

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 OCTOBER 28, 2021 AT 9:00 A.M., NOTICE HAVING BEEN**
5 **PUBLISHED IN THE *RICHMOND TIMES-DISPATCH* OCTOBER 11, 2021 AND**
6 **OCTOBER 18, 2021.**

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

14
15 **Also Present:** Benjamin Blankinship, Secretary
16 Paul M. Gidley, County Planner
17 R. Miguel Madrigal, County Planner
18 Michael Morris, County Planner
19 Kuronda Powell, Account Clerk
20

21
22 Mr. Green - It's the Board of Zoning Appeals for Thursday, October 28,
23 2021. For those of you who are able, would you please stand and join us in the Pledge
24 of Allegiance?

25
26 [Recitation of the Pledge of Allegiance]

27
28 Good morning. We have a full complement of our Board, which we normally do, and we
29 thank you for your presence here and we're going to be respectful in listening to your
30 cases. You can hear me? We're going -- okay. We're going to be respectful to speaking
31 up so you can hear us. Is that okay, sir? Okay.

32
33 Before we start Mr. Blankinship will read our rules. But I wanted to note some changes
34 that we have -- that have occurred in the way we proceed. Once we hear your case, we
35 will vote on your case and that way you don't have to wait until the end to see the outcome
36 of your case. So once we vote on your case, you are free to leave unless you want to
37 stay and hear the rest of the cases that are before us. So I will then -- now turn it over to
38 Mr. Blankinship to read our rules.

39
40 Mr. Blankinship - Good morning, Mr. Chair, members of the Board. And good
41 morning to those of you who are in the room with us today. I would also like to welcome
42 everyone who's joining us remotely on Webex. If you wish to observe the meeting but
43 you do not intend to speak, welcome and thank you for joining us.

44
45 For those of you on Webex who wish to speak, we need to know that in advance so that
46 we can connect you at the appropriate time. So if you are an applicant or if you have

47 questions or comments on one of the cases, please press the chat button now. It's
48 located in the bottom-right corner of the screen and when the chat window opens, please
49 select Kristin Smith from the list of participants and let her know your name and which
50 case you are interested in. The chat feature is only being used to identify speakers, so
51 please do not type questions or comments into a chat, but please send a chat to Kristin
52 Smith now.

53
54 So, acting as secretary I will call each case and then we will ask everyone in the room
55 who intends to speak to that case to stand and be sworn in. And then for the conditional
56 use permits and variances, a member of the Planning Department staff will give a brief
57 presentation, and then the applicant will speak, and then anyone else who wishes to
58 speak will be given the opportunity. We'll hear from citizens in the room first and then
59 from those on Webex and after every one has had a chance to speak. The applicant and
60 only the applicant will have an opportunity for rebuttal.

61
62 This meeting is being recorded, so we'll ask everyone who speaks to speak into the
63 microphone on the podium there in the back of the room. Please state your name and
64 please spell your last name so we get it correctly in the record. As the chair mentioned
65 once the case is over, you're free to leave. There's no need for you to stay in the room
66 for the rest of the meeting. And with that, Mr. Chair, would you like me to call the first
67 case?

68
69 Mr. Green - Yes. But just so you -- so the audience know, Mr. Blankinship
70 will read the agenda caption, swear in all speakers, and introduce the staff. So, yes.

71
72 Mr. Blankinship - All right. The first case actually is also a request for a deferral,
73 which is Conditional Use Permit 2021, number 12, Great Richmond Aquatics Partnership.

74
75 **CUP2021-00012 GREATER RICHMOND AQUATICS PARTNERSHIP** requests a
76 conditional use permit pursuant to Section 24-4205 of the County Code to expand a
77 noncommercial recreation facility at 317 N Wilkinson Rd (Parcel 792-753-8870) zoned
78 One-Family Residence District (R-2A) (Fairfield).

79
80 Mr. Blankinship - Is there anyone in the room to state the request for deferral?
81 I don't believe they are on Webex either.

82
83 Oh, I'm sorry. Yes. Would you take the place at the microphone there? Raise your right
84 hand, please. Do you swear the -- do you swear the testimony you're about to give is the
85 truth, the whole truth, and nothing but the truth, so help you God?

86
87 Ms. Bates - I do.

88
89 Mr. Blankinship - Thank you.

90
91 Ms. Bates - Good morning. My name is Joanne Bates. My last name,
92 Bates, is B-a-t-e-s, for the record. I am here representing the applicant, Swim RDA.

93 We're requesting a deferral until the December BZA hearing in order for us to complete
94 our community outreach. We present at the Northern Henrico Civic Association meeting
95 in November.

96
97 After the meeting we will give an update to the staff so that they can include that update
98 in their staff report.

99
100 Mr. Green - Thank you. Is there a motion to defer this case until
101 December?

102
103 Mr. Pollard - Move that we defer this request to allow the applicant to
104 continue to work with the neighbors to resolve their concerns.

105
106 Mr. Green - Is there a second?

107
108 Mr. Reid - I second it.

109
110 Mr. Green - The motion was made by Mr. Pollard, seconded by Mr.
111 Johnson, all in favor say aye.

112
113 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **deferred** case
114 **CUP2021-00012** until the December 16, 2021 Board of Zoning Appeals meeting.

115
116
117 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
118 **Negative:** 0
119 **Absent:** 0

120
121
122 Mr. Green - The motion passes. Your request has been deferred until
123 December. Thank you.

124
125 Ms. Bates - Thank you.

126
127 Mr. Blankinship - All right. The next case is Conditional Use Permit 2021,
128 number 21, Zachary Turner.

129
130 **CUP2021-00021 ZACHARY TURNER** requests a conditional use permit pursuant to
131 Section 24-4430.A of the County Code to allow short-term rental of a guesthouse at 802
132 Brook Hill Circle (BROOK HILL HEIGHTS) (Parcel 787-746-8344) zoned One-Family
133 Residence District (R-3) (Fairfield).

134
135 Mr. Blankinship - Would everyone who intends to speak to this case please
136 stand and be sworn in? Raise your right hands, please. You can just stay right there for
137 that. Do you swear the testimony you are about to give is the truth, the whole truth, and
138 nothing but the truth so help you God?

139
140 Mr. Turner - I do.

141
142 Mr. Blankinship - All right. Thank you. Mr. Madrigal will begin and then you can
143 speak as soon as he's finished.

144
145 Mr. Madrigal - Thank you Mr. Secretary, good morning gentlemen, Mr. Chair,
146 members of the Board. Before you is a request to allow the short-term rental of a guest
147 house in a one-family district. The parcel consists of three lots fronting on a circular street
148 in the Brook Hill Heights Subdivision. The property is improved with a one-story 1,700-
149 square-foot home constructed in 1948.

150
151 Other improvements include a pair of one-story cinderblock detached garages located in
152 the northwest corner of the lot. Those were built in the early '50s. The garage closest to
153 the house is 768-square-feet in area and will remain as a 3-car garage. The second
154 garage farther from house and at the rear corner of the lot is 800-square-feet in area. The
155 applicant purchased the property in July of 2019 as his -- as his primary residence. He
156 intends to convert the 800-square-foot garage into a 1-bedroom guest house with a full
157 bath and a kitchenette to lease as a short-term rental. The proposed use is consistent
158 with the SR-2 land-use designation of the property.

159
160 The parcel is zoned R-3 and it exceeds the minimum lot-area and lot-width requirements
161 for this district. Detached accessory structures are allowed as subordinate structures to
162 a single-family dwelling and are permitted by right when located in the rear yard subject
163 to minimum setback requirements.

164
165 In this instance, the rear corner of the garage appears to be less than three feet to the
166 northern property line. Since both structures pre-date the 1960 ordinance and were
167 legally built, they are legal nonconforming. Because of the varying zoning designations
168 surrounding this small neighborhood and the variety of lot sizes and widths, staff does not
169 anticipate any significant issues with the proposed use.

170
171 The subject parcel fronts on a circular street and has over 380 feet of public street
172 frontage. There is abundant on-site parking and the northern half of the lot is moderately
173 wooded providing substantial screening from the street. Since both garages are located
174 to the rear of the lot, they are mostly visible from their respective driveways. The
175 proposed conversion of garage to a guest house is permitted by code and using it for a
176 short-term rental requires the approval of a CUP.

177
178 The short-term rental use would not be out of character with the surrounding uses due to
179 the range of lot sizes and the distances to other homes. The closest home to the
180 proposed use is approximately 60 feet to the northeast and the second closest home is
181 120 feet to the west.

183 The guest house would be to the rear of both of these dwellings. In order to preserve the
184 privacy and minimize any detrimental impacts, staff recommends the installation of a 6-
185 foot-tall privacy fence for a length of 50 feet along the northern and western property lines.
186

187 In conclusion, the proposed use is consistent with both the zoning and comprehensive
188 plan designations on the property. The site is of sufficient size and the existing vegetation
189 of the northern half of the lot will provide screening of the proposed use. The conversion
190 of the garage to a guest house is allowed by code and there is adequate space for on-
191 site parking and the closest homes impacted by the use are between 60 and 120 feet
192 away.
193

194 As long as the applicant adheres to the suggested conditions of approval, staff does not
195 anticipate any detrimental impacts. Based on these facts, staff recommends approval of
196 this request subject to conditions. This concludes my presentation and I'll be happy to
197 answer any questions.
198

199 Mr. Green - Are there any questions from the Board members to staff?
200 Hearing none, we will now hear from the applicant.
201

202 Mr. Turner - Thank you. Yeah. So, like he said, we have a guest house
203 that we're trying to convert into an Airbnb. And I've spoken with all the neighbors. I
204 believe the 6-foot privacy fence was the main concern. None of the neighbors who are
205 close have any issues. They're all super excited, actually, to be able to have a guest
206 house for their family to come and stay at.
207

208 Yeah. We are more than willing to comply with all of the conditions that you've set forth?
209 I think there were 11 on the page that I received. And I see no issue with that. So I'm
210 more than happy to comply. All right. Do you all have any questions for me?
211

212 Mr. Green - Are there any questions from the Board to the applicant?
213 Hearing none, is there a motion --
214

215 Mr. Blankinship - Do you want to call -- just to get --
216

217 Mr. Green - Oh I'm sorry. I'm sorry. I'm sorry. Are there any witnesses?
218

219 Mr. Blankinship - Anybody else wish to speak in favor or in opposition of this
220 case?
221

222 Mr. Green - Or is anybody on Webex?
223

224 Mr. Morris - There is no one on Webex interested in speaking on this case.
225

226 Mr. Blankinship - Thank you. Once again, are there any --
227

228 Mr. Gidley - Just state your name.

229
 230 Mr. Turner - My name is Zachary Turner.
 231
 232 Mr. Green - Excuse me?
 233
 234 Mr. Turner - He said to state my name into the microphone.
 235
 236 Mr. Green - Oh, okay.
 237
 238 Mr. Turner - Sorry.
 239
 240 Mr. Blankinship - Oh, okay.
 241
 242 Mr. Green - Did you state it and --
 243
 244 Mr. Turner - I did. I think he got it.
 245
 246 Mr. Green - Okay. Once again, are there any questions from the Board to
 247 the applicant? Hearing none is there a motion?
 248
 249 Mr. Pollard - I move that we approve the conditional use permit subject to
 250 the conditions recommended by the staff.
 251
 252 Mr. Green - The motion was made by Mr. Pollard. Is there a second?
 253
 254 Mr. Reid - Second.
 255
 256 Mr. Green - The motion was made and seconded. All of those in favor of
 257 approving the motion say aye. All those opposed say nay.
 258
 259 On a motion by Mr. Pollard, seconded by Mr. Reid, the Board **approved** case **CUP2021-**
 260 **00021 ZACHARY TURNER** request for a conditional use permit pursuant to Section 24-
 261 4430.A of the County Code to allow short-term rental of a guesthouse at 802 Brook Hill
 262 Circle (BROOK HILL HEIGHTS) (Parcel 787-746-8344) zoned One-Family Residence
 263 District (R-3) (Fairfield). The Board approved the request subject to the following
 264 conditions:
 265
 266 1. This conditional use permit allows only the short-term rental of a one-bedroom
 267 detached guesthouse for up to 2 guests at a time. All other applicable regulations of the
 268 County Code remain in force.
 269
 270 2. This conditional use permit applies only to the improvements shown on the plot plan
 271 filed with the application. Any additional improvements must comply with the applicable
 272 regulations of the County Code. Any substantial changes or additions to the design or
 273 location of the improvements will require a new conditional use permit.
 274

3. Before listing the property for short-term rental, the applicant must obtain approval from the Department of Building Construction and Inspection to change the use of the building to a guesthouse for short-term rental. This must be accomplished no later than October 30, 2023, 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.
4. The new construction must match the existing dwelling as nearly as practical in materials and color.
5. 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.
6. The applicant must obtain approval for the second driveway from the Department of Public Works. The driveway must be improved with gravel or asphalt.
7. This approval is subject to the County noise ordinance (Sec. 10-67 through 10-69), registry ordinance (Sec. 20-280 through 20-282), and short-term rental development standards (Sec. 24-4430).
8. All short-term renters must park on the private driveway, not on Brook Hill Circle.
9. The applicant or co-host must respond in person whenever necessary to resolve issues and complaints arising in connection with the short-term rental.
10. Any exterior lighting must be shielded to direct light away from adjacent property and streets.
11. The applicant must install a six-foot-tall privacy fence running along the western and northern property lines. The fence must extend from the northwest corner of the lot at least 50 feet along each property line.

Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
Negative:		0
Absent:		0

The motion is passed.

Mr. Turner - Thank you for your time.

Mr. Green - Thank you, sir.

Mr. Blankinship - All right. The next case is Conditional Use Permit 2021 number 24, Brad Kite.

CUP2021-00024 BRAD KITE requests a conditional use permit pursuant to Section 24-4404.A.1 of the County Code to build a detached carport in the front yard at 2326 Thousand Oaks Drive (THOUSAND OAKS) (Parcel 762-749-4475) zoned One-Family Residence District (R-3) (Tuckahoe).

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

Mr. Kite - Yes, sir

Mr. Blankinship - Thank you. Mr. Gidley, if you'll begin.

Mr. Gidley - Thank you, Mr. Secretary, and good morning, Mr. Chair, members of the Board. The subject property is located in the Thousand Oaks Subdivision, which is near the intersection of Skipwith and Hungary Spring. It is a one-quarter-acre lot that contains an existing single-family dwelling. And this is a picture of the home here.

The applicant wishes to construct a two-post awning, or a car port, in the front yard over their driveway. The structure would measure 9 1/2 feet by 16.3 feet. And this is a -- this would be the structure right here located over the driveway.

