

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRING ROADS, ON THURSDAY APRIL 23, 2015 AT 9:00**
5 **A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH APRIL 6, 2015, AND APRIL 13, 2015.**

7

Members Present: Greg Baka, Acting Chairman
Dennis J. Berman
Helen E. Harris

Members Absent: Gentry Bell, Chairman
James W. Nunnally

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

8

9 Mr. Baka - Welcome to the April meeting of the Henrico County
10 Board of Zoning Appeals. I ask that you please rise and say the Pledge of
11 Allegiance.

12

13 Mr. Blankinship, would you please read our rules?

14

15 Mr. Blankinship - Good morning, Mr. Acting Chairman, members of the
16 Board, ladies and gentlemen, the rules for this meeting are as follows. Acting as
17 secretary, I will call each case. And as I'm speaking, the applicant should come
18 down to the podium. We will then ask everyone who intends to speak to that
19 case to stand and be sworn in. It doesn't look like we're going to have a lot of
20 public participation this morning, but we'll still go through the process. Then the
21 applicant will speak. If anyone else wants to speak, they will be given the
22 opportunity. Then the applicant will have an opportunity for rebuttal. After hearing
23 each case, the Board will take the matter under advisement and proceed to the
24 next case. They will render all of their decisions at the end of the meeting. If you
25 wish you hear their decision on a specific case, you can either stay until the end
26 of the meeting, or you can check the Planning Department website this
27 afternoon, or you can call the Planning Department this afternoon.

28

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

32

33 Finally, there is a binder in the foyer containing the staff report for each case,
34 including the conditions that have been recommended by the staff. It's
35 particularly important that the applicants be familiar with those conditions.

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As you can see, we are two members short this morning. State law provides that in order for the Board of Zoning Appeals to approve either a variance or a conditional use permit, there must be an affirmative vote of at least three members. If there is a vote of two to one in favor of a case this morning, that would constitute a denial. Three members have to vote in favor. If you are concerned about that, you of course have the right to defer your case to next month when hopefully we will have all five members present. If you're not concerned about that, then we'll just proceed.

I believe that was everything.

Mr. Baka - Would anyone prefer to have a deferral for their case, or should we go ahead and proceed with the cases on the agenda? Seeing none, we'll go ahead and proceed.

Mr. Blankinship - All right.

VAR2015-00002 **MARTIN SULZER-REICHEL** requests a variance from Section 24-95(d)(2) of the County Code to build a one-family dwelling at 8002 Hermitage Road (Parcel 775-752-6381) zoned One-Family Residence District (R-3) (Brookland). The lot width requirement is not met. The applicant proposes 50 feet lot width, where the Code requires 100 feet lot width. The applicant requests a variance of 50 feet lot width.

Mr. Blankinship - Does anyone else intend to speak to this case? Would you please raise your right hand? 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. Sulzer-Reichel - I swear.

Mr. Blankinship - Would you state your name?

Mr. Sulzer-Reichel - Martin Sulzer-Reichel.

Mr. Baka - Please proceed.

Mr. Sulzer-Reichel - Should I spell my name?

Mr. Blankinship - No that's fine; it's in the record already. Thank you.

Mr. Sulzer-Reichel - Okay. The lot in question we bought together with our lot in 2001, so the split of the two lots had already happened at the time we bought it. At the time we bought it, we intended to build a house there for my parents-in-law. As it turned out, they ended up not building on there. In the

82 meantime, my father-in-law is now deceased, and so we decided to go ahead
83 and sell the lot.

84
85 At the time we bought the lot, a variance existed for two houses to be built there.
86 In the meantime, since time has elapsed, the variance is not in place anymore.
87 Without the variance, the lot is not going to be usable, obviously. Therefore,
88 we're requesting that the variance be renewed so the lot can be sold and used.

89
90 Mr. Baka - Okay. Any questions from members of the Board?

91
92 Ms. Harris - Mr. Sulzer-Reichel, on your application, you had a
93 statement that I wanted you to explain. Where it says the number four on the
94 second page, describe why you cannot make other arrangements to comply with
95 the Zoning Ordinance without a variance. You said expanding it would be getting
96 too close to our house. What do you mean?

97
98 Mr. Sulzer-Reichel - If we tried to enlarge, kind of re-divide the property to
99 make the access to the second lot large enough, my understanding is that the
100 new property line would be too close to our own house.

101
102 Ms. Harris - Okay. Your property runs adjacent to the church's
103 property?

104
105 Mr. Sulzer-Reichel - Yes. On the right-hand side is the driveway to the
106 church. And on the left-hand side, that's where our property and the property we
107 want to sell are linked. That's where our house is.

108
109 Ms. Harris - Have you explored the possibility of the church buying
110 the property without you getting a variance?

111
112 Mr. Sulzer-Reichel - No, we did not.

113
114 Mr. Baka - I had that same question. I did note that when I visited
115 the site, there were at least two for-sale signs. One was facing Hermitage Road,
116 and the second one was directly facing the church parking lot. I could say it's fair
117 that the applicant has put the adjacent property owners on notice that he intends
118 to try to use the property or dispose of it. They may have the ability to follow up
119 on that.

120
121 Mr. Sulzer-Reichel - We put up the for-sale signs in January. We've had a
122 couple people come by kind of showing interest. We didn't approach the church
123 directly. We were members of the church until 2005 or 2006. I know that the
124 church invested a lot of money in their own buildings. We see that their parking
125 lot certainly fills up for their services, but I don't see where they could possibly
126 have use for the lot.

127

128 Mr. Baka - May I follow up on that question, Ms. Harris?
129
130 Ms. Harris - Yes.
131
132 Mr. Baka - If it does fill up, what is your idea of perhaps taking a
133 month or thirty days to contact them and ask them that question directly if we
134 haven't exhausted that option before granting a variance.
135
136 Mr. Sulzer-Reichel - We have—problem asking them.
137
138 Mr. Baka - If I may, I guess the follow-up question I had to that
139 would be the property on the opposite side, I guess on the northwest side of your
140 property. If your parcel were merged with that parcel, wouldn't there also not be a
141 need for a variance at this time? Have you contacted that property owner?
142
143 Mr. Blankinship - It looks to me like that property also has no public
144 street frontage.
145
146 Mr. Baka - If that parcel were merged with this—
147
148 Mr. Sulzer-Reichel - Which parcel? I'm sorry.
149
150 Mr. Baka - Okay, I understand. You're referring to this 50-foot
151 width there.
152
153 Mr. Blankinship - Right, that's where it is.
154
155 Mr. Baka - So you would have larger acreage, but you would still
156 have a need for the variance.
157
158 Mr. Berman - Did the County send a notice to the church?
159
160 Mr. Blankinship - Yes sir.
161
162 Mr. Berman - So would there still be a need for a 30-day period?
163
164 Mr. Baka - That would be up to the Board. Perhaps not, if the
165 applicant has already expressed what level of confidence he has that they may
166 not need it. Any other questions from the Board about this property or the
167 applicant's case? Hearing none, that closes this case. We will move on to the
168 next case. Thank you, sir.
169
170 Mr. Sulzer-Reichel - Thank you.
171

172 Mr. Baka - I'm sorry, I need to ask if there are other people in the
173 audience who wish to speak on this case at all. I didn't believe there were any.
174 Thank you.

175
176 Mr. Sulzer-Reichel - Thank you.

