower  
1523 garden there. I would like to have something that would coincide with everything.  
1524 Okay?  
1525  
1526 Ms. Harris - Mr. Davis, let me ask you this. Since we don't know  
1527 what the homeowners' association's requirements are, have you noticed any  
1528 fencing of any property in your neighborhood?  
1529  
1530 Mr. Davis - Yes. Several of them have just the regular wire  
1531 fences. Some of them have the board, just the brown fencing that they buy from  
1532 Lowe's that is not painted or anything like that. If I would do something, I would  
1533 do a painted fence or something nice because I live on the corner lot there.  
1534  
1535 Ms. Harris - In other words, you're saying this fencing would be  
1536 allowed in your subdivision.  
1537  
1538 Mr. Davis - Yes.  
1539  
1540 Ms. Dwyer - All right, thank you, sir. That closes the case.  
1541  
1542  
1543

1544 **DECISION**

1545  
1546 Ms. Harris - I move that we approve this case with the exception  
1547 in the condition of five beagle dogs, deleting the words "presently owned by the  
1548 applicant," and these will be the beagle dogs 13-inch and below. Also add a  
1549 condition 4 that the applicant will fence in the yard.

1550  
1551 Ms. Dwyer - A second?

1552  
1553 Mr. Wright - I would second it except that I don't see the need for  
1554 fencing in the yard. Looks like to me, the way they're maintained, and when he  
1555 takes them, he takes them under control and exercises them either there or  
1556 somewhere else. I don't know. That's just my thought.

1557  
1558 Mr. Witte - I'd actually like to see him keep the seven dogs. From  
1559 my visit down there, the dogs didn't bark when I walked down the road.  
1560 Exceptionally well maintained, the house and the kennels. There was no odor,  
1561 no noise. Since he's had these dogs, there have been no complaints.

1562  
1563 Mr. Wright - How do you feel about the fence?

1564  
1565 Mr. Witte - I don't see the need for the fence. That's my  
1566 personal opinion. That was from my visit.

1567  
1568 Mr. Wright - I withdraw my second.

1569  
1570 Mr. Blankinship - You said you would second it except.

1571  
1572 Ms. Dwyer - You said, "I might second it." All right. Do we have an  
1573 alternative motion?

1574  
1575 Mr. Witte - I make a motion that we approve it as submitted.  
1576 Like I said, my visit down there, the place is impeccable. The dogs were well  
1577 behaved. They noticed me, and they came up against the fence, but not a single  
1578 bark.

1579  
1580 Mr. Wright - Do you want to change the condition to say, "seven  
1581 beagle dogs," rather than, "the ones he presently owns," so he can continue to  
1582 have seven dogs?

1583  
1584 Mr. Witte - He can have seven beagle dogs under 13-inch class.

1585  
1586 Mr. Blankinship - Under 13-inch class.

1587  
1588 Mr. Wright - But the present condition says, "the ones he presently  
1589 owns." You want to change that.

1590  
1591 Mr. Witte - Yes, yes, I do. I think he has a really good working  
1592 system there with these dogs—four in one kennel; three in the other. They keep  
1593 each other happy, which cuts down on the noise. They're beautiful dogs.  
1594  
1595 Mr. Wright - That would be seven 13-inch class dogs?  
1596  
1597 Mr. Witte - Beagle dogs.  
1598  
1599 Mr. Wright - Under 13 inch class dogs?  
1600  
1601 Mr. Witte - Yes.  
1602  
1603 Mr. Wright - I'll second that motion.  
1604  
1605 Ms. Dwyer - Motion by Mr. Witte to approve the case, but we're  
1606 eliminating "presently owned by the applicant"?  
1607  
1608 Mr. Wright - Right.  
1609  
1610 Ms. Dwyer - And we're adding that they need to be 13-inch-and-  
1611 under beagles. Correct?  
1612  
1613 Mr. Wright - Yes ma'am.  
1614  
1615 Ms. Dwyer - And there's nothing about fencing.  
1616  
1617 Mr. Witte - Nothing about fencing.  
1618  
1619 Ms. Dwyer - So, the motion is seven under-13-inch beagles, and  
1620 that number can be regardless of what happens to the dogs he presently owns.  
1621 Motion by Mr. Witte, seconded by Mr. Wright. All right, discussion.  
1622  
1623 Ms. Harris - I do have a concern because the neighborhood  
1624 association has spoken out, and a neighbor behind him has spoken out. To me,  
1625 we are ignoring them if we allow this to go as the motion is presented. If we said  
1626 five or seven beagle dogs under 13 inches presently owned by the applicant, I  
1627 would think that the neighborhood will feel that at least they are limited to those  
1628 that are presently owned, and they cannot be replaced. I think we would show  
1629 some type of consideration. I know the use permit is granted based on if it does  
1630 not adversely affect the health, safety, or welfare of the community. I think  
1631 health-wise he does meet the standards as far as keeping the cages clean.  
1632 Safety, I would think that this was a plus for the neighborhood to have barking  
1633 dogs if there are people around who should not be around. Welfare, well-being,  
1634 there is sort of a question about that because of some neighbors who must  
1635 work—arrive early to go to work might consider barking dogs a nuisance. So, I

1636 think we need to consider some of the interests of the neighborhood in this  
1637 particular case, let them know that their request to us was not completely  
1638 ignored.