The applicant indicates it would be used to provide shelter for our neighborhood gatherings that would occur on the driveway. One reason for the placement in the front yard, he indicated he thought the rear yard was in the floodplain, but actually it's not in the floodplain, so that would not prohibit it from being in the rear yard. Regardless, in order to construct a structure in the front yard, a conditional use permit is required from this Board, as you know.

In evaluating this request, the single-family dwelling is consistent with the land-use plan and the zoning designation of the property. A carport is a customary accessory use to a one-family dwelling. As far as compatibility with the surrounding area, accessory structures are typically located in the rear yard and not in the front yard. Most residents along Thousand Oaks Drive have detached structures, as you can see here in the rear yard. Two of them have them in their side yard and one has a detached garage in the front yard.

While the proposed structures are limited in size, the purpose is simply to provide shelter for neighborhood gatherings. The same goal could be achieved by placing it in the rear yard in accordance with the zoning ordinance.

366 Finally, as far as public health and welfare, staff does not believe this would have any
367 significant impact on the public health, safety, and welfare. It should not impact people
368 entering or leaving the driveway.

369
370 So, in conclusion, the applicant would like to place a structure on his front driveway to
371 provide shelter for neighborhood gatherings. While staff does not believe it would
372 negatively impact the health, safety, or welfare of nearby property, it's unaware of any
373 reason this cannot be placed in the rear yard. However, if the applicant can explain why
374 it is necessary to be in the front yard, then staff could support the request.

375
376 This concludes my presentation. If you have any questions, I'll be happy to answer those.
377 Thank you.

378
379 Mr. Green - Yes. We'll just ask for a recommendation to support or deny
380 the request.

381
382 Mr. Gidley - Staff takes the view right now if -- it's simply we're going to
383 have an occasional neighborhood gathering and we just want a shelter, then it should be
384 placed in the rear yard. We don't want a situation where people get into the habit, so to
385 speak, of just simply getting a use permit and start putting structures regularly in the front
386 yard. However, if the applicant could provide a valid reason why it has to be in the front
387 yard and can't be located in the rear yard, then we could support it with conditions.

388
389 Mr. Green - But as of now, staff is not supporting it unless the condition is
390 met.

391
392 Mr. Gidley - If it's simply to have neighborhood gatherings and provide
393 shelter, then that could be achieved in the rear yard.

394
395 Mr. Green - Okay.

396
397 Mr. Green - Are there any other questions from the Board to staff?

398
399 Mr. Bell - Will they just be using it for parking their -- say if you got a
400 trailer or something like that? Just parking something there in front of it?

401
402 Mr. Gidley - You'd have to ask the applicant that question.

403
404 Mr. Green - Okay.

405
406 Mr. Gidley - It's stated in the BZA report or in the application for the use
407 permit that it would be to host occasional neighborhood gatherings that would occur in
408 the driveway. So that's what we wrote the report based on. Thank you.

409
410 Mr. Green - Hearing no other questions from the Board, we will now hear
411 from the applicant.

412
413 Mr. Kite - Hello. My name is Brad Kite and that's K-i-t-e. Pretty much I
414 want to state that the proposed carport would be just that. It would be utilized to protect
415 my car from neighboring oak trees as well as for occasional social gatherings. It would
416 be nice to have, you know, the ability to have some shelter in the driveway. But that
417 would be occasional.

418
419 I had reviewed this with our neighborhood civic association and our neighborhood
420 president has signed a letter on my behalf just stating that it is a welcome structure to the
421 neighborhood. That it would be, you know, a structure that would add value as well as
422 not being obtrusive to neighbors.

423
424 Currently our neighborhood does not have a board of architects, or a board for
425 architectural review, or even a covenant in position. So really my first initial step to have
426 this proposed carport approved was to contact my civic association. And it has been
427 approved on their behalf. And I do have a letter with me stating that. But, yes, I just want
428 to say it would be to offer, you know, protection for my car from the neighboring oak trees
429 that do overhang the driveway.

430
431 Mr. Green - Mr. Kite, my only question is so far we're focused on what the
432 staff was saying about this was being built for social gatherings as more so than the, you
433 know, protecting your cars and parking. So what is it? Is it going to be more social
434 gatherings, or is it going to be parking? Because, as you heard, staff will support the
435 request under certain conditions.

436
437 Mr. Kite - It would be definitely more for protection of the car from
438 overhanging neighboring trees with the occasional social gathering taking place under it.
439 But, you know, the car would be there the majority of the time under it.

440
441 Mr. Green - Mr. Gidley, how do we reconcile now the concerns that staff
442 has versus what he has stated. So we can either understand whether the staff will
443 approve this, well, recommend it'd be approved or denied. What would we need to do
444 and understand?

445
446 Mr. Gidley - Well let's see here, where the --

447
448 Mr. Kite - I did want to add one more thing. With the rear yard, our rear
449 yard -- it may not be exactly on a floodplain, but it gets super muddy -- there is a drainage
450 easement in the back of the lot and it does get super muddy back there during early
451 spring. And also the rear of the property is fenced in with the small dog in the back yard.
452 So having the carport in the rear and it also would require the driveway being extended
453 to the rear yard as well. Just really wasn't an option for us.

454
455 Mr. Green - Mr. Gidley.

456

457 Mr. Gidley - Ultimately it's up to the Board to make a value judgement, as
458 I stated. On one hand, the structure is not significant. I don't think it's going to be
459 particularly unsightly or anything like that. On the other hand, you know, the preference
460 obviously is to have structures in the rear yard. The applicant had stated in the form here
461 to use it as additional shelter and outdoor space, family and social neighborhood events
462 -- on the driveway gatherings. And that's what he had listed.

463
464 If it is to shelter his car from the trees, I don't think it's going to have a substantial
465 detrimental impact on the neighborhood. If that's what it's used for. And the Board will
466 have to make adjustment on that.

467
468 Mr. Green - But what would staff's recommendation be now that you've
469 heard his explanation? I don't want to try to pin you down, but I'm trying to pin you down.

470
471 Mr. Blankinship - He's trying hard not to be pinned down.

472
473 Mr. Johnson - Do we have a copy of the letter?

474
475 Mr. Green - Mr. Johnson -- well, first, can you -- if you don't want to answer
476 that, I understand it. But --

477
478 Mr. Gidley - I basically spelled out, I think, where we were. The reason it
479 can't even go beside the house is the applicant had built with the variance into the side-
480 yard setback. So he's made pretty good use of the house. But, as I've said too, it's not
481 a particularly unsightly structure. Some things we've seen come in are pretty bad, too.
482 So, again, I'm going to leave it to the Board whether or not placing it in the front yard is
483 justifiable here.

484
485 Mr. Green - Okay. Mr. Johnson.

486
487 Mr. Johnson - Yes. To the applicant. How often do you think you going to
488 have some kind of activities outside?

489
490 Mr. Kite - You know, for us to utilize that with the neighborhood, I mean,
491 it could be something very infrequent. You know, a couple times during the year, during
492 the holidays. But as far as, you know, for day-in, day-out, it would definitely be utilized
493 every day because of, you know, the car would be parked under there.

494
495 Mr. Johnson - Right. So it's very seldom with the social events, then. Okay.

496
497 Mr. Green - Are there any questions from the Board to the applicant?

498
499 Mr. Pollard - I have a question. Remind me why you didn't want to use the
500 back yard?

502 Mr. Kite - Well, the back yard currently is fenced in. And, basically, you
503 know, during the spring it gets very, very muddy back there. And also there's not a
504 driveway extension going to the back yard, so that would -- that would also have to take
505 place. But the rear of the property is fenced in because we have a dog.

506
507 Mr. Pollard - And what type of protection would the carport provide?

508
509 Mr. Kite - Basically, protection from tree sap, acorns, limbs, leaves,
510 basically tree debris.

511
512 Mr. Green - Mr. Bell.

513
514 Mr. JBell - In the backyard, are there any other structures already there,
515 a tool shed, a pen where you include the dog at night if he stays out all night or anything
516 attached to the house?

517
518 Mr. Kite - Could you repeat that, please?

519
520 Mr. Bell - Are there any other sheds or like structures in your back yard?
521 Does the dog have a special area that he stays like a doghouse, which very few people
522 use now, or any other structure or porch that's been attached to the back part of your
523 house.

524
525 Mr. Kite - Yeah. Right now there is nothing attached to the back of our
526 house. In the back yard we do have two structures, two toolsheds, that are presently
527 back there. And as far as the dog goes, it is an indoor dog. But he -- or she -- has full
528 roam of the back yard during the day, in the morning.

529
530 Mr. Green - Are there any other questions from the Board to the applicant
531 and or staff?

532
533 Mr. Pollard - Do we have a copy of the letter?

534
535 Mr. Gidley - Yeah.

536
537 Mr. Green - You can give it to Mr. Pollard first, then pass it down, since he
538 asked the question. Excuse us while we read this letter. Are there any individuals in the
539 audience to speak for or against this proposal? Are there any individuals on Webex to
540 speak for or against this proposal?

541
542 Mr. Morris - There is no one on Webex interested in speaking on this case.

543
544 Mr. Green - Hearing none what is the pleasure of the Board?

545
546 Mr. Reid - Based on the information from the applicant that's answered
547 some of the questions I had regarding the information from the home-owners association,

the civic association, I move that we approve the conditional use permit subject to the conditions recommended by staff.

Mr. Green - Second by myself. The motion was made by Mr. Reid to approve. Seconded by myself, Mr. Green. Any discussions among the Board before we vote? All in favor. All opposed.

On a motion by Mr. Reid, seconded by Mr. Green, the Board **approved** case **CUP2021-00024 BRAD KITE's** request for a conditional use permit pursuant to Section 24-4404.A.1 of the County Code to build a detached carport in the front yard at 2326 Thousand Oaks Drive (THOUSAND OAKS) (Parcel 762-749-4475) zoned One-Family Residence District (R-3) (Tuckahoe). The Board approved the request subject to the following conditions:

1. This conditional use permit only authorizes the location of the proposed structure in the front yard. All other applicable regulations of the County Code remain in force.

2. This conditional use permit applies only to the improvements shown on the drawing titled, "Special Use Request for 2 Post Driveway Awning Install" by Brad Kite dated 9/9/2021. 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. Any exterior lighting must be shielded to direct light away from adjacent property and streets.

4. The applicant must obtain approval for the proposed structure from the Department of Building Construction and Inspections by October 30, 2023, 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.

5. The applicant must satisfy the requirements of the covenants, conditions, and restrictions for Thousand Oaks subdivision, as well as any requirements of the homeowners' association.

Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
Negative:		0
Absent:		0

Mr. Green - Motion passes.

Mr. Blankinship - All right. The last of the four conditional use permits on this morning's agenda is Conditional User Permit 2021 number 25, the Colonies Swim & Tennis Club.

594
595 **CUP2021-00025 COLONIES SWIM & TENNIS CLUB** requests a conditional use permit
596 pursuant to Section 24-4205 of the County Code to expand a noncommercial recreation
597 facility at 2801 Causeway Drive (Parcel 731-756-4317) zoned One-Family Residence
598 District (R-2A) (Three Chopt).

599
600 Mr. Blankinship - Would everyone who intends to speak to this case please
601 stand and be sworn in? Raise your right hand, please. Do you swear the testimony
602 you're about to give is the truth, the whole truth, and nothing but the truth so help you
603 God?

604
605 Mr. Bernier - I do

606
607 Mr. Blankinship - Thank you. Mr. Madrigal.

608
609 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the Board.

610
611 Before you is a request to amend the conditions of approval for a noncommercial
612 recreational facility. The subject property is a 5-acre parcel at the northeast corner of
613 Causeway and Wilde Lake Drive acquired by the Colonies Associates in 1984.

614
615 In 1985 the Board approved a CUP to construct a noncommercial recreational facility,
616 which was conveyed to the Colony Swim Team -- or, excuse me, Swim and Tennis Club
617 three years later.

618
619 In the early '90s the County approved the addition of tennis courts and lighting, which
620 included supplement landscaping as a requirement. Condition number 2 of that approval
621 requires that the swimming pool be enclosed by a 6-foot-tall fence. The club would like
622 to replace a part of the existing fence with a 5-foot-tall fence. Although this would have a
623 minor impact on the facility, because of the specific language in the condition a shorter
624 fence requires an amendment to the original condition which can only be approved by the
625 Board.

626
627 The applicant has also requested approval to relocate the existing trash enclosure. The
628 new location will be in a corner of the parking lot approximately 65 feet distant from the
629 closest home at 12303 Sentury Meadow Drive.

630
631 With respect to the evaluation, the proposed project is consistent with both the zoning
632 and comprehensive plan designations on the property and satisfies all applicable code
633 requirements. The recreation facility has been in use for over 35 years and is an integral
634 part of the community. These minor changes will not affect the character of the
635 surrounding neighborhood and no adverse impacts are anticipated from the fence
636 replacement. The relocation of the trash enclosure could result in a negative impact on
637 the adjacent home due to increased noise when servicing the container, but there are
638 some options for that.

640 In conclusion, the recreation facility has been in operation since 1985. It was specifically
641 required to provide a 6-foot-tall fence around the pool, which the club would like to replace
642 with a slightly lower fence. Because the new fence height would be contrary to specific
643 condition, Board approval is required to amend it. Based on the facts of the case and
644 anticipated impact, staff recommends approval of this request subject to conditions.

645
646 Mr. Green - Are there any questions from the Board to staff? Hearing
647 none, we will move to the applicant. Would you state your name and spell it?

648
649 Mr. Bernier - Good morning, gentlemen. My name is Sam Barnier, B as in
650 boy, e-r-n-i-e-r. I am the president of the Colonies Swim and Tennis Club, Incorporated.
651 And I have -- I was told I could bring a drive with some pictures. I just have a couple
652 pictures that I think also sort of illustrate exactly what we're doing, if that might be helpful
653 to the Board. Or I can just talk through it.

654
655 Mr. Blankinship - Yeah. If you just use our pictures, it would save us a little bit
656 of juggling.

657
658 Mr. Bernier - Okay, perfect.

659
660 Mr. Blankinship - But we can certainly show them if it's something that's really
661 important.

662
663 Mr. Bernier - Sure. So if you would go to the picture that highlights the
664 fence that's around the pool, that would be super helpful. I think it's an overhead shot
665 and it shows where the fence that goes around the pool is. I saw it.

666
667 Mr. Blankinship - Oh, an aerial?

668
669 Mr. Bernier - Yes. But there's one that just highlights the fence there.
670 That's the property line and then there's another one that highlights the fence that goes
671 around the pool.

672
673 Mr. Blankinship - Oh. On the site map I think we had it sketched.

674
675 Mr. Bernier - Yes, sir. There it is. Okay. So where we're seeing here,
676 gentlemen, is the highlighted portion, is the portion of the fence that we're looking to
677 replace. So around the rest of the pool structure, which is right to the right as you look at
678 this picture that -- yes. Exactly where staff has the cursor. That's the pool. Around the
679 rest of it is a black chain-link, 6-foot fence like you would see around, you know, commonly
680 around the county.