177
178 **[After the conclusion of the public hearings, the Board discussed the case**
179 **and made its decision. This portion of the transcript is included here for**
180 **convenience of reference.]**

181
182 Mr. Baka - What is the pleasure of the Board on this case,
183 VAR2015-0002, Martin Sulzer-Reichel?

184
185 Mr. Berman - I'd like to make a motion that we approve the case
186 and all the conditions presented by the staff. That's my motion.

187
188 Mr. Baka - Is there a second on this case?

189
190 Ms. Harris - Yes. I'll second it, but also I have a comment. We in
191 Henrico County had a severe problem with flag lots, creating flag lots, which is
192 what we have here. I don't think we want to go back to those days where we are
193 bombarded with requests for flag lots. However, since this case was approved in
194 2001, I feel my conscience is clear to say that I second the motion.

195
196 Mr. Blankinship - Before the vote, could someone just give a brief
197 summary of the findings, the various tests that we're required to meet for granting
198 a variance?

199
200 Mr. Baka - The three-part test of the Cochran case?

201
202 Mr. Blankinship - Yes.

203
204 Mr. Berman - Read it in its entirety?

205
206 Mr. Blankinship - No, no. Just a brief summary of why you feel that this
207 case meets those requirements.

208
209 Mr. Berman - Okay. The Cochran versus Fairfax case brought forth
210 some measurements for our Board that we use to rule. One of them was—I'm
211 trying to paraphrase here. By not granting a variance, we don't want to preclude
212 somebody from using the lot, to just render it useless. In this case, if we went
213 down to fifty, and it is a flag lot, and we stopped flag lots back in 1999. If he made
214 it any wider, as you pointed out, it would encroach upon your property. That is
215 one of the measurements that we use, that we want to make sure you're able to
216 use your property.

217

218 Mr. Blankinship - Substantial detriment.
219
220 Mr. Berman - Okay. The substantial detriment. In other words, it
221 would not harm the properties around you. We've already discussed the church
222 and the other properties around you. And that this is not a request that is asked
223 all the time. So this is an isolated circumstance that you're requesting.
224
225 Mr. Baka - Thank you. Thank you very much.
226
227 Mr. Berman - That was rough. I will practice that before next month.
228
229 Mr. Blankinship - I didn't mean to spring that on you.
230
231 Ms. Harris - In this particular case, we had a condition #3, the
232 situation of the property concerned is not of so general or recurring a nature as to
233 make reasonably practicable the formation of a general regulation to be adopted.
234 This regulation, the zoning ordinance, was amended in 1999, and this case came
235 up a little less than two years after this amendment. Again, I think that we needed
236 to take a closer look at what we have here. Since this oddly shaped lot was
237 created and then allowed by variance, we have some obligation to bring closure
238 to this.
239
240 Mr. Baka - Very good. Okay. So the motion is to approve the
241 variance, 2015-00002. All in favor say aye. All opposed say no. The ayes have it;
242 the motion carries.
243
244 After an advertised public hearing and on a motion by Mr. Berman, seconded by
245 Ms. Harris, the Board **approved** application **VAR2015-00002, MARTIN**
246 **SULZER-REICHEL's** request for a variance from Section 24-95(d)(2) of the
247 County Code to build a one-family dwelling at 8002 Hermitage Road (Parcel 775-
248 752-6381) zoned One-Family Residence District (R-3) (Brookland). The Board
249 approved the variance subject to the following conditions:
250
251 1. This variance applies only to the lot width requirement for one dwelling only.
252 All other applicable regulations of the County Code shall remain in force.
253
254 2. Approval of this request does not imply that a building permit will be issued.
255 Building permit approval is contingent on Health Department requirements,
256 including, but not limited to, soil evaluation for a septic drainfield and reserve
257 area.
258
259 3. Any dwelling on the property shall be served by public water.
260
261 4. At the time of building permit application, the applicant shall submit the
262 necessary information to the Department of Public Works to ensure compliance

263 with the requirements of the Chesapeake Bay Preservation Act and the code
264 requirements for water quality standards.

265
266 5. The foundation of any dwelling on the property shall be constructed of brick
267 from the first floor level to the finished grade.

268
269 6. Prior to the issuance of a certificate of occupancy, the applicant shall ensure
270 that a continuous, durable gravel or paved driveway exists to the site. The drive
271 aisle shall be at least 10 feet wide with 12 feet of clearance and have 14 feet of
272 overhead clearance to provide access for police, fire, and emergency medical
273 services and other traffic.

274
275
276 Affirmative: Baka, Berman, Harris 3
277 Negative: 0
278 Absent: Bell, Nunnally 2

279
280
281 **[At this point, the transcript continues with the public hearing on the next**
282 **case.]**

283
284 **CUP2015-00011 ELAINE EBERLY** requests a conditional use permit
285 pursuant to Section 24-95(i)(4) of the County Code to allow a swimming pool in
286 the side yard at 1213 Eberlys Place (ELKO WOODS) (Parcel 857-712-8214)
287 zoned Agricultural District (A-1) and Conservation District (C-1) (Varina).

288
289 Mr. Blankinship - Does anyone else intend to speak to this case?
290 Would you raise your right hand, please? Do you swear the testimony you're
291 about to give is the truth, the whole truth and nothing but the truth, so help you
292 God?

293
294 Ms. Eberly - I do.

295
296 Mr. Blankinship - Would you state your name, please?

297
298 Ms. Eberly - Elaine Eberly—E-b-e-r-l-y.

299
300 Mr. Blankinship - Thank you.

301
302 Mr. Baka - Please proceed with your case.

303
304 Ms. Eberly - Good morning. We have recently built a home on a
305 45-acre parcel. We own the property and the lots between the lot where we
306 constructed the home and White Oak Road. We purchased all of this together for
307 a buffer. Our proposed swimming pool is in what we consider our rear yard.

308 However, legally, logistically, I guess it's the side yard. It will not be seen from
309 any other property. Unless they are trespassing, no one will know it's there.

310

311 This is where we propose to have the pool, so it will be buffered from our closest
312 neighbor on the other side. It's just in the middle of nowhere.

313

314 Mr. Baka - Very good. Any questions for the applicant?

315

316 Mr. Berman - Just real quick. Could you please go to the aerial
317 photo? I want to make sure as a clarification that—I can't use the mouse, can I?
318 No? Where your cursor is is approximately where the pool is going to be. I
319 wanted to note that there is a box indicated within the community, and that's not
320 the pool. I didn't want to get that confused. Towards the upper center.

321

322 Mr. Baka - Oh, okay.

323

324 Ms. Eberly - I'm sorry, I didn't—oh, that.

325

326 Mr. Berman - That's not anything to do with the case, correct?

327

328 Ms. Eberly - No. If you come down to right in that area—

329

330 Mr. Berman - Yes, that's where I thought it was.

331

332 Ms. Eberly - That little clearing that you can see from the trees,
333 that's what we cleared for the home site and for the pool.

334

335 Mr. Berman - Thank you.

336

337 Ms. Eberly - Then the lots up front outside of that dotted area,
338 between the yellow dotted area and White Oak Road, are the lots that we bought
339 for a buffer.

340

341 Mr. Berman - Thank you.

342

343 Ms. Harris - Yes, I have a question. Do you know approximately
344 how many feet the pool would protrude into the side yard?