1639

1640 Ms. Dwyer - I agree with you, Ms. Harris. Let me just say first off  
1641 that I have no doubt that the dogs are well cared for and loved; it seems clear  
1642 from the testimony today. So my concern has nothing to do with the way that  
1643 you're caring for the animals; it has to do with the fact that there are seven  
1644 animals in a relatively small area. If this were on a farm or there was some  
1645 acreage, it wouldn't be an issue. But this is a subdivision with a lot that's  
1646 probably a quarter to a third of an acre. You have a lot of very close neighbors.  
1647 We have complaints about barking. We have a neighborhood association which  
1648 voted unanimously requesting that this be denied because of barking. I know  
1649 beagles do bark. It's difficult to control that, particularly if you're not there. I just  
1650 have a concern that there are simply too many animals in too small a space. So,  
1651 I could not vote for the seven in any form. I perhaps could consider five because  
1652 of how well cared for the animals are. I believe that the neighbors who have  
1653 spoken should not be ignored because their complaints are reasonable.

1654

1655 Mr. Wright - I think the neighbor that's behind it wrote this e-mail  
1656 and opposed a kennel. I think people don't understand what's going on here.  
1657 They're thinking about a full-fledged kennel. That neighbor is not here to  
1658 express an opinion one way or other when they understand what the  
1659 circumstances are. I discount that somewhat, the one behind him.

1660

1661 Ms. Dwyer - It is difficult when people don't come because we  
1662 can't question them as to what their—

1663

1664 Mr. Wright - Well, he says, "I oppose the kennel. Should not allow  
1665 a private, non-commercial kennel."

1666

1667 Ms. Harris - If you read on to the neighbor who resides behind his  
1668 property—

1669

1670 Mr. Wright - That's the one I'm talking about.

1671

1672 Ms. Harris - When he talks about not just the memo that said, "I  
1673 opposed the kennel," but the one that talks about the dogs being somewhat of a  
1674 nuisance because of their barking day and night, every time—

1675

1676 Mr. Wright - Well, I don't agree with that. I think the testimony  
1677 that's been here, factual testimony, indicates that they don't bark day and night.  
1678 We've had testimony of the inspector. We have Mr. Witte's testimony. He was  
1679 there. He went up there and they didn't bark.

1680

1681 Ms. Dwyer - We don't have testimony of people who live there  
1682 24/7; we have testimony of people who have dropped in and seen them in very  
1683 limited circumstances. That's my concern.  
1684  
1685 Mr. Witte - What if I amend my motion to seven, but five through  
1686 attrition, so he doesn't have to actually get rid of his dogs?  
1687  
1688 Mr. Wright - Seven now and then limit it?  
1689  
1690 Mr. Witte - He can't replace them.  
1691  
1692 Mr. Wright - Up to five. He could have five.  
1693  
1694 Mr. Witte - Five. I'd hate for him to have to get rid of the dogs  
1695 that he has.  
1696  
1697 Ms. Dwyer - Well, let's keep in mind that he's had these dogs for  
1698 years in violation of the County Code. And not only the number of dogs, but also  
1699 the buildings were built without a building permit. We have a person coming with  
1700 a number of violations before.  
1701  
1702 Mr. Wright - That may be true, but remember, we've had no  
1703 complaints all these years.  
1704  
1705 Ms. Dwyer - The complaints wouldn't come to us anyway. He had  
1706 no use permit, so we wouldn't have received complaints anyway.  
1707  
1708 Mr. Wright - Oh, yes we would. If somebody had an objection to all  
1709 the dogs in there, they would have complained. They would have had reason to  
1710 complain, I would have thought.  
1711  
1712 Ms. Dwyer - They wouldn't come to this Board.  
1713  
1714 Mr. Wright - They would have called the office. How many  
1715 complaints do you get, Ben?  
1716  
1717 Mr. Blankinship - Sherry, do you have a guess on that, the number of  
1718 barking dog complaints? You can just—  
1719  
1720 Sherry Gemmill - [Off Mike]  
1721  
1722 Mr. Blankinship - That is the first one on that location, right. But how  
1723 many do you get in a year of barking dog complaints? Well, complaints regarding  
1724 dogs, kennels, animals.  
1725

1726 Twenty-five to thirty a year, complaints regarding animals that go to Community  
1727 Maintenance.

1728  
1729 Ms. Dwyer - So barking complaints would go to Animal Protection.

1730  
1731 Mr. Blankinship - Right. Barking dogs would go either to Police or  
1732 Animal Protection. If there is a requirement for a kennel, there's a violation there,  
1733 they would involve Community Maintenance.

1734  
1735 Ms. Dwyer - Did you want to revise your motion?