681
682 The highlighted portion is a wooden lattice fence that has big bushes that were planted
683 back in the '80s that have since grown into the fence. And so you can see that lattice
684 fence right there and it goes all the way -- ah. There we are. So these are aggregate

685 tiers that folks sit on and you can see the covered pool there and you can kind of see the
686 bushes growing through the fence right there.

687
688 So what we'd like to do, and we're going to change some of the landscaping as well by
689 taking out some of the bushes and redoing the landscaping. We actually -- the Facilities
690 Director, Karen Welch, W-e-l-c-h, did I get that right?

691
692 Ms. Welch - Yeah.

693
694 Mr. Bernier - Is here with us and she actually owns her own landscaping
695 design company. So she's a great asset to our volunteer board. But -- so she's going to
696 redesign the landscape. But it's just that wooden part of the fence that is rotting and not
697 in good shape that needs to come down. And we're going to replace that with an
698 aluminum, a black aluminum-brushed fence that's going to be about 8-feet behind where
699 the fence is, so towards the parking lot away from the pool, which we actually think will
700 add greater security because, you know, I probably weight about 185 pounds. If I put my
701 shoulder into it, I could probably come through that lattice if I really wanted to.

702
703 So -- and then we're going to replace the gate. So it will go, as we saw on that overhead,
704 it will just be that highlighted wooden portion. The rest of the black chain-link fence around
705 the rest of the pool is going to stay in place. And then it will move slightly because we
706 have a retaining wall there that we don't -- we don't want to build the new metal fence on
707 top of the wooden retaining wall, so the wooden fence will come off the wooden retaining
708 wall, the wooden retaining wall will stay in place, and then the new metal fence will be
709 behind that so that we don't have to replace that wooden retaining wall, which would be
710 really expensive.

711
712 As far as the trash is concerned, staff, do you mind going to the picture of that -- the trash
713 enclosure? Thank you so much. Okay. So behind that rickety-looking wooden gate right
714 there is 10 normal residential trash cans. And that's currently where we have the trash.
715 Behind that is the pool, it just -- there's a large, I don't know, 12, 15-foot retaining wall
716 behind that and it drops off to the pool. So that whole part of the fence is going to get
717 replaced.

718
719 And what we'd like to do is rather than have that rash coral there, is move the dumpster
720 to a -- or -- excuse me -- move the trash to a different part of the property in the far-right
721 corner there, take up two parking spaces, build an enclosure that would -- Karen, do you
722 remember how high the wall was going to be for that? Yeah. So it's an 8-foot wall, either
723 stucco or brick on the outside. We're hoping to be able to do brick because that's more
724 in keeping with the neighborhood. And then the trash truck would come in directly into it
725 as you're looking at it right here.

726
727 And that would, A, give us more space for trash, which we need because the -- we rent
728 the clubhouse, and our most -- our busiest times, as you might imagine, are right around
729 graduation. Everybody wants to have a graduation party at the pool, at the clubhouse.
730 The Colonies is a 318-single-family-home neighborhood. We are not part of The Colonies

HOA, but most people in The Colonies are members of The Colonies Swim and Tennis Club. So the clubhouse is very popular and we have to have multiple pickups per week during that -- those seasons and around the other holidays because the trash is overflowing from that trash coral. People don't want to go back to the back and put it in the very last trash can that's in the back corner of the trash coral.

So this is going to be an easier, more effective, way for us to dispose of the trash. We're cognizant that -- so as you're looking at this picture, behind that stand of bushes on the right about, as staff said, about 60 feet back there is the first home in The Colonies. The closest one that borders our property line. And so we're cognizant that they don't want to see a dumpster. We all live in The Colonies that are on the Board of the Colonies Swim and Tennis Club. I wouldn't want to see a dumpster. So we're going to have that nice 8-foot wall there.

I think the pickups are going to be probably less than once a week unless we're in the busy season. And we can certainly arrange with the company that picks up the dumpster to not pick it up at 6:00 in the morning. So we're happy to do that. I think that to the extent that there's noise from the dumpster being picked up, I mean, I -- if your baby's napping at 10:00, I can't control that. But I certainly don't want to wake anyone up at 6:00 a.m. with a dumpster pickup. So. I mean, I live there, too.

So. If you all have any questions for me, I am happy to answer them. And if I have to ask Karen, I'm happy to do that.

Mr. Green - Okay. I have a question. Staff reported out that you were going to talk about a 5-foot fence, but you're stating an 8-foot fence. What is the correct height of the fence?

Mr. Bernier - Yes. So the 5-foot fence is the replacement for the wooden fence that borders the pool. So we'd like to take that -- it's currently 6 feet. My understanding is the reg -- if, like, if I bought a -- brought -- excuse me -- built a new pool today, the reg would be 4 feet. But when we got the -- and when I say we I mean the people back in the '80s that did -- that built the pool. When they got the original permit, it specified 6 feet. We'd like to bring it to 5 and that's one of the two things we're asking the Board for. Is that -- to bring that wooden fence down from 6 to 5. The 8-foot fence is going around the dumpster, and that's a, like, a CMU with a nice facing. Hopefully brick. But stucco if not brick. That's a different -- that doesn't connect into this fence. It's going to be on the other side of the parking lot.

Mr. Green - Are there any other questions from the Board to the applicant?

Mr. Bell - Yes. I have one.

Mr. Green - Yes, sir, Mr. Bell.

Mr. Bell - A couple in fact. Around the trash are there any lights?

777
778 Mr. Bernier - Are there any lights?
779
780 Mr. Bell - Lights.
781
782 Mr. Bernier - Our parking lot -- is it lighted over there, Karen? Yes. The --
783 it's lighted over there.
784
785 Mr. Bell - And, secondly, who's responsible for cleaning up around the
786 trash can? Is it the people who own the trash can or someone from the organization?
787
788 Mr. Bernier - Who is responsible for cleaning up around the trash cans
789 now? Or the dumpster in the future? Or both?
790
791 Mr. Bell - Now or -- both. Who does it right now and who should be
792 doing it then.
793
794 Mr. Bernier - Well, so the Colonies Swim and Tennis Club is responsible for
795 the trash on its property. And what I typically do is I walk around there every day, because
796 I live right down the street and I walk my dog, and when I see a bunch of trash, I contact
797 the local Boy Scout or Cub Scout unit and I ask if somebody needs some volunteer hours,
798 and then I send them over there to pick up all the trash.
799
800 Mr. Blankinship - That is also addressed by condition number 10, Mr. Bell.
801
802 Mr. Green - So will the trash area be locked to prevent people from just
803 dumping trash in your trash cans? Because I notice -- I live in Wellesley and I see a lot
804 of that is occurring with these -- when you see these various trash-can sites.
805
806 Mr. Bernier - Yes. That's a really good question. And we did talk about that
807 as a Board. My first reaction was to not lock it and see if there's a problem, but I don't
808 have a whole lot of experience administering a dumpster, so if somebody with more
809 experience administering a dumpster recommends that we lock it right off the bat, that's
810 fine. We're happy to do that. But my first instinct was, Let's not lock it and see if there's
811 a -- and see if there's a problem. And if there's a problem, it's easy to add a lock.
812
813 Mr. Green - Okay. My other question is, you said that this is going to be a
814 dumpster, or will it be 12 trash cans?
815
816 Mr. Bernier - We're going to go from the 12 trash cans to 1 dumpster.
817
818 Mr. Green - Okay.
819
820 Mr. Bernier - Because right now the County Waste comes in, they come in
821 through that little traffic circle, they have to pull 12 trash cans out, and then that truck has
822 to dump one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve.

823
 824 Mr. Green - Right. Right.
 825
 826 Mr. Bernier - And so it's sitting there for a while doing all that work. And
 827 we'd rather just have them be able to come around, circle around, hit that dumpster head
 828 on, dump it once, and go out.
 829
 830 Mr. Green - I would like to see -- because, like I said, I see it in my area,
 831 that somehow you put a lock around it. Because people are just throwing trash all over
 832 the place. And in some areas it's unsightly to me. Would you be receptive to entertaining
 833 that? And opening it when necessary? Because, you know, as people are moving or
 834 they see a dumpster, they'll throw stuff over there and they may, you know, if they don't
 835 want to lift it, they'll just throw it --
 836
 837 Mr. Bernier - Right. Just into the enclosure.
 838
 839 Mr. Green - Right.
 840
 841 Mr. Bernier - Yes, certainly. Like I said, I don't have a lot of experience
 842 administering a dumpster, but if somebody with more experience thinks that we should
 843 start off with a lock -- I think there was already going to be a gate that the trash company
 844 was going to have to open to be able to get to the trash can, so I think it's pretty easy to
 845 put a lock on that.
 846
 847 Mr. Green - Can we put that as part of a condition? Because -- then that
 848 way, like I said, I just want to make sure that we keep the integrity of the neighborhood
 849 sound. Because, like I said, you will see people dumping trash all over the place.
 850
 851 Mr. Bernier - Yes, sir. And it can be pretty easy for us, too, if we put a
 852 combo lock on. So normally what we do is if somebody rents the clubhouse there is a
 853 temporary code that they get from the person on our Board who manages the clubhouse
 854 and then they are responsible for dumping the trash from their party in the trash coral.
 855 Probably not a big deal to have the same type of thing where they get a code for the
 856 dumpster lock and then they can unlock the dumpster and put their stuff in the dumpster.
 857
 858 Mr. Green - Thank you.
 859
 860 Mr. Bernier - And then the same thing for the pool staff. When we're in pool
 861 season, they can -- you know, Douglas Aquatics manages our pool, and they can have
 862 the code and their guards can dump the trash.
 863
 864 Mr. Green - Thank you. Are there any other questions from the Board?
 865
 866 Mr. Pollard - I have one.
 867
 868 Mr. Green - Yes, sir, Mr. Pollard.

869
870 Mr. Pollard - Why do you want to go to five feet from six feet?
871
872 Mr. Bernier - Well, so we think that a 5-foot fence will be more aesthetically
873 pleasing. That 5-foot sort of -- what I'm talking about is that brushed aluminum fence that
874 -- so the nice clean back upright with the little points on the top. And we think that -- just
875 aesthetics. The personal taste of the board as we thought about it and looked at different
876 pictures and took a vote. The vast majority wanted 5-foot.
877
878 Mr. Green - But technically County rule is, like, 4 feet?
879
880 Mr. Madrigal - The 4-foot section is for -- specifically for the pool. So that's
881 a safety feature of the building code. This fence here in particular, it's really more of a
882 security feature to keep people out of that overall area. Not specifically to, you know, the
883 pool.
884
885 Mr. Green - Okay.
886
887 Mr. Madrigal - Again, the pool is stepped down. It's at a different grade level
888 than the parking lot. So, you know, that's another reason for the fence as well as just
889 overall on-site safety.
890
891 Mr. Green - Right.
892
893 Mr. Bernier - I think we have an obligation as an attractive nuisance, in
894 thinking back to law school, to keep people out of the pool. If we don't have a fence, then
895 we're not fulfilling our duty to keep an attractive nuisance safe from folks who would be
896 attracted to it.
897
898 Mr. Green - Right. Any other questions from the Board to the applicant?
899 All right. Is there anyone in the audience that would like to speak in favor or against this
900 proposal? Is there anyone on Webex that would like to speak in favor or against this
901 proposal?
902
903 Mr. Morris - There is no one on Webex interested in speaking on this case.
904
905 Mr. Green - As the Three Chopt representative for that area, I move that
906 we approve the conditional use permit subject to the conditions recommended by staff.
907 It is consistent with the comprehensive plan. It is consistent with R2A zoning. Very minor
908 changes to approve conditions will not adversely affect the health and safety. And the
909 last bullet that you agreed to would be a lock on the fence. Is that good?
910
911 Mr. Bernier - Yes, sir.
912
913 Mr. Green - So I have made that motion. Is there a second?

914
915 Mr. Bell - Seconded.

916
917 Mr. Green - The motion was made by myself, Mr. Green. It was seconded
918 by Mr. Bell. Is there any discussion among the Board members? Hearing none, all in
919 favor say aye.

920
921 On a motion by Mr. Green, seconded by Mr. Bell, the Board **approved** case **CUP2021-**
922 **00025 COLONIES SWIM & TENNIS CLUB's** request for a conditional use permit
923 pursuant to Section 24-4205 of the County Code to expand a noncommercial recreation
924 facility at 2801 Causeway Drive (Parcel 731-756-4317) zoned One-Family Residence
925 District (R-2A) (Three Chopt). The Board approved the request subject to the following
926 conditions:

927
928 1. This conditional use permit authorizes the use of the property as a noncommercial
929 recreation facility. All other applicable regulations of the County Code remain in force.
930 Any additional improvements must comply with the applicable regulations of the County
931 Code. Any substantial changes or additions to the design or location of the improvements
932 will require a new conditional use permit.

933
934 2. The property must be operated on a nonprofit basis for members and guests only.
935 Membership must not exceed 300 families.

936
937 3. One parking space must be provided for every three families in the membership. The
938 parking lot must be maintained in accordance with Article 5, Division 1 of the Zoning
939 Ordinance. Fire lanes must be marked and maintained in accordance with the Fire
940 Prevention Code.

941
942 4. For the safety of swimmers, lights beamed only on the pool and operated by a timer
943 must be provided when water is in the pool.

944
945 5. Hours of operation must be limited to 8:00 am to 10:00 pm for outdoor activities and
946 8:00 am to 12:00 midnight for indoor activities. Up to four times per year, the hours of
947 outdoor activities may be extended to 12:00 midnight for swim meets.

948
949 6. Sound amplification may be used during the four swim meets and during emergencies,
950 but at no other time.

951
952 7. All exterior lighting must be shielded to direct light away from adjacent property and
953 streets.

954
955 8. All landscaping must be maintained in a healthy condition at all times. Dead plant
956 materials must be removed within a reasonable time and replaced during the normal
957 planting season.

959 9. The new or reconstructed fence must be located as shown on the plan submitted with
960 the application, and must be constructed of durable all-weather materials such as
961 masonry, stone, wrought iron, welded steel, electroplated aluminum, pressure-treated or
962 rot-resistant lumber, composite materials designed to appear as wood or masonry, vinyl,
963 or similar customary fencing materials. The fence and associated landscaping must be
964 maintained in good repair and in a safe condition.

965
966 10. The recycling and refuse collection area must comply with the requirements of Sec.
967 24-4427 of the Zoning Ordinance and must be screened in compliance with Sec. 24-5311.
968 The gate must be kept locked except when it is necessary to open it. All trash must be in
969 closed containers with regular pickups, the containers must be kept clean, and must not
970 be serviced earlier than 8:00 am. If full-size (8 cubic yard) containers are used, the
971 enclosure must be located at least 100 feet from the nearest dwelling.