345

346 Ms. Eberly - I'm sorry; I didn't hear you.

347

348 Ms. Harris - Okay. If it were in the rear yard, we would not have a
349 problem. Part of the pool will be in the rear?

350

351 Ms. Eberly - I'm hard of hearing. I'm sorry. Say that again.

352

353 Ms. Harris - Okay. Part of your pool will be in the rear of your
354 property and part will be in the side yard?
355

356 Ms. Eberly - Yes ma'am.
357

358 Ms. Harris - Do you know how many feet it will protrude into the
359 side yard?
360

361 Mr. Berman - On this diagram, it looks to be twenty feet, but I'll let
362 you answer.
363

364 Ms. Eberly - Maybe twenty feet?
365

366 Ms. Harris - So not half.
367

368 Ms. Eberly - Oh, no. Maybe twenty feet into what's considered the
369 side yard.
370

371 Ms. Harris - Okay. Thank you.
372

373 Mr. Berman - Using the scale of the other indicator and marking
374 twenty feet, it looks like it would be another twenty feet towards the east.
375

376 Mr. Baka - So about half the width.
377

378 Ms. Harris - Less than half.
379

380 Ms. Eberly - Really, it could be all the way behind, but we're
381 hoping to be able to leave some access so that should the fire department or
382 anybody need to get to the rear of the property that the pool wouldn't be an
383 obstruction to it. That's why we moved it over a little bit, just to make sure that the
384 rescue squad, fire, whatever could have access.
385

386 Mr. Berman - As indicated in the staff report, you can see the
387 elevation lines are what is precluding you from putting it elsewhere behind the
388 property, because it would slope down.
389

390 Ms. Eberly - The property has been a challenge. We do have part
391 of the property designated for a conservation area. Part of the property is in the
392 floodplain. It's forty-five acres, but there are really not many areas where we are
393 comfortable disturbing the ground. We hope to leave it as natural as possible.
394

395 Mr. Berman - You've confirmed that none of this construction is in
396 the floodplain?
397

398 Ms. Eberly - Absolutely it is not.

399
400 Mr. Blankinship - Ms. Harris, I don't want to make things more
401 confusing, but from the Planning Department's perspective, from the Zoning
402 Ordinance perspective, all of the pool is in the side yard because the front yard is
403 where the driveway meets this lot, where the access to the property is. It's the
404 rear of the house, but it's the side of the lot. The way the screen is oriented now,
405 the front of this lot is to the left. That's why we have this provision in the code
406 because lots like this don't fit the words of the ordinance very well. The ordinance
407 was written with rectangular lots in mind.

408
409 Ms. Eberly - That's my hesitancy in answering those questions.

410
411 Mr. Blankinship - Right. But I don't mean to muddy the water by saying
412 that. The drawing is the important thing. Seeing what is actually going to be done
413 is the important thing.

414
415 Mr. Baka - Thank you for clarifying that, Ben. It actually makes
416 good sense now.

417
418 Ms. Eberly - What I consider the front of the house is where the
419 circle is. That's our front door. That's where our mailbox is. But it isn't the front of
420 the lot.

421
422 Mr. Baka - Right. Okay. Any other questions for the applicant?
423 No one else is here to speak? That concludes this case. Thank you very much.

424
425 Ms. Eberly - Thank you.

426
427 **[After the conclusion of the public hearings, the Board discussed the case**
428 **and made its decision. This portion of the transcript is included here for**
429 **convenience of reference.]**

430
431 Mr. Baka - What is the pleasure of the Board?

432
433 Ms. Harris - I move that the conditional use permit be granted in
434 view of the fact that it does not adversely affect the health, safety, or welfare of
435 the community. I believe that this family has taken a close look at—even though
436 they have a lot of acreage here, they've taken a close look at what all is given
437 them. And considering the 100-year floodplain, they're trying to work around that.
438 I believe this is the best place that it could be placed.

439
440 Mr. Baka - Very good. Is there a second to that motion?

441
442 Mr. Berman - I second the motion.

443

444 Mr. Baka - Seconded. All in favor say aye. All opposed say no.
445 The ayes have it; the motion carries.

446
447 After an advertised public hearing and on a motion by Ms. Harris, seconded by
448 Mr. Berman, the Board **approved** application **CUP2015-00011, ELAINE**
449 **EBERLY's** request for a conditional use permit pursuant to Section 24-95(i)(4) of
450 the County Code to allow a swimming pool in the side yard at 1213 Eberlys Place
451 (ELKO WOODS) (Parcel 857-712-8214) zoned Agricultural District (A-1) and
452 Conservation District (C-1). The Board approved the conditional use permit
453 subject to the following conditions:

454
455 1. Only the improvements shown on the plot plan and building design filed with
456 the application may be constructed pursuant to this approval. Any additional
457 improvements shall comply with the applicable regulations of the County Code.
458 Any substantial changes or additions to the design or location of the
459 improvements shall require a new conditional use permit.

460
461 2. The swimming pool shall be enclosed by a fence as required by the Building
462 Code.

463
464 3. At the time of building permit application, the applicant shall submit the
465 necessary information to the Department of Public Works to ensure compliance
466 with the requirements of the Chesapeake Bay Preservation Act and the code
467 requirements for water quality standards.

468
469
470 Affirmative: Baka, Berman, Harris 3
471 Negative: 0
472 Absent: Bell, Nunnally 2

473
474
475 **[At this point, the transcript continues with the public hearing on the next**
476 **case.]**

477
478 Mr. Blankinship - Mr. Chairman, with your indulgence, I'm going to call
479 the next four cases together.

480
481 Mr. Baka - Please do.

482
483 Mr. Blankinship - They're all the same applicant. They're all more or
484 less the same subject. We will, however, need a separate motion and a separate
485 vote on each case.

486
487 **CUP2015-00012 KROGER COMPANY** requests a conditional use
488 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special

489 event at 9000 Staples Mill Road (Parcel 768-757-2032) zoned Business District
490 (B-2C) (Brookland).

491
492 **CUP2015-00013** **KROGER COMPANY** requests a conditional use
493 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special
494 event at 9480 W Broad Street (Parcel 756-758-4127) zoned Business District (B-
495 2) (Brookland).

496
497 **CUP2015-00014** **KROGER COMPANY** requests a conditional use
498 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special
499 event at 4816 S Laburnum Avenue (LABURNUM SQUARE) (Parcel 815-714-
500 7661) zoned Business District (B-2) (Varina).

501
502 **CUP2015-00015** **KROGER COMPANY** requests a conditional use
503 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special
504 event at 11895 W Broad Street (Parcel 736-762-2022) zoned Business District
505 (B-2C) and West Broad Street Overlay (WBSO) (Three Chopt).

506
507 Mr. Rich - Good morning, my name is Dave Rich—R-i-c-h.

508
509 Mr. Blankinship - Does anyone else intend to speak to this case?
510 Would you please raise your right hand? Do you swear the testimony you're
511 about to give is the truth, the whole truth and nothing but the truth so help you
512 God?

513
514 Mr. Rich - Yes.

515
516 Mr. Baka - Good morning.

517
518 Mr. Rich - Good morning. The Kroger Company has decided to
519 reactivate a set of outdoor events tied to the NASCAR races in Richmond called
520 the Kroger Fanfest. This would be the fourth year. I believe that a few of these
521 locations or sites have been used in prior years. And there is a new set of events
522 described as Red, White, and Barbecue, which is a grilling initiative that the
523 Kroger Company is implementing in all of their divisions nationwide, which
524 includes the Mid-Atlantic Division here in Richmond. These would operate in the
525 May through June time frame.