1736  
1737 Mr. Witte - Yes. I'd like to amend my motion to the existing seven  
1738 dogs and through attrition to five dogs, the 13-inch beagles.

1739  
1740 Ms. Harris - I second the motion.

1741  
1742 Ms. Dwyer - Motion by Mr. Witte, seconded by Ms. Harris.

1743  
1744 Mr. Wright - No fence.

1745  
1746 Ms. Dwyer - Just to clarify. This approval is only for seven  
1747 beagles presently owned by the applicant, and through attrition, the owner could  
1748 own a maximum of five.

1749  
1750 Mr. Wright - And they have to be 13-inch.

1751  
1752 Ms. Dwyer - And we're going to add the 13-inch specification. Any  
1753 other clarification on that, Mr. Witte?

1754  
1755 Mr. Witte - No, that's fine. Thank you.

1756  
1757 Ms. Dwyer - Motion by Mr. Witte, seconded by Ms. Harris. All in  
1758 favor say aye. All opposed say no. The ayes have it; the motion passes.

1759  
1760 After an advertised public hearing and on a motion by Mr. Witte, seconded by  
1761 Ms. Harris, the Board **approved** application **UP-019-09, Herbert Davis'** request  
1762 for a conditional use permit pursuant to Section 24-12(e) to allow a  
1763 noncommercial kennel at 5001 Sandpiper Drive (Meadowood) (Parcel 792-743-  
1764 0773), zoned R-2A, One-family Residence District (Fairfield). The Board  
1765 approved the conditional use permit subject to the following conditions:

1766  
1767 1. [AMENDED] This approval is only for the seven Beagle dogs, under 13-inch  
1768 class, presently owned by the applicant. Once the number of dogs has been  
1769 reduced to five, the owner may replace any dogs that are lost, such that he may  
1770 have as many as five Beagle dogs, under 13-inch class, at any time. The  
1771 approval is not for the commercial boarding or breeding of dogs at any time.

1772  
1773 2. The applicant shall maintain the property so that noise and odors are  
1774 controlled.

1775  
1776 3. The applicant shall obtain a building permit for the shed and the attached  
1777 kennel.

1778  
1779  
1780 Affirmative: Harris, Witte, Wright 3  
1781 Negative: Dwyer 1  
1782 Absent: Nunnally 1

1783  
1784

1785 Ms. Dwyer - All right, that takes care of our agenda because the  
1786 next case has been deferred. The next item on the agenda is approval of the  
1787 minutes for the October 22<sup>nd</sup> meeting. Are there any amendments or  
1788 corrections?

1789  
1790 Mr. Wright - I reviewed them and I move we approve them as  
1791 submitted.

1792  
1793 Ms. Harris - Just one correction. On page 28, line 1242. "I don't  
1794 think I believe" is what Mr. Baker said, rather than "I don't thing."

1795  
1796 Ms. Dwyer - Anything else? I'm assuming Mr. Wright has renewed  
1797 his motion to approve the minutes as amended. Do I have a second?

1798  
1799 Ms. Harris - Second.

1800  
1801 Ms. Dwyer - Motion by Mr. Wright, seconded by Ms. Harris to  
1802 approve the minutes as amended. All in favor say aye. All opposed say no. The  
1803 ayes have it; the motion passes.

1804  
1805 On a motion by Mr. Wright seconded by Ms. Harris, the Board **approved as**  
1806 **corrected the Minutes of the October 22, 2009** Henrico County Board of  
1807 Zoning Appeals meeting.

1808  
1809 Affirmative: Dwyer, Harris, Witte, Wright 4  
1810 Negative: 0  
1811 Absent: Nunnally 1

1812  
1813 Ms. Dwyer - Any other business to come before the Board?

1814  
1815 Mr. Witte - Everybody have a happy Thanksgiving.

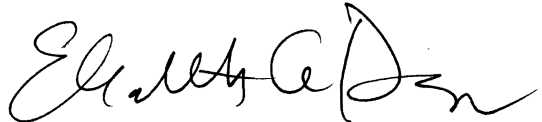
1816  
1817 Mr. Wright - Yes.



1818  
 1819 Ms. Dwyer - Thank you. Motion for adjournment?  
 1820  
 1821 Ms. Harris - So moved.  
 1822  
 1823 Mr. Wright - Second.  
 1824  
 1825 Ms. Dwyer - Motion by Ms. Harris, seconded by Mr. Wright. All in  
 1826 favor say aye. All opposed say no. The ayes have it; the motion passes.  
 1827  
 1828 Affirmative: Dwyer, Harris, Witte, Wright 4  
 1829 Negative: 0  
 1830 Absent: Nunnally 1

1831  
 1832  
 1833 There being no further business, the Board adjourned until the December 17,  
 1834 2009 meeting at 9 a.m.  
 1835  
 1836  
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 1850

  
 Elizabeth G. Dwyer  
 Chairman

  
 Benjamin Blankinship, AICP  
 Secretary