972
973
974 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
975 **Negative:** 0
976 **Absent:** 0
977

978
979 Mr. Green - The motion is approved.

980
981 Mr. Bernier - Thank you, Mr. Chairman. Thank you, gentlemen, thank you
982 staff.

983
984 Mr. Green - Yes. I ask that we take a 5-minute break. We'll be back in 5
985 minutes.

986
987 [Break in Audio]

988
989 Mr. Green - The Board of Zoning Appeals is back in order. We will now
990 move to variances.

991
992 Mr. Blankinship - Yes, sir. We have completed the conditional use permit
993 portion of our agenda. There are three variances on this morning's agenda. The first is
994 variance 2021, number 27, Watchtower Homes and Construction

995
996 **VAR2021-00027 WATCHTOWER HOMES AND CONSTRUCTION** requests a variance
997 from Section 24-4306.E and Section 24-6402.A.2 of the County Code to build a one-
998 family dwelling at 5415 Edgefield Street (CHAMBERLAYNE ESTATES) (Parcel 790-746-
999 1548) zoned One-Family Residence District (R-4) (Fairfield). The public street frontage
1000 requirement, lot width requirement and total lot area requirement are not met. The
1001 applicant proposes 5,133 square feet lot area, 40 feet lot width, and 40 feet public street
1002 frontage, where the Code requires 6,000 square feet lot area, 50 feet lot width, and 50
1003 feet public street frontage. The applicant requests a variance of 867 square feet lot area,
1004 10 feet lot width, and 10 feet public street frontage.

1005
1006 Mr. Blankinship - Would everyone who intends to speak tot his case, please
1007 stand and be sworn in? Raise your right hand, please. Do you swear the testimony you're
1008 about to give is the truth, the whole truth, and nothing but the truth so help you God?
1009 Thank you. Mr. Gidley.

1010
1011 Mr. Gidley - All right. Thank you, Mr. Secretary, Mr. Chair, members of the
1012 Board.

1013
1014 The subject property is part of the Chamberlayne Estates Subdivision. It is one of five
1015 rather narrow lots in a row, as you can see right here, and they all front on Edgefield
1016 Street. Three of these lots have obtained variances in the past to allow homes to be built
1017 on them.

1018
1019 Because the lot was recorded prior to 1960, it does have reduced lot-area and lot-width
1020 standards. Despite this, it still lacks the required lot-area and lot-width and public street
1021 frontage requirements. As all result, the applicant is requesting a variance in order to
1022 construct a single-family home on the property.

1023
1024 As far as looking at the threshold tests for a variance, as you know, one of the three need
1025 to be met. Staff believes two are met, actually. First, this lot was recorded in 1935. At
1026 the time, it was a legal, buildable lot. However, code changes occurred in 1958 and in
1027 1960 and as a result of those code changes, the lot was no longer buildable. So,
1028 effectively, one, the lot lacks a reasonable beneficial use. And, second, there were
1029 physical characteristics of the lot, namely its dimensions that existed prior to the change
1030 in the zoning ordinance. Thus two of the three threshold tests are met. And because of
1031 this, staff believes we can move on to the five subtests, all of which need to be met for a
1032 variance to be granted.

1033
1034 As noted in the staff report, staff believes all are met. Just real quickly, detrimental impact.
1035 You can see three of the homes right here that were constructed on these lots. So the,
1036 you know, development pattern on these five lots has pretty much been set. This is just
1037 a continuation of that development pattern, it's consistent with that pattern, and you can
1038 see the homes out here. And the proposed home is similar in style, so staff does not see
1039 a substantial detrimental impact if this is constructed on.

1040
1041 So, in conclusion, absent of variance a home may not be constructed on the property,
1042 leaving it with no reasonable use. In addition, the lot was platted in 1935 prior to the first
1043 zoning ordinance so the lack of lot-area, lot-width, and the public street frontage
1044 requirement is a hardship that existed prior to the adoption of these ordinance
1045 requirements.

1046
1047 As noted, all five subtests are met, so staff recommends approval of this request subject
1048 to the conditions in your staff report. If you have any questions, I will be happy to answer
1049 those. Thank you.

1051 Mr. Green - Are there any questions from the Board to the staff? Hearing
1052 none, we move to the applicant. Would you please state your name and spell it, please,
1053 sir?

1054
1055 Mr. Baker - Mark Baker, M-a-r-k B-a-k-e-r. Good morning, Mr. Chairman,
1056 members of the Board. I represent the applicant, in this case the contract purchaser, and
1057 I want to thank staff for their assistance to the process. Always very knowledgeable and
1058 helpful and a pleasure to deal with.

1059
1060 This is, again, a variance request. Relief is requested for lot area, lot width, public street
1061 frontage. It's an original lot from the Chamberlain State Subdivision, as indicated by staff,
1062 recorded in 1935. It's currently vacant and, absent the variance, it's undevelopable.
1063 Again, it's one of five parcels that's noted by staff, which are all similarly sized. They're
1064 from the same subdivision. Three of those parcels suffered from the same issues,
1065 obviously, they were granted variances for the construction of single-family homes.

1066
1067 And so the goal here is the same. Construction of a single-family dwelling. High Quality
1068 infill product. It'd be compatible with the neighborhood, it'd be compatible with adjacent
1069 lots, it would be a home ownership opportunity, and it would be designed to meet the
1070 expectations of today's market. Approximately 1,600 square feet.

1071
1072 It's a nice floor plan. Open floor plan on the first floor. Three bedrooms, two and a half
1073 baths. The exterior would be compatible with other dwellings in the area and include
1074 similar building materials and they're proposing a horizontal outside veneer, a brick
1075 veneer, on the -- on the foundation, et cetera. It's a similar roof style to the other dwellings
1076 in the vicinity with a forefront facing gable element.

1077
1078 And there's a full front porch proposed as well as a deck, which would be usable for the
1079 future owners. Now staff does a great job in their report at discussing the evidentiary
1080 requirements where the variance is concerned. I don't need to, you know, that I want to
1081 belabor the point, but I do just want to stress for the record that as noted by the staff, the
1082 threshold tests are met. I won't go through them, because they did such a good job in
1083 their report. Again, I won't duplicate their efforts, but I would also just concur where the
1084 five additional subtests are concerned that they are met, as indicated in the report.

1085
1086 And now we did do some neighborhood outreach here. We did send out letters to all
1087 owners within 150 feet explaining their quest, notifying them of our application, but we've
1088 not heard any opposition to the request as of today. And finally like to thank you for your
1089 time and, of course, we respectfully request your approval. And I can try to answer any
1090 questions you might have.

1091
1092 Mr. Green - Are there any questions from the Board to the applicant?
1093 Hearing none, is there a motion? Oh, I'm sorry. I'm sorry. Are there any individuals in
1094 the audience to speak for or against this proposal? Are there any individuals on Webex
1095 to speak for or against this proposal?

1096
1097 Mr. Morris - There is no one on Webex interested in speaking on this case.

1098
1099 Mr. Green - Hearing none, I will accept a motion from the Board as to the
1100 disposition of this variance.

1101
1102 Mr. Pollard - I move that we approve the variance subject to the conditions
1103 recommended by staff. Otherwise, there is no other reasonable use of the property and
1104 the hardship was created before the ordinance was adopted.

1105
1106 Mr. Johnson - I second.

1107
1108 Mr. Green - Okay. The motion was made by Mr. Pollard and actually was
1109 seconded by Mr. Johnson. Is there any discussion among the Board in reference to this
1110 variance? Hearing none, all in favor say aye. Opposed like sign.

1111
1112 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **approved** case
1113 **VAR2021-00027 WATCHTOWER HOMES AND CONSTRUCTION's** request for a
1114 variance from Section 24-4306.E and Section 24-6402.A.2 of the County Code to build a
1115 one-family dwelling at 5415 Edgefield Street (CHAMBERLAYNE ESTATES) (Parcel 790-
1116 746-1548) zoned One-Family Residence District (R-4) (Fairfield). The Board approved
1117 the request subject to the following conditions:

1118
1119 1. This variance applies only to the lot area, lot width and public street frontage
1120 requirements for one dwelling only. All other applicable regulations of the County Code
1121 remain in force.

1122
1123 2. This variance applies only to the plot plan by Virginia Surveys, dated 8-25-2021, and
1124 building design titled "Watchtower Homes, 5415 Edgefield Rd" dated 8-6-2021 and filed
1125 with the application. Any additional improvements must comply with the applicable
1126 regulations of the County Code. Any substantial changes or additions to the design or
1127 location of the improvements will require a new variance.

1128
1129 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must
1130 obtain approval of an environmental compliance plan from the Department of Public
1131 Works.

1132
1133 4. Any dwelling on the property must be served by public water and sewer.

1134
1135 5. The applicant must obtain a building permit for the proposed dwelling by October 30,
1136 2023, or this variance will expire. After that date, if the building permit is cancelled or
1137 revoked due to failure to diligently pursue construction, this variance will expire at that
1138 time.

1139
1140
1141

1142	Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
1143	Negative:		0
1144	Absent:		0
1145			
1146			
1147	Mr. Green -	The variance has been granted.	
1148			
1149	Mr. Blankinship -	The next case is Variance 2021, number 28, Kenneth L.	
1150	Sheffield.		
1151			
1152	VAR2021-00028 KENNETH L. SHEFFIELD requests a variance from Sections 24-		
1153	4306.E.1 and 24-6402.A.2 of the County Code to build a one-family dwelling at 104 S Elm		
1154	Avenue (HIGHLAND SPRINGS) (Parcel 821-724-3964) zoned One-Family Residence		
1155	District (R-4) (Varina). The public street frontage requirement and lot width requirement		
1156	are not met. The applicant proposes 35 feet lot width and 35 feet public street frontage,		
1157	where the Code requires 50 feet lot width and 50 feet public street frontage. The applicant		
1158	requests a variance of 15 feet lot width and 15 feet public street frontage.		
1159			
1160	Mr. Blankinship -	Would everyone who intends to speak to this case, please	
1161		stand and be sworn in. Is the applicant here? This is Variance 2021, number 28, Kenneth	
1162		L. Sheffield. We don't by chance have an applicant on Webex, do we?	
1163			
1164	Mr. Morris -	The applicant is not on Webex. No.	
1165			
1166	Mr. Green -	Given that the applicant is not here, would we entertain	
1167		deferring this until we can make sure that the applicant is fully represented and here? Or	
1168		do you would like -- would you like to proceed with hearing this case?	
1169			
1170	Mr. Blankinship -	You don't have any idea why the applicant's not here?	
1171			
1172	Mr. Madrigal -	No, sir. I did send the staff report to the applicant, Mr. Tuttle.	
1173			
1174	Mr. Green -	What is the pleasure of the Board? To defer until we can find	
1175		out what happened to the applicant because of the --	
1176			
1177	Mr. Johnson -	I motion that we defer the request until the applicant can be	
1178		with us. Because I have a couple of questions for him.	
1179			
1180	Mr. Pollard -	Second.	
1181			
1182	Mr. Green -	Yes, sir. The motion was made by Mr. Johnson, seconded by	
1183	Mr. Pollard.	Is there any discussion among the Board? All in favor say aye.	
1184			
1185	On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board deferred case		
1186	VAR2021-00028 KENNETH L. SHEFFIELD until the November 18, 2021 Board of		
1187	Zoning appeals meeting.		

1188
1189
1190 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5
1191 **Negative:** 0
1192 **Absent:** 0
1193
1194

1195 Mr. Green - The motion is deferred till December.
1196

1197 Mr. Reid - November.
1198

1199 Mr. Green - November.
1200

1201 Mr. Blankinship - Which meeting? November, or December?
1202

1203 Mr. Johnson - November.
1204

1205 Mr. Green - November.
1206

1207 Mr. Blankinship - We deferred the other one to December just to allow them to
1208 have this community meeting. All right. Well that brings us to the last case on this
1209 morning's agenda, which is Variance 2021, number 30, Herman F. Blake, Jr.
1210

1211
1212 **VAR2021-00030 HERMAN F. BLAKE, JR.** requests a variance from Section 24-
1213 4306.E.1 of the County Code to build a one-family dwelling at 197 Pilgrim Lane (Parcel
1214 795-755-4366) zoned Agricultural District (A-1) (Fairfield). The public street frontage
1215 requirement is not met. The applicant proposes 0 feet public street frontage, where the
1216 Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet
1217 public street frontage.
1218

1219 Mr. Blankinship - Would everyone who intends to speak to this case, please
1220 stand and be sworn in? Raise your right hand, please. Do you swear the testimony
1221 you're about to give is the truth, the whole truth, and nothing but the truth so help you
1222 God?
1223

1224 Mr. Blake - I do.
1225

1226 Mr. Blankinship - All right. Now a member of the staff will present. There were
1227 also several memoranda left on the table for this case.
1228

1229 Mr. Gidley - Okay. Thank you, Mr. Secretary, Mr. Chairman, members of
1230 the Board. As the secretary noted, since the staff report went out, we did receive
1231 additional letters in opposition, including one from the homeowner's association and
1232 copies of those should be at your desk.
1233

As far as this case itself is concerned, the subject property is a 4-acre parcel located along the Chickahominy River floodplain just southeast of Chamberlayne Road. It was originally part of a 214-acre parcel that was developed into the Chickahominy Bluffs subdivision, shown here, and also the Sterling Forest subdivision further south. And this was done in the late 1960s and the early '70s. The parcel was left out of the subdivision, possibly due to the development constraints on the property, including steep slopes, floodplain, and wetlands.

In 1975, the applicant purchased the property at 8331 Fulham Court, shown down here, and this is his home. And shortly thereafter the applicant also purchased the subject property up here. Which is, you know, immediately behind their current property.

In 2001 the land to the north was developed as part of the Rolling Hills Subdivision. At the time, the developer agreed to provide a 20-foot access easement to the subject property that crosses over 200 Pilgrim Lane, right here. And you can see the access easement drawn in. This is 200 Pilgrim Lane here and this is where the access easement would go in, right through here.

The access easement, despite its existence, does not, however, satisfy the public street frontage requirement. As a result, the applicant is requesting a variance today for lack of public street frontage to allow a dwelling to be built on the property.

Staff does have concerns regarding the access easement. First, you can see here, it says 20-foot access easement and that's all it really says on the plat. Staff could find no other legal documentation governing the easement. So does this mean you can access it, like, as a pedestrian access or a vehicle access, or what? It's not particularly clear, to be frank about the situation.

During the subdivision review the developer's engineer did send a letter to the Planning Department. And in the letter, they stated their understanding was the only dwelling that could be placed on the property was a summer home for seasonal use. And this was due to the lack of public street frontage. So, evidently, the developer's engineer didn't think it would be, you know, turned into an actual residence fulltime. Whereas a summer home or a fishing cabin did not require public street frontage and, therefore, that was a permitted use.