526
527 So two different sets of events, very similar in scale. They would take up
528 approximately, I want to say 30 to 40 parking spaces for the Red, White, and
529 Barbecue grilling, approximately 40 to 50 parking spaces for the Kroger Fanfest
530 events. These are all scalable. We are able to reduce those quantities of parking
531 spaces if needed. But essentially, they are four-hour events, and they engage the
532 community. We tie into local charities and food banks to really have good
533 community involvement and engagement.

534

535 The way that these events operate, our agency will go out, set up the event, staff
536 it, and tear it down. It includes a number of unstaked 10-by-10 easy-up tents. We
537 pass out coupon booklets. We have repackaged samples so there is no live
538 grilling; there is no food that has to be prepared out of the parking lot. It's just
539 simply handing to the consumer or customer a sample. There will be various
540 games. Like a festival, if you would.

541

542 Those are essentially the two events.

543

544 Mr. Baka - Very good. Any questions of the Board?

545

546 Ms. Harris - Yes. Mr. Rich, I'm a Kroger shopper, so I go to all of
547 these locations. I noticed that the Laburnum store has 14.72 acres whereas
548 9840 West Broad Street has 36 acres, Staples Mill has 28.1 acres, and 11895
549 West Broad is 25.32 acres. I noticed the report was saying that you're going to
550 use so many parking spaces and it's consistent. Do you think you need to scale it
551 down for the Laburnum store?

552

553 Mr. Rich - We are able to. We have that flexibility. I think that
554 would be determined by all of you. If you deem that there should be a restriction
555 on one of the properties, we're most certainly able to do that. There is not an
556 issue if we need to reduce it. I think there is a better flow if we have more spots,
557 but we are able to condense everything if you need us to.

558

559 Ms. Harris - I just want to be able to find a parking space when I
560 go that location.

561

562 Mr. Rich - Absolutely. That is one of our biggest challenges,
563 traffic control. All of these locations are determined by the Mid-Atlantic Division
564 within Kroger. So these are very high-selling stores that they want us to have
565 these events at. I think they understand parking spots are a priority over our
566 event. The customer is always first, and we want to make sure we're not
567 inhibiting any traffic.

568

569 Ms. Harris - I would think that you would need to reduce the
570 Laburnum store's event because that's 14 compared to 36, 28, and 25 acres.

571

572 Mr. Rich - Okay.

573

574 Ms. Harris - You said that at the Red, White, and Barbecue there's
575 no grilling. So you're going to pass out samples that have been prepared
576 somewhere else?

577

578 Mr. Rich - I'm sorry?

579

580 Ms. Harris - You said there is no outdoor grilling, right?

581
582 Mr. Rich - Correct. We want to avoid that for all the cities we go
583 to so we don't have to permit grilling. There will be an in-store feature to that
584 program, which is handled by Kroger's internal company, Discovery. That's their
585 sampling demo team in the store. They manage all of that. The outdoor portion
586 would not involve that.
587
588 Ms. Harris - I noticed that one of the requirements of the fire
589 department is no cooking under the tent. But there will be no cooking period, is
590 that correct?
591
592 Mr. Rich - Yes.
593
594 Ms. Harris - Okay. Those are my questions.
595
596 Mr. Berman - I have several quick questions, if you would indulge
597 me. I'm going to run through all four locations real quick. First, on the Staples Mill
598 location, I want to make sure on the date; it's the same day as NASCAR. Is that
599 correct?
600
601 Mr. Rich - Correct.
602
603 Mr. Berman - I won't be there because I have my NASCAR tickets
604 for Saturday.
605
606 Mr. Rich - The way that works is there are plenty of NASCAR
607 races on Saturdays. We just structure our events so it's simply every week
608 Thursday through Sunday. Weekend days are very important for us; we get a lot
609 of great traffic. We realize that may be a slight disconnect, but our events are I
610 would say 50/50 racing and then just a generalized event for the public.
611
612 Mr. Berman - Mr. Blankinship, are we going to be approving all
613 three dates or just—
614
615 Mr. Blankinship - Yes sir.
616
617 Mr. Berman - I noticed that not every location has all three events.
618 Is that correct? Some have the barbecue, some have two for NASCAR.
619
620 Mr. Rich - That's correct.
621
622 Mr. Berman - Okay. Is there any issue—I guess that depends on
623 how we rule—in approving this in two days, making sure this is ready to go?
624
625 Mr. Blankinship - What he's saying is the dates are upon us now.
626

627 Mr. Berman - They are upon us.
628
629 Mr. Rich - Just so you know, if we run into any issues, our
630 backup plan, which we call our rain plan, we work with the store, and they allow
631 us to pull into their store a few smaller exhibits. Correct me if I'm wrong. I don't
632 believe that really pertains to Henrico County. If that's an issue with you—if one
633 of these events isn't approved, if we're able to bring in maybe a table or a prize
634 wheel and pass out coupons inside the store.
635
636 Mr. Blankinship - Inside the store—
637
638 Mr. Berman - But there would be nothing outside for your rain
639 dates, which would not need any conditional use permits.
640
641 Mr. Rich - Correct. If you deny one of our events, that's our
642 backup plan.
643
644 Mr. Berman - On staff's suggestions, number nine, we talk about
645 bathrooms. Are those going to be outside or inside?
646
647 Mr. Rich - The Kroger restroom facilities are located inside the
648 store, which we typically use at most events. I know that in the past we have had
649 to provide portable restrooms, which we are certainly able to do if you deem that
650 necessary.
651
652 Mr. Berman - For item #10, there's a reference to a memo from our
653 fire marshal, April 6. I just want bring attention to that. It's kind of nitpicky, but
654 item #1 has a double negative. I don't want it to be misconstrued as allowing
655 cooking.
656
657 Mr. Blankinship - You're right.
658
659 Mr. Baka - Oh, exactly.
660
661 Mr. Blankinship - No cooking is prohibited.
662
663 Mr. Berman - Yes. To Ms. Harris's point, there is no cooking
664 planned. But I didn't want you to imply that you could still do it.
665
666 Mr. Rich - Yes, understood.
667
668 Mr. Berman - Okay. That finishes that one. Now for the next one,
669 which is CUP #13. I wrote notes on a lot of pages. That one, as you said, does
670 not have a barbecue event, so we're not approving that. The next one, CUP #14,
671 which is Laburnum, I have a couple of questions on that. One of my concerns
672 about this—and again, with regards to Ms. Harris's comments, there is no buffer

673 between your event and Laburnum Road. Can you speak to prior events at that
674 same location, did it have the same configuration without problems?

675

676 Mr. Rich - Can we see the aerial view of this location? So you
677 are referring to the street on the right.

678

679 Mr. Berman - Correct. South Laburnum. You butt right up against it
680 with the part of the lot that you're picking.

681

682 Mr. Rich - It looks like there's a sidewalk, a curb.

683

684 Mr. Berman - But will there be sufficient barriers to prevent people
685 from being pushed into the street?

686

687 Mr. Rich - Yes. The area is roped off the morning of the event
688 with cones and caution tape by the store management teams. When we show
689 up, we replace that caution tape with pennants. There are traffic cones. They're
690 the tall, orange reflective traffic cones. They fill around the perimeter of that
691 proposed area, that yellow box, if you would. There are cones surrounding that.
692 And then the only entrance to the event would be in that driving lane where there
693 are no parking spots. We would leave approximately a 10 to 20 foot gap for
694 people to walk through. But in terms of the road, all of our tents on that side
695 would be near the front of those parking spots. So there is going to be
696 approximately an 8-foot gap where nobody really would be on those parking
697 spots because a parking spot is 18 feet long. We only occupy the first 10 feet.
698 There is space in between—I think there is adequate space in between the road
699 and our event, plus we have it roped off.