So, other than this letter and the notation on the subdivision plat, we've not been able to locate anything describing the rights that go with the easement. So that's one concern. The second concern deals with the easement itself and whether it's effectively usable. This is a topo map here. The blue lines of boundary between the two parcels, the easement runs along the southern line of this. As you can see, this goes down an extremely steep ravine. From this point here to this point here is just over two hundred feet, and the fall in elevation is 40 feet over that distance. Not 4 feet, but 40 feet. So that's a significant drop that goes down there.

1279 The other thing I would point out here is, if you're over here (205 Pilgrim Court) and you
1280 go down towards the floodplain, it just slopes straight on down and it's steep. But you
1281 notice the topo here looks a little different. It's steep going not just from the cul-de-sac
1282 down to the subject property, but also between these two homes in the neighborhood,
1283 side to side, it's also quite steep there. And that's why we refer to the ravine being so
1284 steep in our staff report. So we definitely have some concern as to whether or not it's
1285 effectively usable.

1286
1287 In looking at the special requirement for a variance, as you know, one of the three must
1288 be met for one to be granted. When the Board of Supervisors adopted the zoning
1289 ordinance in 1960 to require public street frontage for all dwellings, this property was part
1290 of a larger 214-acre parcel. As I noted, this parcel was developed into the Chickahominy
1291 Bluffs and Sterling Forest subdivisions. These provided a valuable use for the 214-acre
1292 parcel. The 4-acre parcel was just a remnant that contained steep slopes, floodplain, and
1293 wetlands.

1294
1295 Because it lacked public street frontage, unlike the previous case we had, this was never
1296 a buildable lot under the zoning ordinance for a dwelling. So, as a result, staff's position
1297 is neither of the first two threshold tests are met. This obviously does not involve ADA
1298 accessibility for a disabled person, so none of the three threshold tests are met in staff's
1299 view. As a result, the variance should not be granted.

1300
1301 I would note, however, even if one of the three were met, all five subtests must also be
1302 met. Staff is concerned, as noted, about the ravine. It's heavily wooded now, as you can
1303 see here, which helps to stabilize the ravine as it currently exists. If a driveway were to
1304 be placed down it, filling the ravine, attempting to stabilize it from erosion, would have a
1305 significant impact on the adjacent homes. And, again, this is quite steep here.

1306
1307 Both of the homeowners have written in and expressed concerns over what impact it
1308 would have on their property on the erosion vis-à-vis their foundation. So staff concurs
1309 that it would have a substantial detrimental impact on not only the neighboring properties,
1310 but would also be disruptive to an established neighborhood as well. So staff does not
1311 believe this subtest is met.

1312
1313 In conclusion, staff does not believe the required threshold tests are met. In addition,
1314 subtest two is not met as placing a driveway in this easement would result in the clearing
1315 of mature trees, mass grading, and potential erosion problems for adjacent residents. As
1316 a result, it would have a detrimental impact on nearby property. For these reasons, staff
1317 recommends denial of this request.

1318
1319 I know this has been a long presentation. It's a detailed case. And if you have any
1320 questions, I will be happy to answer those. Thank you.

1321
1322 Mr. Green - Could you go back a couple pictures. Because I want a clear
1323 understanding.

1325 Mr. Gidley - Which picture do you want?
 1326
 1327 Mr. Green - Click back two -- about two of them.
 1328
 1329 Mr. Gidley - There's the aerial.
 1330
 1331 Mr. Green - Yes, the aerial. So Audley Lane. So what you're talking about
 1332 is coming in from Audley Lane to access that parcel.
 1333
 1334 Mr. Gidley - No, sir. Actually, it's off of Pilgrim Lane here.
 1335
 1336 Mr. Green - Oh, Pilgrim. Coming into Pilgrim.
 1337
 1338 Mr. Gidley - Yes. It runs right between these two houses here.
 1339
 1340 Mr. Green - Okay. And so what the applicant wants to do is build on that
 1341 4-acre land. On that 4-acre lot.
 1342
 1343 Mr. Gidley - My understanding is there is a client in Maryland moving to
 1344 the area who's considering purchasing this property. And so in order to build a residence
 1345 on it, they would need a variance and the access to the property as I said earlier, it never
 1346 had the required public street frontage. And so they would want to access through the
 1347 easement that runs between these two houses here. And, unfortunately, that easement
 1348 goes right down that steep ravine I showed you right here.
 1349
 1350 Mr. Green - Is there any other way that -- could you go back? Is there any
 1351 other way that that lot could be accessed?
 1352
 1353 Mr. Gidley - Well, the applicant's existing home borders on the lot here.
 1354 And he's indicated they have accessed it over the years for hunting and things like that.
 1355 Otherwise, there is no access to it, which is one of the reasons staff noted it was never a
 1356 buildable lot when it was created. From the very get-go it did not meet the requirements
 1357 of the zoning ordinance. And that's what the engineer noted in his letter where he wrote,
 1358 as you pointed out, the property is zoned A-1. And without the possibility of being able to
 1359 create any road frontage in the future, the only dwelling allowed would be a summer home
 1360 for seasonal use, was their understanding. And, obviously, you're not going to get any
 1361 road in there.
 1362
 1363 Mr. Green - Okay. If you build a summer home for seasonal use, how do
 1364 you access the summer home?
 1365
 1366 Mr. Gidley - That's a good question. And, again, it comes down to much
 1367 of what I mentioned earlier, the details of the easement are not particularly clear.
 1368
 1369 Mr. Blankinship - But it is specifically exempt from the public street frontage
 1370 requirement in the zoning ordinance.

1371
1372 Mr. Gidley - Right.
1373
1374 Mr. Green - So could you go back to the picture between the two houses?
1375
1376 Mr. Gidley - Sure.
1377
1378 Mr. Green - So, basically, those trees would have to come down.
1379
1380 Mr. Gidley - Yes, sir.
1381
1382 Mr. Green - To access that lot.
1383
1384 Mr. Gidley - Yes, sir.
1385
1386 Mr. Green - So 20 feet would have to be taken so someone could go down
1387 into that area.
1388
1389 Mr. Gidley - Yes, sir. That's correct. And when staff went down there, we
1390 were impressed by the significance of that ravine. It was quite steep. And going in there
1391 and clearing would certainly have a significant impact on the neighborhood.
1392
1393 Mr. Green - So it'd be 20-feet wide and how far back?
1394
1395 Mr. Gidley - Let's see here.
1396
1397 Mr. Martel Zeldin - Four hundred feet.
1398
1399 Mr. Gidley - Yes. You can see it right here.
1400
1401 Mr. Green - Wow.
1402
1403 Mr. Gidley - And here's another V here. It's 68 to here and 384 down here.
1404 So, as someone said, over 400 feet down.
1405
1406 Mr. Green - That's significant road. That's a significant road.
1407
1408 Mr. Gidley - Yes, sir. It is significant.
1409
1410 Mr. Green - Are there any other questions from the --
1411
1412 Mr. Pollard - Where's the applicant's current property?
1413
1414 Mr. Johnson - That's what I was going to ask.
1415
1416 Mr. Pollard - Could you, like, hover over it with your cursor?

1417
1418 Mr. Gidley - Sure. Here's the subject property. The applicant currently
1419 lives right here.
1420
1421 Mr. Green - And the applicant is interested in selling that four-acres to the
1422 individual who's moving down from Maryland.
1423
1424 Mr. Gidley - Right. And then they would access it through this
1425 neighborhood here.
1426
1427 Mr. Green - Right.
1428
1429 Mr. Pollard - And what is the, like, the state of that land? Is it wetland or
1430 dry or woody?
1431
1432 Mr. Gidley - On this property here? There's significant downward -- let's
1433 see. I don't think my topo showed a lot of that. You can see a little bit here where it
1434 slopes down towards the lower end here.
1435
1436 Over on the northeast corner, that's floodplain. There is a small area in here where they
1437 may be able to build. But even then, that was a concern of staff. Because when this
1438 subdivision came in here and they showed the plans, they showed RPA, which is a
1439 Resource Protection Area, a no disturb basically, that kind of cut right along through here.
1440 And it looked like it went into this area that would otherwise potentially be buildable. So
1441 staff has concerns whether or not, you know, this would even be buildable as such. But
1442 we didn't have to get into that, because, you know, we didn't feel it met the tests for a
1443 variance.
1444
1445 Mr. Green - Right. Are there any other questions from the Board for staff?
1446
1447 Mr. Johnson - Yes.
1448
1449 Mr. Green - Hold on. Mr. Reid.
1450
1451 Mr. Reid - Was the easement ever recorded? I'm confused about --
1452 been reading all about ground.
1453
1454 Mr. Gidley - The only recordation I found -- I'm sorry, that's the wrong plan.
1455 There we go. This is the only recordation that I was able to find. And even in the
1456 subdivision's covenants, when they talked about easements, it's to tot lots and things like
1457 that, giving the utilities the right to access easements and all. But this is all there is. So
1458 it's really, as I said, is it a pedestrian easement for people to get down there? Is it more?
1459 It's not particularly clear what it involves.
1460
1461 Mr. Reid - And, secondly, did the applicant have the opportunity to put
1462 an easement on his property from Fulham Court and right to the property, the four acres?

1463
1464 Mr. Gidley - I would think he, you know, certainly could put an easement
1465 on his property. He would still need a variance for the public street frontage. But the
1466 easement could come across his property. Sure.

1467
1468 Mr. Reid - Okay. Thank you.

1469
1470 Mr. Gidley - Yes, sir.

1471
1472 Mr. Green - Mr. Johnson.

1473
1474 Mr. Johnson - And my question was the entrance that you talked about
1475 going. If it went in from--

1476
1477 Mr. Green - Where those big trees are? There?

1478
1479 Mr. Johnson - No. Not there, but on the opposite side. Right there.

1480
1481 Mr. Gidley - Yeah.

1482
1483 Mr. Johnson - Having an easement coming in from over there -- if they could
1484 do it, would it be flatter there than it would be on the other side?

1485
1486 Mr. Gidley - When I looked at topographical maps, the area immediately
1487 behind the applicant's home was somewhat level. But, again, as you get a little further
1488 into the property it does sort of slope down to the floodplain for the river. If any of you
1489 have driven down to the Chickahominy River, you know how you start going downhill real
1490 quick.

1491
1492 Mr. Johnson - But you stated earlier that it looked like the one and only
1493 buildable area was in the back. Was it back there and potentially in the front and in middle
1494 is unusable? Is that your assessment?

1495
1496 Mr. Gidley - This area here where the cursor is, is pretty steep. And then
1497 there's floodplain up here. So the practical matter is it would have to go up here. But
1498 there are -- I believe there's, like 35-feet worth of easements that run through here. And,
1499 as I noted, there seem to be Chesapeake Bay buffers noted on the subdivision plans up
1500 here or that crossed over. So in reality how buildable it is, that's certainly up in the air, so
1501 to speak. And, again, we didn't really look at that just because we don't think the applicant
1502 met the requirements for the variance.

1503
1504 Mr. Johnson - Thank you.

1505
1506 Mr. Green - Any other questions from the Board to the staff? Hearing
1507 none, we'll now move to the applicant. Is the applicant here?
1508

1509 Mr. Blake - Yes, sir.
1510
1511 Mr. Green - Would you please go to the podium? State and spell your
1512 name, sir.
1513
1514 Mr. Blake - Morning, Mr. Chairman, members of the Board and the
1515 audience. I am, for the record, Herman Blake Jr. along with my wife, the owners of this
1516 property in question. It's a brain twister. It seems that it's gotten to be a brain twister.
1517 But I'm before you today because I was told that I needed a 20-foot access to this
1518 property.
1519
1520 A few years back I thought about selling it, and so a real estate agent and I went over to
1521 the County, to the Planning office, and we thought because of what the developer of
1522 Rolling Hills told me when he got this plant recorded, the whole subdivision, that he'd
1523 given me access to my property. He also told me that his engineer had told him that there
1524 were at least two-house sites there and maybe three. But certainly two. I'm really trying
1525 to settle down. I'll sell you all 40 acres in Hanover you would like that, too.
1526
1527 I'm to the point in my life where I just kind of want out. Just sort of understand me just a
1528 little bit better. I am a developer. I have developed subdivisions Hanover, Chesterfield,
1529 and Henrico. In all cases, I have subbed the work out to the stone people, the clearing
1530 people, the road builders, and the curb and gutter people. I have paid those bills. I have
1531 supervised the work. I'm not trying to be braggadocios at all, but I am a graduate of the -
1532 - it was VPI back in my day, it is now Virginia Tech. So that'd give you an idea of how old
1533 I am.
1534
1535 Mr. Green - We forgive you.
1536
1537 Mr. Blake - But, anyway, my degree was in building construction. Some
1538 of our courses were taken in the Civil Engineering Department, so I am familiar with
1539 surveying. We had to take surveying classes. I am familiar with cut and fill. I'm familiar
1540 with road construction. There's nothing that we really propose to do. And, believe me, I
1541 don't blame anybody for protesting and being afraid. I really don't. I understand all of
1542 that. I've lived in Chickahominy Bluffs. I moved in there -- first I built my house. One
1543 house in '71. And then I moved to this back piece and actually moved in the house, I
1544 think, in '76.
1545
1546 And in between, you know, I bought the property I just wanted to be back in that area on
1547 a cul-de-sac. It was private. And, you know, I like that parcel because my boys were
1548 starting to be interested in hunting. They've hunted that property plus they got permission
1549 to hunt the property over here to the right that's owned by a hunt club. So my boys had
1550 access to that. So one of my boys got a six-point deer right there in -- we call it a back
1551 yard. And they could fish down in the Chickahominy River, because they could go across
1552 there in the floodplain of the Hunting Club's property and fish.
1553

1554 It's been a real pleasant place to live. I've enjoyed it. We have seen a lot of change come
1555 forth there. We, you know, the neighborhood was concerned about Rolling Hills. They
1556 were concerned about Chamberlayne Estates. They were concerned about the other
1557 one. And justifiably so. I think neighbors have a right to know. They have a right to be
1558 concerned about what's going to happen in their area.

1559
1560 I never was really worried about Rolling Hills, because I know the developer and he
1561 promised me that he would get me an access easement into my house. I mean, into my
1562 property. And, you know, I felt pretty good about that, because before that there was an
1563 access easement that was closed when Rolling Hills was developed.

1564
1565 My kids call it the VEPCO Trail. I think it was actually a big easement that went down
1566 with the County sewer line. But, anyway, that's how they went in and out. The
1567 neighborhood kids played back in there. They had rope swiings over one ravine and did
1568 all kinds of things. It's been a great place to live.

1569
1570 I'm going to downsize and so, therefore, I've decided to sell that. What I did is I gave you
1571 all the information. I have always seen it as being a usable access easement that I could
1572 open up at some point. Now, obviously, I wouldn't open it up without telling the people or
1573 meeting with them or anything else about going across it.

1574
1575 But I've always looked at it as -- and I know the developer did, too. And why his engineer
1576 wrote a letter about a fishing cabin is beyond me. I only found out about it the other day
1577 when Mr. Gidley told me about it. And he sent me a copy and that's what the engineer
1578 said. Well, that wasn't the engineer's instructions from the developer, as I understand it.
1579 He would be -- I was to get an access that I could build a driveway in, drive cars back in
1580 there, and sell off some of the property if I wanted to.

1581
1582 I thought I had two lots as I could break it up into two pieces. But I went up to the Planning
1583 Office with a real estate agent. That has probably I don't know. I tried to find exactly
1584 when it was. But, anyway, we went there together and the Planning staff member told
1585 me that I could only get one house back there. And he said, You don't have enough road
1586 frontage for that.

1587
1588 I think he was probably doing the same thing I did. Read that plat, it's recorded, showing
1589 that easement and knowing that that whole thing had gone before the Board of
1590 Supervisors. Now forget about the ordinance. It went before the Board of Supervisors
1591 showing an easement right into Pilgrim Lane.

1592
1593 Now maybe it was inadvertently approved by them. That's what I have to assume now.
1594 Because I had no idea until a few days before the filing on this case was due that I had
1595 to come before you folks. So, you know, I was totally ignorant of that fact. And I still have
1596 an issue with it. But in order to move on forward, I rushed in to get my filing done. I have
1597 a purchaser who's actually signed a contract. He is from Baltimore, wants to move to
1598 Richmond, and set up his life out of Maryland and into Virginia.

1600 So when the notices came out, I tried to get him down so we could go ahead and meet
1601 the two homeowners that are affected the most on each side of the easement. Meet with
1602 them personally and see what we had in mind. And, unfortunately, he couldn't get here
1603 the day after the notices went out. It was Monday, I think the holiday, Columbus Day, I
1604 think it was that he could get in town.

1605
1606 And we did go out and met with Mr. Zeldin and his wife and Mr. Bell and explained what
1607 we were trying to do. But unfortunately, you know, prior to that I had gone over to the
1608 County just to make an inquiry. The settlement was due to be before September the 30th.
1609 I was asked the question by the attorney and so I wanted to do a little checking to see
1610 what was actually going to be the problem to get a curb-cut permit and build an apron,
1611 you know, into the driveway. I think this is all we got to do.

1612
1613 We will get a permit, the County's not going to let you break the curb and gutter out without
1614 the permit, justifiably so. So, you know, that's what I went over there to see. This was,
1615 like, 3:45 in the afternoon on a Friday. It was Friday, September the 18th. I went to Public
1616 Works because they're the ones that have to issue the permit for a curb-cut.

1617
1618 And they said, you know, you got a problem, you're going to have to go to the Board of
1619 Zoning Appeals. I said, What? Oh, no, no. They said, You've got to go to the Planning
1620 Office. I said, Okay. So time is rushing on. I went on over and luckily I was able to see
1621 someone in the Zoning Office. And I don't like calling names, so I won't. You know.

1622
1623 Anyway, I got good information there that I had to come before the Board here to get a
1624 variance. And rather than argue about it I said, When can I file? And he said, Well go
1625 get your application, you know, out at the desk at the Permit Center. So I went there and
1626 the young lady was really helpful and gave me the forms and I said, When do I have to
1627 file for this? I was looking for something November, December. I mean, I thought, Oh,
1628 Lord. This is awful.

1629
1630 She said, well, if you get your paperwork in by the 24th, then you'll be good for the October
1631 meeting. And I said, well that's good, because I need to give my purchasers some kind
1632 of answer. It's just not fair to him to hold him, you know, for another 30, 60 days or
1633 whatever. So I really felt blessed, you know, I got there in the nick of time, so to speak.
1634 And I filed it, got everything together. I actually asked for a variance not of 0 feet. I asked
1635 for a variance of 30 feet, I think, because I figured it already had 20, and 20 and 30 is 50,
1636 and I think 50 was a number that you needed.

1637
1638 From the very beginning I thought I had a good lot, and I still do, because the 20 feet
1639 would be good if a parcel were developed along with Rolling Hills as a stem lot. Which,
1640 you know, I wasn't worried about it. You know. It never occurred to me I'd better develop
1641 this with that. But I didn't. The developer told me he was going to give me an easement,
1642 and as far as I'm concerned, I got it. If you notice, on the handout I had done, I've got
1643 one for the audience if they want to pick it up.

1645 But what I did is I took the 12 pages of the new sheet, of the new ordinances, 12 pages
1646 in there that spell out the uses of each piece of property. And you've got to go down the
1647 table for yours. And mine is the first one agricultural and conservation. You've got to go
1648 down that one. Then you go to 11 more pages and go down those. And that's what I did.
1649 Took me about a half a day to get it. Staff may want to hang on to that. Save them a lot
1650 of looking. But they are all uses that are by right and by conditional use or provisional
1651 use in agriculture.

1652
1653 I could go over there right now -- by taking a tractor down by my garage and so forth. But
1654 I don't have a place on my lot where I live to get an easement to access that property. I
1655 got a house in the way and I got a garage in the way. And that's why the developer, who
1656 is a personal friend of mine, was willing to give me an access to that while they were
1657 developing this property. So it was done before anybody bought anything over there. It's
1658 on the plat of the whole subdivision for the world to see. And I think it's in 2001 when it
1659 was recorded.

1660
1661 I think the Real Estate Department here in the County decided, Oh, Mr. Blake's got a
1662 buildable lot. You will notice that my tax assessment went from 5,000-some dollars up to
1663 40-some thousand dollars and change. It's all there in front of you. And then each year
1664 as the lots were sold it kept creeping up and it got up to \$83,000 and stayed there for
1665 years. Now I'm selling the lot, hopefully. I mean, I'm trying to be fair. I'm selling it for the
1666 assessment. I figured if the County thinks it's worth \$83,000, that if that lot -- it's got the
1667 potential to be able to a \$250,000 lot if you can get into it with a driveway.

1668
1669 So what I've tried to do is leave enough money. And I've had my engineer look at the
1670 slope in there and he says it's only going to be, like, a 10 to 1 slope with the most of 12.
1671 Or 10 percent or 12 percent. That is not a bad slope. Subdivision I did in Chesterfield --
1672 we got slopes in there way worse than that. And it works. It all passed the State Highway
1673 Department, Design, Chesterfield. It's all signed off, the subdivision's built.

1674
1675 So I'm depending on my engineer to do this. And what we would do is the best
1676 engineering practices will answer most of these problems. There's not a subdivision
1677 anywhere that I know of it has wooded parcels on it, Chickahominy Bluffs included, Rolling
1678 Hills included, that you don't have to take down trees, you don't have to destabilize soil
1679 for the time being, but you've got to restabilize it. Good engineering practices take care
1680 of that.

1681
1682 I just wish that I'd done something different, so it didn't have to disturb the Zeldins and the
1683 Bells. I really do. But I really feel like in the heart that I already have an established
1684 easement. The Board of Supervisors might have inadvertently passed it. I feel like I'm
1685 entitled to it and I have every intention of working with the neighborhood. And they're
1686 making claims like, you know, they're going to get a flash flood. Well, there's no way
1687 you're going to get a flash flood. If it didn't get a flash flood during Gaston, or whatever
1688 that hurricane was that came in here and flooded everything, it's never going to be one.

1690 But, to make my point, there's curb and gutter all the way down around that cul-de-sac
1691 that I counted -- it's either 7 or 8 stormwater catch basins. You'll see one in the picture
1692 there, I think. So all that water -- most of that water is getting out of there by pipe. The
1693 water that's now going and bothers Mr. Bell is surface water. It's basically the sheet flow
1694 that came in through the natural grade of the subdivision. And when it got to that, they
1695 called it a ravine. I called it a ditch. And they're saying that the water in there now -- that's
1696 what caused that ditch, In my opinion, that ravine.

1697
1698 What it was, that's the way the water was coming out of the subdivision before it was ever
1699 a subdivision. And over time it dug that trench through there. That water that's going
1700 through there now is nothing but sheet flow and it's not much of that. And we would build
1701 the road to the -- I'm not going to call it a road, either. It's a driveway. Some of the
1702 neighbors are saying, you know, that they're worried about opening up ground behind it.
1703 But if you look at the map -- Mr. Gidley, could you go back to the regional map for me,
1704 please.

1705
1706 There. If you look at the maps there really was no other way to satisfactorily get an
1707 easement into my four acres. When the developed Chickahominy Bluff Subdivision, they
1708 were left over with this parcel because there was no way to get to it. They didn't own this
1709 land that's Rolling Hills.

1710
1711 So it's kind of -- it's in a way some sort of amusing, I guess. But I don't know -- I just still
1712 feel like that something happened and I don't have any answers to it. I feel like I'm entitled
1713 to use what I thought I had. And I can understand they are concerned. Honesty to gosh
1714 I am. And I want to work with everybody. I lived there longer than anybody other than
1715 one of the ladies in my subdivision. Period. Since 1971. Living there longer than most
1716 anybody maybe in Chamberlayne Hills except for Mr. LeVecchia.

1717
1718 And I've done nothing but work to be a good citizen and I will continue to do that. And it's
1719 something I found out about I wasn't aware of it. And I just happy that I can at least get
1720 a filing in here. And, if there's any questions you gentleman would like to ask me, or
1721 whatever, about anymore, what I've done or what I know about this stuff, I'd be happy to
1722 try to answer those questions.

1723
1724 Mr. Smith is probably -- he told me he was going to be on the Zoom call because he is
1725 out of town. But, I thought it was important for us to get ahead of it with the neighbors as
1726 best we could and let them know it's for a man who really wants to live there and that's
1727 what we tried to do.

1728
1729 Mr. Green - Mr. Blake, I have a question.

1730
1731 Mr. Blake - Yes, sir.

1732
1733 Mr. Green - You say you've done extensive development work. So you've
1734 built subdivisions and all of that. And you also stated that you were told you would be
1735 given this easement. Is there anything in writing that you have? Because how did you

1736 formalize that? I mean, people say all kind of things, but I would think that with you being
1737 a developer there would be some formal documentation that you could produce or
1738 someone could produce that was actually -- not to challenge anything that you've said,
1739 but -- because I believe you. But, you know.

1740
1741 Mr. Blake - The only thing I could do would be to get a letter from the
1742 developer, you know, attesting to the fact of what his intent was. But he was so happy,
1743 you know, he had some rough times, I think, getting his subdivision done. I mean, a lot
1744 of neighbors' concerns not in, I mean, in the general vicinity. I mean, probably
1745 Chickahominy Bluffs. I didn't go to the hearings and probably Chamberlayne Hills. I
1746 mean, there was concern.

1747
1748 So he was happy when he got it and let me know that everything had been approved,
1749 signed off, and he was good to go. And I'm sure he would be happy to give me some
1750 kind of letter. He's in and out of town. Right now I think he's in Europe.

1751
1752 But that's all I've got right now is word of mouth. And the staff has looked back and they
1753 can't find any more than what they found. And I was not even aware. And where the
1754 engineer comes up with the idea you're going to build a fishing cabin back there and you
1755 can't drive back there to it or something. To me it's ludicrous. I can use all of the things
1756 that you can use in agriculture. I don't know. It's really twisted. It's a tough one.

1757
1758 Mr. Green - I have a question for staff. Could you explain to me when
1759 someone -- he said it was the intent to give him that. How do you go from intent to
1760 actuality? And what is the process to make it legal?

1761
1762 Mr. Gidley - Well typically an easement would, A, be recorded as it was on
1763 the subdivision plan and, B, would have a document recorded spelling out what exactly
1764 the easement does, who has the rights to that easement, and what those rights are. As
1765 I said, you know, this could be a pedestrian easement, this could be a vehicular easement,
1766 we don't really know. But that's typically the two parts. There's, A, the recordation on the
1767 plat, but there's no, B, really spelling out what those rights to the easement are.

1768
1769 Mr. Green - So you literally have an easement, but you don't know what
1770 it's for.

1771
1772 Mr. Gidley - Yes, sir. That's basically what it boils down to.

1773
1774 Mr. Green - Goes from intent to actuality.

1775
1776 Mr. Gidley - Yeah. And all we have in writing as such is a letter from the
1777 engineer and I can hand this out if you want to --

1778
1779 Mr. Green - No I'm just trying to follow a legal process.

1780
1781 Mr. Gidley - Yes.

1782
1783 Mr. Green - Because it's one thing to intend to do something, but then
1784 once it's legal then that puts it into some other frame. And because we can't understand
1785 what it's for, whose problem is that? Is that the owner's problem, or is that our problem?
1786

1787 Mr. Gidley - We mentioned that as a concern for the Board to consider.
1788 You know. Ultimately if the variance were granted, it's something that I would suspect
1789 the homeowners would quite possibly litigate to see exactly what those rights were. From
1790 staff's perspective, the request before you is a variance, and I would just go down and
1791 review the variance based upon the conditions under state law.
1792

1793 Mr. Green - I'm just trying to understand the process. Are there any other
1794 questions from the Board to the applicant or staff?
1795

1796 Mr. Pollard - And either one can answer this. I know it's speculation. But
1797 is there any way feasible to use the applicant's property to get access to his other
1798 property?
1799

1800 Mr. Blake - I can get access to it by walking around my garage. I could
1801 take, like, a farm track and go back through there. But I don't have any access way to
1802 have traffic come -- and, you know, people drive an automobile back and come into it and
1803 fourth. I've got the same issue on my cul-de-sac. In fact we now have less -- I think we've
1804 only got, like, 65 feet of cul-de-sac. I'm not sure, but I know that it's tight there and I don't
1805 see any way to do it. Really, I don't.
1806

1807 Mr. Pollard - Okay. Thank you.
1808

1809 Mr. Blake - You could take a track machine, farm machine, and you could
1810 go around behind my garage and down. I mean. But you couldn't put a driveway all down
1811 through there. We could access it and to build some farm structures or something back
1812 in there where you could park those things and leave them and do the rest of it. We could
1813 probably go in there and, you know, log it without a whole lot of trouble because it'd take
1814 a skidder and pull it up through the hills and weave through my yard to get to the street
1815 to load it.
1816

1817 It gets kind of ridiculous. The easiest and the best and the highest value of that piece of
1818 property is a residential lot. Right now it's agricultural. And, if you notice, they have
1819 accessed me \$18,900 and almost \$19,000 an acre for farmland. And the only farmland
1820 that I can imagine would be worth that kind of money would have to be somebody's big
1821 farm off an interchange off an interstate close to some place that's being rapidly
1822 developed with apartments or condominiums or small lots and big houses.
1823

1824 A farmer couldn't afford to buy it and make a living out of it. And it could be farmed. I
1825 mean, it really could. There's a flat area and it slopes on both sides and it's steep on this
1826 side. We've got floodplain down there that you could actually, as far as I know, could
1827 farm it. You could certainly raise grass in it and cut hay.