700

701 Mr. Berman - Okay. Just to reiterate the two questions. First off, is
702 there any entry to that area—and I believe you said no—off of South Laburnum
703 that people can come in.

704

705 Mr. Rich - No.

706

707 Mr. Berman - Okay, good. Have you had this proposed area in
708 years past? Did you use the same area without incident?

709

710 Mr. Rich - That's a very good question. I'm not sure off the top of
711 my head. I believe the reason we chose that area—our layout changes from year
712 to year—so I think for this year that is the best area for us. I'm not quite sure if
713 that's the same area as last year.

714

715 Mr. Blankinship - That is the same area that was shown on the permit
716 last year.

717

718 Mr. Rich - Okay.

719
720 Mr. Berman - Thank you. Lastly, on the West Broad location in
721 Short Pump.
722
723 Mr. Blankinship - 11895.
724
725 Mr. Berman - I know there are plenty of spaces, but let me speak to
726 that. I also noticed there is no April Fanfest, right, so there's nothing this
727 weekend.
728
729 Mr. Rich - Correct.
730
731 Mr. Berman - Which is good, because I would miss it. I am
732 concerned, given what I know about that parking lot, about a pinch point where
733 you plan to put all the activity. I'll ask the same question, if you know. Is this
734 proposed spot the same as prior years? That proposed area, number one, that's
735 highlighted, is in what I call a pinch point in the traffic flow coming in. Right there
736 where the cursor is.
737
738 Mr. Rich - I can see that.
739
740 Mr. Berman - I have actually had problems turning there because I
741 wasn't sure what the flow was supposed to be. And now you're going to put all
742 kinds of activity in that corner.
743
744 Mr. Rich - That's a very good point. We certainly would be able
745 to move that area up toward the rear, if you want us to move it towards the back
746 of the parking lot so it doesn't inhibit any traffic flow.
747
748 Mr. Madrigal - Mr. Berman, this is Miguel Madrigal, Planning staff. If
749 you look at the conditions, they are required to move the proposed area to the
750 east. That would be in the southeast corner so we don't have any issues.
751
752 Mr. Berman - I apologize. Thank you. And you also have police on
753 site for traffic.
754
755 Mr. Rich - Correct.
756
757 Mr. Berman - What item number was that, the request to move?
758
759 Mr. Blankinship - Probably the last one.
760
761 Mr. Baka - Item #3, Miguel? The event shall occupy the
762 southeastern portion. Is that the part immediately to the right of proposed area
763 #1?
764

765 Mr. Berman - Where he's highlighting?
766
767 Mr. Baka - Yes. Is that the area? I believe that's the area.
768
769 Mr. Blankinship - Where it's shown would be the southwest corner. And
770 we've asked that it be moved to the southeast.
771
772 Mr. Berman - Mr. Rich, do you have any issue with that movement?
773
774 Mr. Rich - No. We will absolutely make that change and revise
775 that proposed area to the southeast.
776
777 Mr. Berman - Great. Sorry I missed that, but at least now I feel
778 vindicated.
779
780 Mr. Blankinship - I believe you'll still have very good visibility from that
781 spot. You're still in the middle of the shopping center. You'll have a lot of traffic
782 going through to the barbecue place and the other restaurants.
783
784 Mr. Rich - Okay, great.
785
786 Mr. Berman - Excellent. Let me check one more page here. Those
787 are all the questions I have.
788
789 Ms. Harris - Mr. Rich, for the property on Laburnum, did you use
790 the same area and square footage previously?
791
792 Mr. Blankinship - I believe so.
793
794 Mr. Rich - On Laburnum?
795
796 Ms. Harris - For Laburnum, yes.
797
798 Mr. Madrigal - Miguel Madrigal again. This is the third year for the
799 Laburnum site—well actually the fourth year at the Laburnum site that they'll be
800 there. The first year I think it deviated from where they're proposing it. For the
801 past two years, where they're showing it is where they had it. And we haven't had
802 any incidents that I'm aware of.
803
804 Ms. Harris - What about the size, the area?
805
806 Mr. Madrigal - Initially that was a concern. But because there is
807 additional parking, as you can see, to the west of the center or that internal road,
808 it hasn't raised any issues. We haven't received any complaints. We haven't
809 heard of issues from the store or from customers. Or from staff, for that matter.
810

811 Ms. Harris - My concern is that it's a smaller parking lot, period. If
812 you're going to use that many spaces, it's going to make it worse. But if you
813 address the number of spaces, if Kroger would address the number of spaces
814 that are actually going to be utilized, that would ease the problem, I believe.

815
816 Mr. Rich - Right. And it's my understanding that they can adjust
817 it on the fly. They get there in the morning, and they start setting up. They have
818 an area designated so that they can condense the event if they have to.

819
820 Ms. Harris - Right.

821
822 Mr. Rich - Do you have a recommended number of parking
823 spaces that you would like us to use for this location?

824
825 Ms. Harris - I'm sorry; I didn't hear you.

826
827 Mr. Rich - Do you have a recommended number of parking
828 spaces that you would like us to use for this location other than what's proposed?

829
830 Ms. Harris - No, I don't. Maybe thirty. I don't know. This is not my
831 area of expertise. You said something about a sidewalk. I don't believe there's a
832 sidewalk there that separates Laburnum from the parking lot. I think the buffer is
833 just the lawn, the grass. I don't know if there are even trees there.

834
835 Mr. Rich - You're correct.

836
837 Mr. Baka - That's a good question. Sir, just a general discussion
838 point—and then let me ask Mr. Berman's question. How are these—you
839 mentioned they are un-staked tents. How are they anchored if they are not
840 staked in the ground?

841
842 Mr. Rich - They're anchored with approximately forty pounds of
843 sand on each leg. So for each 10-by-10 tent, 160 pounds of sand in bags—
844 sandbags.

845
846 Mr. Baka - Okay. With that, let me parlay that comment and go
847 back to what we're looking at on the screen where it says "proposed area #1."
848 Mr. Berman had just raised a comment. If you look at the left-hand side, there are
849 double-loaded spaces. I'm wondering what the net effect would be—Ms. Harris
850 had some concerns about the amount of spaces used at this Kroger location on
851 Laburnum—if you only used half of that double-loaded row. So for example, if the
852 parking spaces are eighteen or twenty feet in length, if it literally shrunk by twenty
853 feet, the edge of the tent area would be right along that line between the shared
854 parking spaces so that cars could still park left of that tented area. However, on
855 the right, since you have the tents with these 40-pound sandbags, they can be
856 very specific in where they go. In that idea, you're gaining quite a few parking

857 spaces for only losing a little bit of land. I'm not sure to what extent that's
858 necessary at this site, but I thought it was worth mentioning since there have
859 been some concerns from other Board members about the parking here.