1828
1829 There's a lot of things that could be done with it. But I still contend that a nice residence
1830 back there is absolutely the best thing for it. If I didn't believe it I wouldn't be here. I
1831 wouldn't have tried to sell it like that. I'd tie it into my house and say, Come by an inner-
1832 city farm. I, you know, that's what I might have to do. But I don't know. I really think I've
1833 got people that want to live here. They're nice people and I'd like to help them live here.
1834 And I think they'd be an asset to the area. And I told them that.

1835
1836 Mr. Pollard - Okay. And the purchaser has seen the easement?

1837
1838 Mr. Blake - Sir?

1839
1840 Mr. Pollard - The purchaser has seen the easement that you're proposing
1841 to have the road go through? Be built on? The purchaser, the person you're selling the
1842 property to, they see kind of, like, how it's restricted as far as access?

1843
1844 Mr. Blake - He's walked that property -- they've walked it several different
1845 times. And, you know, they know the situation. And as soon as I found out I had to go to
1846 the Board of Zoning Appeals, you know, according to Planning staff, I notified him. I've
1847 sent him everything that I've been sent. You know. So he's up to date on it. And I hope
1848 he wasn't on the road somewhere where he couldn't Zoom, but I don't know. That was
1849 his intent. Other than that, I don't know. He might just say give up and then forget about
1850 it.

1851
1852 Mr. Green - Since we're discussing this, can we make sure that he is not
1853 on Zoom or Webex?

1854
1855 Mr. Blankinship - There is someone on Webex who has not informed staff of
1856 their interest. Mr. Morris, is it possible for staff to reach out and ask if Mr. Smith, the
1857 contract purchaser, is on Webex?

1858
1859 Mr. Morris - Mr. Smith is not on, but we will reach out to that fourth
1860 participant or attendee to see if they have an interest in speaking.

1861
1862 Mr. Blankinship - Okay. Thank you.

1863
1864 Mr. Green - Well thank you, Mr. Blake. We will now move to those who
1865 would like to speak for or against the variance.

1866
1867 Mr. Blake - Thank you, gentlemen.

1868
1869 Mr. Green - Would those individuals who would like to speak for or against
1870 identify themselves.

1871
1872 Unknown Speaker - Against as well?

1874 Mr. Green - For or against. Yes.
1875
1876 Mr. Johnson - Just for, first.
1877
1878 Mr. Green - Who is for? Is anybody for? For clarification, the gentleman
1879 at the podium, are you for or against?
1880
1881 Mr. Gidley - He's against.
1882
1883 Mr. Johnson - He's against.
1884
1885 Mr. Green - Oh.
1886
1887 Mr. Zeldin - Yes, sir. My name is Martel Zeldin. I'm the co-owner of the
1888 property at 200 Pilgrim Lane.
1889
1890 Mr. Green - Would you spell your name, please?
1891
1892 Mr. Zeldin - M-a-r-t-e-l Z-e-l-d-i-n. My spouse is Carol Parish, P-a-r-i-s-h.
1893 She's available through your video connection.
1894
1895 Mr. Blankinship - Oh, okay.
1896
1897 Mr. Zeldin - Let me start off by saying, I understand the dilemma that Mr.
1898 Blake is confronting. But let me address some of the issues that I see as a property owner
1899 adjacent to the easement, the access easement, that we're talking about. The picture on
1900 the slide is a little bit deceptive. Imagine that flora going down about 50 or 60 feet in pitch,
1901 400 feet long, to the bottom of a hill. It's very hard to appreciate that when you're sitting
1902 behind desks. But I was very appreciative of Mr. Pollard who came out and walked that
1903 property to see what it was like.
1904
1905 It is a steep drop and a ravine on the left-hand side as you face the easement. And the
1906 question that I raised for myself is, how can a road or driveway be constructed in that
1907 particular location? First, there'd have to be excavation, which means removing all the
1908 trees in at least a 20-foot-wide easement and all the flora 400 feet down. What would
1909 that do to the -- to the nature of the land that's there?
1910
1911 Indeed, we do have rains and storms and there is runoff. And those trees and flora hold
1912 that hill together. Removing those trees and flora will create an erosion problem that I
1913 don't think can be remediated.
1914
1915 Second, at the bottom of the hill, there's a stream. Actually it's two streams. And they
1916 are repositories of the runoff water. Sometimes those streams get as high as a couple of
1917 feet. Mr. Blake is asking to build a road with a bridge across the stream. The only way
1918 he could do that is by filling in a portion of that stream and putting a road above it. To
1919 me that represents a dam for the flow of the water in that stream which normally takes

the water to the Chickahominy River. So that would create a barrier. The road and the bridge would create a barrier to the free flow of that water.

A third point, suppose he's able to build a driveway going down 400 feet and then up again another 50 feet and a bridge across the stream. Suppose a residence is built on that 4.3-acre landlock lot. What happens in the case of an emergency like a fire or an EMT -- a medical emergency? How would a firetruck transverse a hill that goes down 400 feet with a ravine on the left side? I can't imagine that occurring. I think it'd be a disaster waiting to happen.

And, finally, we have one more point. To the right of the easement is my property. Perhaps my house is about 10 or 15 feet from the easement. On my property, next to the easement, there are several trees. Two of them are above 100 feet tall. They've been there for a century. One is a giant poplar. If Mr. Blake builds a road there and excavates that easement, it will impinge upon the roots of those trees that are right next to my property. I think you're aware that if you take out 30, 40, or 50 percent of the roots of a tree, that tree is dead. It will die.

One of those trees hangs over my roof. If that tree dies, I either have to remove it at my expense, or it will topple on my house. And it's not like it's 30, 40 feet away from the house. It's only about 10 feet away from the house. About 15 feet away from the easement. So those roots will be damaged as well.

I think the bottom line for me is that the report by the Planning Office was accurate, but not complete, that there'll be a problem with environmental concerns with runoff, with erosion. It will be a disaster waiting to happen. It will change the nature of the cul-de-sac. It'll change the nature of Rolling Hills. That's all I've prepared to say at this point. I'm happy to answer any questions.

Mr. Green - Are there any questions from the Board to the applicant? I mean, to the person who is against this proposal? Okay. We'll hear the next person. Would you state your name and spell it, sir, please.

Mr. Winston - Yeah. Good morning. I'm Leslie Winston, W-i-n-s-t-o-n. My wife, Betty and I, reside at 204 Pilgrim Lane in the Rolling Hills Subdivision. We're right next door to Mr. Zeldin. And we are here to speak against this request.

The property of Rolling Hills, it's a special area. It's quiet. We live out in the cul-de-sac. The property in question, if a road were constructed there, it would seriously impact the value of our property.

The nature and the beauty are one thing. Or a couple of the things that attracted us to that development of Rolling Hills. And it's obvious that the easement that is there was never meant to handle any kind of vehicular traffic.

1965 We heard that there might be some kind of foot traffic that the particular 20-foot easement
1966 might be able to accommodate and maybe had so in the past. However, due to the
1967 topography, if you happen to see it, I mean, the testimony has been there's 400 feet, a
1968 huge elevation, decrease in elevation.

1969
1970 Of course, our property backs up to the natural resource area that we are in and we are
1971 limited as homeowners with what we can do at the rear of our property because of it. And
1972 that's an established resource-management area that has been established by the
1973 County. No doubt wetlands are involved, because you have the confluence of a couple
1974 of streams there. So we're going to ask -- and it's opposition -- that you all deny Mr.
1975 Blake's request for this easement.

1976
1977 Thank goodness that the staff were on duty that day and caught Mr. Blake before he
1978 came in to do any kind of curb cut or bring in any kind of excavating equipment to come
1979 in and try and establish this 20-foot easement. Because it could have been a detriment
1980 to all of our properties. And, you know, we're concerned about our neighbors next door,
1981 the Zeldins, with the Bells on the other side of the 20-foot easement. Any kind of
1982 disturbance of that land could really impact their property, their foundations, and what
1983 have you.

1984
1985 So I just want to say, Please do not grant this variance.

1986
1987 The other thing I wanted to say that Mr. Blake -- he's even spoken this morning that his
1988 property, where he currently lives, backs right up to the 4 acres in question. So he could
1989 easily come and develop a roadway or an access easement to the property in question,
1990 the 4. -- whatever acres. So if he wanted to sell the four acres, he could do it from his
1991 side, which is on the Chickahominy Bluffs side, where he currently resides.

1992
1993 Mr. Blake even said, Hey, I believe I can put two or three houses up there on the property.
1994 So if this variance was allowed, it's up in the air whether he'll sell it for a single-family
1995 dwelling or multiple dwellings. So it's just our stance that we are against the variance in
1996 question. And I want to thank the staff that has done their due diligence and recognized
1997 the fact that there's a huge problem there and we just do not want it. We don't need it.
1998 And it would be to a detriment to the Rolling Hills community. Thank you.

1999
2000 Mr. Green - Okay. Any questions of the applicant? I mean, Mr. Winston,
2001 who has opposed it? You can just ask the question. Okay.

2002
2003 Mr. Pollard - So a lot of neighbors, residents of Rolling Hills, have sent in
2004 letters. And you all are here today. And we see you. If anybody wants to say something,
2005 feel free. If it's something different we ask that you speak. If there's something that you
2006 can kind of forego, then please do so just in the interest of time. But feel free. It looks
2007 like you want to speak. Yes. Go ahead to the mic.

2008
2009 Ms. Winston - Good morning. I'm Betty Winston, wife of Leslie Winston. B-
2010 e-t-t-y W-i-n-s-t-o-n. And I don't have much to add to what my husband said other than

2011 to say that our association is vehemently against this. We've had a meeting, and we do
2012 not want this to happen. So.

2013
2014 Mr. Greem - Thank you.

2015
2016 Ms. Winston - And I believe you do have a letter from our Chair.

2017
2018 Mr. Pollard - Yes.

2019
2020 Ms. Winston - And we have a petition also.

2021
2022 Mr. Green - Yes, thank you.

2023
2024 Ms. Winston - Thank you.

2025
2026 Mr. Green - There are three individuals on Webex. One we were going to
2027 go back to see if that individual was --

2028
2029 Mr. Blankinship - Yes. Mr. Smith is apparently not one of them.

2030
2031 Mr. Green - And the three individuals on Webex, are they for or against
2032 the project?

2033
2034 Mr. Blankinship - I believe they're all in opposition.

2035
2036 Mr. Green - Would you defer and follow the comments made by Mr.
2037 Pollard as it relates to having anything additional to say? Because I think we get the gist
2038 of this.

2039
2040 Mr. Blankinship - Yeah. Just please don't repeat anything that's already been
2041 said, but if you have new information, please provide it.

2042
2043 Mr. Green - So are there any individuals with new information on Webex?

2044
2045 Mr. Morris - Yes, sir. It's my understanding the three individuals are still
2046 interested in speaking.

2047
2048 Mr. Green - Okay. Are the three individuals going to provide us with
2049 something that we have not heard? Because if we've heard it already, then well I'm going
2050 to take the prerogative of cutting them short, because we've heard a lot and we don't want
2051 to repeat the same thing.

2052
2053 Mr. Morris - Understood. I'm sorry, but they have not provided us with
2054 details on what they are going to speak about.

2055
2056 Mr. Blankinship - Okay. Let's have the first one.

2057
 2058 Mr. Morris - Right. The first one is Carol Parish who is unmuted right now.
 2059
 2060 Ms. Parish - Hello. Thank you very much for the opportunity to speak in
 2061 opposition to this variance. My name is Carol Parish, P-a-r-i-s-h. And I reside with Marty
 2062 Zeldin at 200 Pilgrim Lane. I've lived at this address since 2005.
 2063
 2064 The easement under consideration is on the property I share with Marty Zeldin, and I ask
 2065 you to vote no on this variance for the following new reasons. There seems to be no
 2066 evidence that Mr. Blake has any legal right to use the easement. As has been said, the
 2067 easement lies along a very steep ravine; what hasn't been emphasized is that ravine --
 2068 the proposed road, that may lie on this ravine would be feet from my house. The northern
 2069 wall of my house would be within feet of the road, disturbing the ravine in order to build
 2070 that road will surely destabilize the foundation of my house.
 2071
 2072 I have a PhD in computational chemistry. I train students who want to become engineers.
 2073 There is no miracle of engineering that could allow a road feet from the foundation of a
 2074 house along a ravine that would prevent the destabilization of that house. No amount of
 2075 money would be able to rectify that situation.
 2076
 2077 Mr. Green - Thank you.
 2078
 2079 Ms. Parish - My last point is that the variance application requests an
 2080 exception to the County's 50-foot frontage requirement and the allowance of a 0-foot
 2081 frontage. As I'm sure you know, frontage requirements are important for the preservation
 2082 of communities, for assuring homeowner right-of-way, and for a multitude of other good
 2083 reasons.
 2084
 2085 Approving this variance for absolutely 0 frontage undermines the good planning and
 2086 stewardship and sets a precedent for unchecked development in the undeveloped land
 2087 in the Rolling Hills Development. This will fundamentally change the nature of the
 2088 development and longer term could destabilize the economic stability of the surrounding
 2089 area and have a negative impact on the County's tax base. Thank you very much for
 2090 your time, and I urge you to vote no on this variance.
 2091
 2092 Mr. Green - Thank you. Next individual.
 2093
 2094 Staff - The next speaker is Anthony Bell, who is unmuted right now.
 2095
 2096 Mr. Bell - Hello, everyone. My name's Anthony Bell. I live at 201 Pilgrim
 2097 Lane with my wife Abby Bell. Thank you for showing on the cursor where we live. We
 2098 live right next to the proposed easement. And I want to thank the Board members and
 2099 County staff. I will keep my comments short and I don't wish to reiterate anything that's
 2100 already been said.
 2101

2102 But I had sent in one of the letters that I believe may be in your packet earlier. A lot of
2103 the photos from the staff presentation are from the outside of the ravine. If you haven't
2104 had a chance, please look at some of the photos I've provided inside the ravine and you
2105 can get a better sense of the steepness of the slope both from the road going down, but
2106 then also on either side to where our house and Marty and Carol's house sit as well as
2107 the number of trees that are in there that are certainly in that ravine place.

2108
2109 I'm not going to, you know, rehash anything that's been spoken to already, but I wish to
2110 just comment and respond to a couple things that Mr. Blake had said. I hope that no one
2111 underestimates the amount of water that flows through this area. It is true that it's mostly
2112 sheet flow, as Mr. Blake said, but it is in a large volume as it -- the house where I sit --
2113 flows across my back yard into this ravine.