860
861 Mr. Rich - Sure. The reasoning behind those double parking
862 spots, there are a few exhibits that are deemed as kid zones, and they may entail
863 a variety of things that are not under one 10-by-10 tent, which requires that
864 double space. So it may be a ball toss, it may be a coloring table, a tactile station
865 that's strategically placed in that larger area. We will still have a 10-by-10 tent,
866 but the double parking space there is the reason why we have that listed on the
867 layout.

868
869 Mr. Baka - Okay. And another observation might be perhaps if
870 this were to be approved, another alternative is that staff may be able to go to
871 this particular store, Laburnum, and perhaps take some photos at the busiest
872 time on a Saturday, maybe at lunchtime or early afternoon, and try to examine
873 how crowded that parking lot is this year. But that's up for the Board to consider.

874
875 Ms. Harris - I thought it should be set up by the twenty-fifth, right,
876 which is the day after tomorrow.

877
878 Mr. Rich - Correct.

879
880 Ms. Harris - I don't know if we have any more time.

881
882 Mr. Baka - Meaning that if it were to be approved, we'd at least
883 have the data—

884
885 Mr. Blankinship - We'd know for next year.

886
887 Mr. Baka - Right. We'd at least have the data from going out and
888 seeing what it looks like at say 1:00 p.m. or 2:00 p.m. this Saturday and having
889 that information for next year. But whatever the Board pleases.

890
891 Ms. Harris - Mr. Rich, question. This may be a sidebar but, you're
892 not going to exhibit any NASCAR vehicle?

893
894 Mr. Rich - I'm sorry?

895
896 Ms. Harris - Are you going to actually exhibit a racecar at any of
897 these places?

898
899 Mr. Rich - Yes ma'am.

900
901 Ms. Harris - Okay. So that would determine, too, how large your
902 area would be, would it not?

903

904 Mr. Rich - The racecar, honestly, would only take up
905 approximately three parking spots. You can see the show car in the front with the
906 layout right there. And actually, that hauler we would typically put in a double
907 parking space if that makes sense. But we will park that at the rear of the store
908 for this situation because there are not a lot of parking spaces.

909

910 If we need to reduce, we're certainly able to scale it back. If you could go back to
911 the aerial, if you would, just briefly. It goes up towards those trees on the front
912 right side. We're certainly able to scale it back probably three to four parking
913 spots deep, which I guess would help with customers that may need assistance,
914 that need to park close to the front of the store. If that would help, we can make
915 that change.

916

917 Ms. Harris - All right. Thank you.

918

919 Mr. Baka - At this point, are there any further questions from
920 members of the Board? Thank you very much for appearing. That concludes this
921 case.

922

923 Mr. Rich - Thank you.

924

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

928

929 Mr. Baka - CUP2015-00012, Kroger at 9000 Staples Mill Road in
930 the Brookland District. I'll make a motion on this case. I make a motion that we
931 approve the case with all the conditions as presented in the staff report. This is a
932 one-day temporary event. It has a definitive time. It's a temporary use of the
933 parking lot, and it will not adversely disrupt traffic flow or the health, safety, and
934 welfare of the neighboring properties. Is there a second to that motion?

935

936 Ms. Harris - Second the motion. Even though it's a one-day event,
937 we do have two activities at two different dates.

938

939 Mr. Baka - That's correct. Two different one-day events. Thank
940 you very much.

941

942 Ms. Harris - And I do second that motion.

943

944 Mr. Baka - Okay. All in favor say aye. All opposed say no. The
945 ayes have it; the motion carries.

946

947 After an advertised public hearing and on a motion by Mr. Baka, seconded by
948 Ms. Harris, the Board **approved** application **CUP2015-00012, KROGER**

949 **COMPANY's** request for a conditional use permit pursuant to Section 24-
950 116(c)(1) of the County Code to hold a special event at 9000 Staples Mill Road
951 (Parcel 768-757-2032) zoned Business District (B-2C) (Brookland). The Board
952 approved the conditional use permit subject to the following conditions:
953

- 954 1. This conditional use permit is for the approval of one-day temporary outdoor
955 events to be held on Saturday, April 25, 2015, Thursday, May 28, 2015, and
956 Saturday, September 12, 2015.
957
- 958 2. The outdoor events shall be limited to 8:00 a.m. to 8:00 p.m., including set-up,
959 event, and breakdown.
960
- 961 3. The event shall occupy the northwest corner of Kroger's parking lot.
962
- 963 4. Only the temporary improvements shown on the layout plan filed with the
964 application may be erected pursuant to this approval. Any additional
965 improvements shall comply with the applicable regulations of the County
966 Code or as specified in the conditions of approval.
967
- 968 5. The applicant shall clearly delineate the perimeter of the event area with
969 traffic cones and shall install traffic barriers at affected parking drive aisle
970 entrances to block vehicular traffic from entering the event area. Main traffic
971 drive aisles (providing general internal traffic circulation) leading in or out of
972 the shopping center shall be kept free and clear of equipment, vehicles, and
973 obstacles associated with the event. Fire lanes shall be maintained in
974 accordance with the Fire Prevention Code. Access to on-site fire hydrants
975 and fire department connections shall not be impaired.
976
- 977 6. Temporary tents shall maintain a 10 foot setback from property lines and
978 buildings. The tents shall not be enclosed (with tarps or fabric) and generators
979 shall not be placed underneath tents.
980
- 981 7. The applicant shall obtain all necessary building permits for items including
982 but not limited to tents (in excess of 900 square feet), elevated stages,
983 mechanical amusement devices, electrical generators and electrical
984 connections to be used during the event.
985
- 986 8. The applicant shall request building permits no later than two weeks prior to
987 the event and shall schedule required inspections no later than 10:00 a.m. on
988 the day of the event.
989
- 990 9. The applicant shall provide adequate restroom facilities and hand wash
991 stations as required by the Building Inspections Department or Department of
992 Health.
993

- 994 10. Emergency preparedness and safety procedures shall be developed in
- 995 accordance with the written requirements of the Division of Fire - see
- 996 attached memo dated April 6, 2015.
- 997
- 998 11. On-site landscaping planters shall be kept free and clear of equipment and
- 999 displays. All approved landscaping shall be maintained in a healthy condition
- 1000 at all times. Dead plant materials shall be removed within a reasonable time
- 1001 and replaced during the normal planting season.
- 1002
- 1003 12. The applicant shall maintain the property so that debris is controlled during
- 1004 the event. Adequate trash receptacles shall be provided throughout the site
- 1005 during the event.
- 1006
- 1007 13. The sale of alcoholic beverages shall be prohibited at the event.
- 1008
- 1009 14. The applicant shall prohibit loitering on the property.
- 1010
- 1011 15. On-site security measures shall satisfy the Division of Police written
- 1012 requirements - see attached memo dated April 7, 2015.
- 1013
- 1014 16. Non-display tractor trailers associated with the promotional event shall be
- 1015 parked at the rear of the grocery store.
- 1016
- 1017 17. Speakers for amplified sound and music shall be directed toward the main
- 1018 event in order to limit its impact on adjoining businesses and/or residential
- 1019 neighborhoods and shall not exceed 65 dB at the property line.
- 1020
- 1021 18. The use of pennants, flags, and banners, generally defined in the zoning
- 1022 ordinance as "attention getting devices" as per §24-3 are prohibited as per
- 1023 item 11 in the conditions proffered with rezoning case C-3C-09.
- 1024
- 1025

1026	Affirmative:	Baka, Berman, Harris	3
1027	Negative:		0
1028	Absent:	Bell, Nunnally	2

1031 Mr. Baka - The next case is CUP2015-00013, Kroger at 9480
 1032 West Broad Street.

1034 Mr. Berman - I move that we approve the case as recommended by
 1035 the staff report. It does not adversely affect the health, safety, and welfare of the
 1036 adjoining properties. It won't detract from the enjoyment of the adjacent
 1037 properties.