2114
2115 It is a large quantity of water, and I don't want it to be underestimated. Mr. Blake even
2116 said so, in his own words. The water flows into that ravine. And then, in the same breath,
2117 he made the claim that the amount of water that goes through that ravine -- is what shaped
2118 and formed this ravine. So it's no small amount of water.

2119
2120 Also, I just want to clarify and reiterate that we, well, at least I don't object to Mr. Blake
2121 utilizing his property for any of the ways that he, you know, has mentioned. If he wants
2122 to log it, farm it, fine. I don't understand how he thinks he could. Because same thing
2123 like my property. Adjacent. It's either on the hill. Anything below the hill is a swamp. But
2124 the objection isn't to him logging or farming his property. It is specifically to this proposed
2125 access road that would unquestionably destabilize that area and put the house at 201
2126 Pilgrim Lane at risk and the house at 200 Pilgrim Lane at risk.

2127
2128 I have also built my --

2129
2130 Mr. Green - We lost you?

2131
2132 Mr. Johnson - We lost --

2133
2134 Mr. Green - Can we get him back?

2135
2136 Mr. Blankinship - Mr. Morris.

2137
2138 Mr. Morris - Yes, sir. It appears we have lost Mr. Bell.

2139
2140 Mr. Green - I think we've gotten the essence of what Mr. Bell has stated.

2141
2142 Mr. Blankinship - There's one more.

2143
2144 Mr. Green - Is there -- there was three.

2145
2146 Staff - Yes, sir. There's one more speaker. Jayell Alexander. And
2147 I'm going to unmute him right now.

2148
2149 Ms. Alexander - Good morning. My name is Jayell Alexander. First name is
2150 spelled J-a-y-e-l-l, and Alexander the traditional spelling. I reside at 8223 Pilgrim Terrace
2151 in the Rolling Hills community. And I also served as the Homeowner's Association
2152 president for the last couple of years since my residence in this community in 2016.
2153

2154 We had an informal meeting of our community members about two weeks ago where
2155 about a third of our members came together to learn about this situation, but also to voice
2156 opposition. So I am on this call today to represent the 81 residents in our community as
2157 well as the 39 homes that this variance will impact and hope that you vote today to decline
2158 this variance application. Thank you.
2159

2160 Mr. Green - Thank you.
2161

2162 Mr. Johnson - Thank you.
2163

2164 Mr. Green - Are there any -- we have one other individual in the audience.
2165 Are you speaking for or against?
2166

2167 Mr. Tiedeman - Pardon?
2168

2169 Mr. Green - For or against?
2170

2171 Mr. Tiedeman - Against.
2172

2173 Mr. Green - Okay, sir. Would you go up to the podium and give us your
2174 name and spell it, please, sir.
2175

2176 Mr. Tiedeman - My name is Edward Craig Tiedeman. That's T as in Tom, i-e-
2177 d-e-m-a-n. And I'm completely against this variance request for three specific reasons.
2178

2179 The first one is, you know, look, I've purchased a number of properties over the years and
2180 one of the first things I ever do is I check ingress and egress capabilities. And if it's very
2181 specifically stated that I can get into my lot. And, obviously, this was not done in the case
2182 of this parcel of ground.
2183

2184 The second thing is, is that I live on 221 Pilgrim. And while I'm not next to the homes that
2185 are going to suffer the greatest damage because of this -- I call it a road, not a driveway.
2186 There is a parcel of ground behind me in between us and the church that's back there.
2187 And I've been told it's a green zone, but I've never seen anything legally about it.
2188

2189 But I would hate to see a precedent set here where somebody says, Well, I have a piece
2190 of land-locked ground back here. I want to access it, so I'm going to get a variance so I
2191 can put a driveway right in between those two houses right there. I certainly would not
2192 want to see a driveway in between us and the Webers. Because, I mean, it's like 30 feet
2193 to each house once they put the driveway in.



2194

2195 And then the last thing is the statement that was made that the water all heads to those
2196 culverts in the street. Well, I have what I call the Little Rolling Hills River that runs behind
2197 right through my back yard when it rains. Doesn't have to rain hard. But it starts off at
2198 about one inch deep and when it really rains it gets up 4 inches deep. And I'm finding an
2199 erosion problem and I'm six houses up the street from them. And it's all downhill to them.
2200 So I know the erosion problems are going to be insurmountable on that road that they put
2201 in there. It's going to be a constant problem. And I thank you for your time.

2202

2203 Mr. Green - Thank you. Are there any other individuals on Webex.

2204

2205 Mr. Morris - No, sir. There is no one else on Webex interested in
2206 speaking.

2207

2208 Mr. Green - And with no one else in the audience is willing to -- is -- we're
2209 done with the fors and against with individuals in the audience.

2210

2211 One thing I'd like to state before we move forward with this is that one of the things that
2212 we as a Board do, and you all may not know, is while Mr. Pollard was given credit for
2213 going out looking at property as it relates to -- because this is within his district. We all
2214 tend to do that. And you may not see that, but we will drive the properties to look at them.



2215

2216 We're not to engage with individuals when we do that, so you may not know when we
2217 come and when we're there. So a lot of times when individuals are explaining things to
2218 us, we have already seen them, site visited them, and you may not know. And, like I said,
2219 we do that very discretely, because we don't want -- because if we have access to one
2220 side, then we have to grant access to the other. We're the Board of Zoning ninjas.

2221

2222 And so quite a few of us have been out and seen and we certainly understand. And so I
2223 just wanted to make that clear that a lot of times people want to over explain things to us.
2224 But we see. We go and we visit and we make copious notes on the things that we do --
2225 we see.

2226

2227 Hearing no other discussion what is the pleasure of the Board?

2228

2229 Mr. Johnson - Do you have any questions after him --

2230

2231 Mr. Green - Oh. You wanted to rebut. Yes, sir. Could you not reinforce
2232 what you've already said, Mr. Blake.

2233

2234 Mr. Blake - Beg your pardon?

2235

2236 Mr. Green - I said, do not reinforce anything you've already said, because
2237 you've given a very thorough explanation.



2238

2239 Mr. Blake - I just want to make a couple corrections. People are entitled
2240 to their opinion, but not fact. Excuse me. But I never once indicated or said I intended to
2241 build a bridge anywhere on this driveway. It's a fact that there're two streams. The -- has
2242 looked at this, calculated drainage, and we need two 30-inch pipes to handle that.

2243
2244 The other thing. It's been stated that my driveway and my homeowner's home and
2245 whatnot that happens will degrade the real estate values in their subdivision. Nobody's
2246 proved that. I mean, how do you prove it? I guarantee you that next year if the bottom
2247 doesn't drop out of the whole country, they can sell their houses for more than they paid
2248 for them by quite a bit and probably more than they assessed for this year.

2249
2250 Things like we're proposing do not degrade a neighborhood. There's no way either.
2251 Because I see it that I thought in the beginning that I had three house sites there, because
2252 the developer told me two for sure.

2253
2254 This -- I went to the County and I found out I could not do but one. And this been about
2255 three or four years ago. There's no way that we can go back there and get multi-family
2256 or commercial, or anything else. I mean, reason would prevail on that. Plus the County
2257 Code would take care of it, too. That can't happen.

2258
2259 Other than that, I guess I've got nothing to say. I did not say I was going to build a bridge.
2260 I do not think that the real estate values will go downhill. I still think that the best use for
2261 the land is residential use. One house, one driveway. Call it a road if you want to. It's
2262 not going to be a road, because a road has to be built to state highway specs that will
2263 take it in the system. And Henrico County has to be built to Henrico County standards,
2264 so they will take it in the system, because Henrico County owns their road system.

2265
2266 But when you start talking about building it close. Maybe somebody ought to ride up to
2267 Sliding Hill Road in Hanover and take a look at the Home Depot that's sitting up on a --
2268 about a 50 or 60-foot hill with a little driveway behind it enough to unload trucks. I think
2269 proper engineering, proper erosion control, will answer all f those considerations. I do.

2270
2271 And I've got to emphasize, too, to the people, that when you file for a building permit it
2272 goes through a process. Public Works will get that permit and Public Works will determine
2273 whether we need to get a study from the Corps of Engineers, how much wetland we're
2274 in, and my engineer -- if we do the driveway, will do all of that homework ahead of time
2275 and he will do that all on the plan that's going to be submitted that will have to be submitted
2276 when the house plans are submitted.

2277
2278 So all of those considerations will happen. To say I would drive up there with a truck,
2279 dump off a bulldozer, and start bulldozing the woods, is absolutely ridiculous. They'd lock
2280 me up because I don't have a permit to disturb the land.

2281
2282 People must understand and say what's true, not what they think or what they believe.
2283 They need to prove their case. And I don't think anybody has proven their case. And
2284 maybe I haven't either. But I contend and I still contend and I believe it was inadvertently

2285 that the Planning Commission okayed this plat. It's signed off in 2001. I know there was
2286 intention of the developer to give me access, vehicular access, to the property.
2287

2288 Now where'd it fall through the cracks? I don't know. I have no letter that I can prove by.
2289 And where the engineer thought he had the authority to say, I can build a fishing cabin
2290 back there and use it during the season, is absolutely ludicrous. It is ridiculous. It's almost
2291 laughable. I guess that's all I've got to say, gentlemen. I don't know. I think that when
2292 the County saw this thing and they upped my taxes from a \$5,000 property to a \$40,000-
2293 some property, all the way up to an \$83,000 property, they've prorated for years. The
2294 County real estate section saw this as a buildable residential piece of property.
2295

2296 Now is the County going to give me back my tax money? If this is turned over will I get
2297 my money back? Because my property goes right back down to agricultural. These are
2298 questions that I can't answer and, you know, honest to God I will do anything I can do
2299 verify what I've told you. I just didn't think it was necessary. But I'll be glad to get a letter
2300 or whatever I've got to do. I ask you to prove it. I feel like I've got it.
2301

2302 I mean, I feel like it was given -- it might be inadvertently, but that plat, that subdivision
2303 plat, was examined. It went through the planning process, it went back and forth between
2304 the Planning staff and the engineer and the developer. I know it did. And I just feel like
2305 that it was granted and what I've got to do at this point is go forward with the permits and
2306 everything that I need, which will be done in due course. And these concerns will be
2307 addressed at that time, they would have to be.
2308

2309 That's all I have to say. I appreciate the time. I appreciate you all listening. And I would
2310 ask that you take my position that it was recorded and it's valid, and it can be used that
2311 easy. Thank you.
2312

2313 Mr. Green - Thank you.

2314
2315 Mr. Pollard - Thank you, Mr. Blake.
2316

2317 Mr. Green - One other thing I would like to inform individuals in the
2318 audience. We get a stack of paper and we diligently read this stack of paper. And we
2319 have -- and, like I said, in addition to us doing our own homework, because we do our
2320 homework, we were given a very large code book that the County developed that we
2321 have to follow. So we've done that. We've also gone through training on zoning, and
2322 there's continuing training that we continue to do.
2323

2324 What is more important is we rely on the -- and I'm going to take my mask off to say this
2325 -- the objective viewpoint that our competent staff gives us. Never once since I've been
2326 on this Board have I felt that there's been anything biased being given to us. Everything
2327 has been objective and it's been factual and it has been verifiable. And so while
2328 individuals may not like decisions that we make, you know, there are multiple levels of
2329 ways in which we make that decision.
2330

2331 And I'm going to complement once again the entire staff, because it is balanced and it is
2332 objective and it is what it is. So having said that, I think I've said too much and I'd like to
2333 move forward with the Board's recommendation.
2334

2335 Mr. Pollard - Mr. Blake, I heard everything that you had to say and I take it
2336 very seriously, especially when it comes to each person's use of their own property. And
2337 so I heard some of your concerns about your property value and taxes paid and there's
2338 remedies outside this Board that you can pursue. With that said, I believe in 1960-
2339 something the ordinance was passed and the subdivisions were divided up in 1975 with
2340 the knowledge of the ordinance.
2341

2342 So all that to say is, as mentioned, I had walked the property. I could not be as much of
2343 a ninja as I would like to be, because I would really be in someone's back yard. But it is
2344 a huge undertaking to turn that into a driveway. I understand it won't be a road, just a
2345 driveway. But their property is very close to the ravine and I can see where it would
2346 disturb -- and I don't have a PhD and I don't have work experience in that, but it's very
2347 obvious the type of disturbance that would happen.
2348

2349 All of that to say is I'm also empathetic to the neighbors and what will happen between
2350 their homes and the amount of time and the amount of everything else that goes into
2351 making that into a driveway.
2352

2353 With all that said, all of the persons in that neighborhood are against it and it's hard to not
2354 be sympathetic to how strongly they feel about the driveway. I move that we deny the
2355 variance.
2356

2357 Mr. Green - Do you have a reason that you want --?

2358
2359 Mr. Pollard - That was it. Deny. I make a motion that we deny the variance.
2360

2361 Mr. Johnson - For the reason --
2362

2363 Mr. Pollard - I just said it.
2364

2365 Mr. Green - A motion has been made by Mr. Pollard to deny the variance.
2366

2366 Is there a second?
2367

2368 Mr. Johnson - I second.
2369

2370 Mr. Green - Johnson. A motion has been made to deny the variance. It
2371 has been seconded by Mr. Johnson. All in favor say aye. All opposed like sign, nay.
2372

2373 On a motion by Mr. Pollard, seconded by Mr. Johnson, the Board **denied** case **VAR2021-**
2374 **00030 HERMAN F. BLAKE, JR.'s** request for a variance from Section 24-4306.E.1 of
2375 the County Code to build a one-family dwelling at 197 Pilgrim Lane (Parcel 795-755-4366)

zoned Agricultural District (A-1) (Fairfield). The public street frontage requirement is not met.

Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
Negative:		0
Absent:		0

Mr. Green - It's been denied. Thank you for your time and speaking to us.

Now we need to move on to the approval of the minutes. Has everyone had an opportunity to look at the minutes? Is there a motion --

Mr. Johnson - I motion that we approve the September minutes.

Mr. Reid - So moved.


Mr. Green - All in favor. All opposed.

On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved the minutes** of the September 23, 2021 Board of Zoning Appeals meeting.

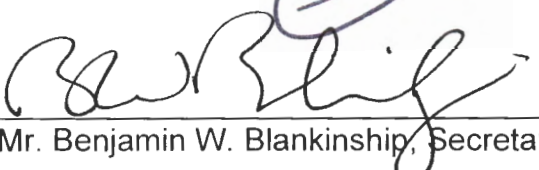
Affirmative:	Bell, Green, Johnson, Pollard, Reid	5
Negative:		0
Absent:		0

Mr. Green - Minutes been approved. Thank you.

Mr. Blankinship - There is no other new business.



Mr. Terone B. Green, Chair



Mr. Benjamin W. Blankinship, Secretary