1039 Mr. Baka - Okay. Is there a second?

1041 Ms. Harris - I second.

1042

1043 Mr. Baka - All in favor say aye. All opposed say no. The ayes
1044 have it; the motion carries.

1045

1046 After an advertised public hearing and on a motion by Mr. Berman, seconded by
1047 Ms. Harris, the Board **approved** application **CUP2015-00013, KROGER**
1048 **COMPANY's** request for a conditional use permit pursuant to Section 24-
1049 116(c)(1) of the County Code to hold a special event at 9480 W Broad Street
1050 (Parcel 756-758-4127) zoned Business District (B-2) (Brookland). The Board
1051 approved the conditional use permit subject to the following conditions:

1052

1053 1. This conditional use permit is for the approval of one-day temporary outdoor
1054 events to be held on Sunday, April 26, 2015, and on Thursday, September
1055 10, 2015.

1056

1057 2. The outdoor events shall be limited to 8:00 a.m. to 8:00 p.m., including set-
1058 up, event, and breakdown.

1059

1060 3. The event shall occupy the southwestern portion of Kroger's parking lot.

1061

1062 4. Only the temporary improvements shown on the layout plan filed with the
1063 application may be erected pursuant to this approval. Any additional
1064 improvements shall comply with the applicable regulations of the County
1065 Code or as specified in the conditions of approval.

1066

1067 5. The applicant shall clearly delineate the perimeter of the event area with
1068 traffic cones and shall install traffic barriers at affected parking drive aisle
1069 entrances to block vehicular traffic from entering the event area. Main traffic
1070 drive aisles (providing general internal traffic circulation) leading in or out of
1071 the shopping center shall be kept free and clear of equipment, vehicles, and
1072 obstacles associated with the event. Fire lanes shall be maintained in
1073 accordance with the Fire Prevention Code. Access to on-site fire hydrants
1074 and fire department connections shall not be impaired.

1075

1076 6. Temporary tents shall maintain a 10 foot setback from property lines and
1077 buildings. The tents shall not be enclosed (with tarps or fabric) and
1078 generators shall not be placed underneath tents.

1079

1080 7. The applicant shall obtain all necessary building permits for items including
1081 but not limited to tents (in excess of 900 square feet), elevated stages,
1082 mechanical amusement devices, electrical generators and electrical
1083 connections to be used during the event.

1084

- 1085 8. The applicant shall request building permits no later than two weeks prior to
 1086 the event and shall schedule required inspections no later than 10:00 am on
 1087 the day of the event.
 1088
- 1089 9. The applicant shall provide adequate restroom facilities and hand wash
 1090 stations as required by the Building Inspections Department or Department
 1091 of Health.
 1092
- 1093 10. Emergency preparedness procedures shall be developed in accordance
 1094 with the written requirements of the Division of Fire - see attached memo
 1095 dated April 6, 2015.
 1096
- 1097 11. On-site landscaping planters shall be kept free and clear of equipment and
 1098 displays. All approved landscaping shall be maintained in a healthy
 1099 condition at all times. Dead plant materials shall be removed within a
 1100 reasonable time and replaced during the normal planting season.
 1101
- 1102 12. The applicant shall maintain the property so that debris is controlled during
 1103 the event. Adequate trash receptacles shall be provided throughout the site
 1104 during the event.
 1105
- 1106 13. The sale of alcoholic beverages shall be prohibited at the event.
 1107
- 1108 14. The applicant shall prohibit loitering on the property.
 1109
- 1110 15. On-site security measures shall satisfy the Division of Police written
 1111 requirements - see attached memo dated April 7, 2015.
 1112
- 1113 16. Non-display tractor trailers associated with the promotional event shall be
 1114 parked at the rear of the grocery store.
 1115
- 1116 17. Speakers for amplified sound and music shall be directed toward the main
 1117 event in order to limit its impact on adjoining businesses and/or residential
 1118 neighborhoods and shall not exceed 65 dB at the property line.
 1119

1120

1121 Affirmative:	Baka, Berman, Harris	3
1122 Negative:		0
1123 Absent:	Bell, Nunnally	2

1124

1125

1126 Mr. Baka - The next case is CUP2015-00014, Kroger at 4816
 1127 South Laburnum Avenue.
 1128

1129 Ms. Harris - I move that we approve the case, however, adding
1130 the condition that the proposed area will be adjusted to allow for more parking
1131 spaces.

1132
1133 Mr. Baka - Okay. When you say more parking spaces—

1134
1135 Ms. Harris - I don't want to be specific because I really don't feel
1136 I'm capable of determining how many parking spaces need to be eliminated.

1137
1138 Mr. Baka - Okay.

1139
1140 Mr. Blankinship - We can negotiate that.

1141
1142 Mr. Baka - Okay. With that in mind, I'll second that motion. All in
1143 favor say aye. All opposed say no. The ayes have it; the motion carries.

1144
1145 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1146 Mr. Baka, the Board **approved** application **CUP2015-00014, KROGER**
1147 **COMPANY's** request for a conditional use permit pursuant to Section 24-
1148 116(c)(1) of the County Code to hold a special event at 4816 S Laburnum
1149 Avenue (LABURNUM SQUARE) (Parcel 815-714-7661) zoned Business District
1150 (B-2) (Varina). The Board approved the conditional use permit subject to the
1151 following conditions:

- 1152
- 1153 1. This conditional use permit is for the approval of one-day temporary outdoor
1154 events to be held on Saturday, April 25, 2015, and on Friday, September 11,
1155 2015.
 - 1156
 - 1157 2. The outdoor events shall be limited to 8:00 a.m. to 8:00 p.m., including set-up,
1158 event, and breakdown periods within this time frame.
 - 1159
 - 1160 3. The event shall occupy the southeastern portion of Kroger's parking lot, as
1161 shown on the accompanying and dated aerial maps.
 - 1162
 - 1163 4. Only the temporary improvements shown on the layout plan filed with the
1164 application may be erected pursuant to this approval. Any additional
1165 improvements shall comply with the applicable regulations of the County
1166 Code or as specified in the conditions of approval.
 - 1167
 - 1168 5. The applicant shall clearly delineate the perimeter of the event area with
1169 traffic cones and shall install traffic barriers at affected parking drive aisle
1170 entrances to block vehicular traffic from entering the event area. Main traffic
1171 drive aisles (providing general internal traffic circulation) leading in or out of
1172 the shopping center shall be kept free and clear of equipment, vehicles, and
1173 obstacles associated with the event. Fire lanes shall be maintained in

- 1174 accordance with the Fire Prevention Code. Access to on-site fire hydrants
1175 and fire department connections shall not be impaired.
1176
- 1177 6. Temporary tents shall maintain a 10 foot setback from property lines and
1178 buildings. The tents shall not be enclosed (with tarps or fabric) and generators
1179 shall not be placed underneath tents.
1180
- 1181 7. The applicant shall obtain all necessary building permits for items including
1182 but not limited to tents (in excess of 900 square feet), elevated stages,
1183 mechanical amusement devices, electrical generators and electrical
1184 connections to be used during the event.
1185
- 1186 8. The applicant shall request building permits no later than two weeks prior to
1187 the event and shall schedule required inspections no later than 10:00 am on
1188 the day of the event.
1189
- 1190 9. The applicant shall provide adequate restroom facilities and hand wash
1191 stations as required by the Building Inspections Department or Department of
1192 Health.
1193
- 1194 10. Emergency preparedness procedures shall be developed in accordance with
1195 the written requirements of the Division of Fire - see attached memo dated
1196 April 6, 2015.
1197
- 1198 11. On-site landscaping planters shall be kept free and clear of equipment and
1199 displays. All approved landscaping shall be maintained in a healthy condition
1200 at all times. Dead plant materials shall be removed within a reasonable time
1201 and replaced during the normal planting season.
1202
- 1203 12. The applicant shall maintain the property so that debris is controlled during
1204 the event. Adequate trash receptacles shall be provided throughout the site
1205 during the event.
1206
- 1207 13. The sale of alcoholic beverages shall be prohibited at the event.
1208
- 1209 14. The applicant shall prohibit loitering on the property.
1210
- 1211 15. On-site security measures shall satisfy the Division of Police written
1212 requirements - see attached memo dated April 7, 2015.
1213
- 1214 16. Non-display tractor trailers associated with the promotional event shall be
1215 parked at the rear of the shopping center.
1216
- 1217 17. Speakers for amplified sound and music shall be directed toward the main
1218 event in order to limit its impact on adjoining businesses and/or residential
1219 neighborhoods and shall not exceed 65 dB at the property line.

1220
 1221
 1222 Affirmative: Baka, Berman, Harris 3
 1223 Negative: 0
 1224 Absent: Bell, Nunnally 2
 1225
 1226

1227 Mr. Baka - The next case is CUP2015-00015, Kroger at 11895
 1228 West Broad Street.
 1229

1230 Mr. Berman - I make a motion that we approve the case as
 1231 recommended by the staff report on the grounds that it won't adversely affect the
 1232 health, safety, and welfare of any adjoining properties, and it will not detract from
 1233 the enjoyment of the other adjacent properties.
 1234

1235 Mr. Baka - Is there a second?
 1236

1237 Ms. Harris - Second.
 1238

1239 Mr. Baka - All in favor say aye. All opposed say no. The ayes
 1240 have it; the motion carries.
 1241

1242 After an advertised public hearing and on a motion by Mr. Berman, seconded by
 1243 Ms. Harris, the Board **approved** application **CUP2015-00015, KROGER**
 1244 **COMPANY's** request for a conditional use permit pursuant to Section 24-
 1245 116(c)(1) of the County Code to hold a special event at 11895 W Broad Street
 1246 (Parcel 736-762-2022) zoned Business District (B-2C) and West Broad Street
 1247 Overlay (WBSO) (Three Chopt). The Board approved the conditional use permit
 1248 subject to the following conditions:
 1249

- 1250 1. This conditional use permit is for the approval of one-day temporary outdoor
 1251 events to be held on Friday, May 29, 2015 and Saturday, September 12,
 1252 2015.
 1253
- 1254 2. The outdoor event shall be limited to 8:00 a.m. to 8:00 p.m., including set-up,
 1255 event, and breakdown.
 1256
- 1257 3. The event shall occupy the southeastern portion of Kroger's parking lot.
 1258
- 1259 4. Only the temporary improvements shown on the layout plan filed with the
 1260 application may be erected pursuant to this approval. Any additional
 1261 improvements shall comply with the applicable regulations of the County
 1262 Code or as specified in the conditions of approval.
 1263
- 1264 5. The applicant shall clearly delineate the perimeter of the event area with
 1265 traffic cones and shall install traffic barriers at affected parking drive aisle

- 1266 entrances to block vehicular traffic from entering the event area. Main traffic
1267 drive aisles (providing general internal traffic circulation) leading in or out of
1268 the shopping center shall be kept free and clear of equipment, vehicles, and
1269 obstacles associated with the event. Fire lanes shall be maintained in
1270 accordance with the Fire Prevention Code. Access to on-site fire hydrants
1271 and fire department connections shall not be impaired.
1272
- 1273 6. Temporary tents shall maintain a 10 foot setback from property lines and
1274 buildings. The tents shall not be enclosed (with tarps or fabric) and
1275 generators shall not be placed underneath tents.
1276
- 1277 7. The applicant shall obtain all necessary building permits for items including
1278 but not limited to tents (in excess of 900 square feet), elevated stages,
1279 mechanical amusement devices, electrical generators and electrical
1280 connections to be used during the event.
1281
- 1282 8. The applicant shall request building permits no later than two weeks prior to
1283 the event and shall schedule required inspections no later than 10:00 am on
1284 the day of the event.
1285
- 1286 9. The applicant shall provide adequate restroom facilities and hand wash
1287 stations as required by the Building Inspections Department or Department
1288 of Health.
1289
- 1290 10. Emergency preparedness and safety procedures shall be developed in
1291 accordance with the written requirements of the Division of Fire - see
1292 attached memo dated April 6, 2015.
1293
- 1294 11. On-site landscaping planters shall be kept free and clear of equipment and
1295 displays. All approved landscaping shall be maintained in a healthy condition
1296 at all times. Dead plant materials shall be removed within a reasonable time
1297 and replaced during the normal planting season.
1298
- 1299 12. The applicant shall maintain the property so that debris is controlled during
1300 the event. Adequate trash receptacles shall be provided throughout the site
1301 during the event.
1302
- 1303 13. The sale of alcoholic beverages shall be prohibited at the event.
1304
- 1305 14. The applicant shall prohibit loitering on the property.
1306
- 1307 15. On-site security measures shall satisfy the Division of Police written
1308 requirements - see attached memo dated April 7, 2015.
1309
- 1310 16. Non-display tractor trailers associated with the promotional event shall be
1311 parked at the rear of the grocery store.

- 1312
 1313 17. Speakers for amplified sound and music shall be directed toward the main
 1314 event in order to limit its impact on adjoining businesses and/or residential
 1315 neighborhoods and shall not exceed 65 dB at the property line.
 1316
 1317 18. The use of pennants, flags, and banners, generally defined in the zoning
 1318 ordinance as "attention getting devices" as per §24-3 are prohibited as per
 1319 item 14 (h) in the conditions proffered with rezoning case REZ2015-00002
 1320 and the West Broad Street Overlay (§24-92.3(c)).
 1321

1322
 1323 Affirmative: Baka, Berman, Harris 3
 1324 Negative: 0
 1325 Absent: Bell, Nunnally 2
 1326

1327
 1328 Mr. Baka - That concludes the cases on the agenda for this
 1329 morning. The final matter, then, would be to discuss the approval of the minutes
 1330 from our March Board of Zoning Appeals meeting. Are there any comments or
 1331 corrections in the minutes?
 1332

1333 Ms. Harris - There are some minor corrections on page 23, line
 1334 1031. I would dare say, I believe Mr. Miller said.
 1335

1336 Mr. Baka - Good catch.
 1337

1338 Ms. Harris - And on line 1038. I don't think the word should have
 1339 been "thought." Probably should have been "though."
 1340

1341 Mr. Baka - Yes. I had two minor changes similar to Ms. Harris's.
 1342 Very minor items. On page 15, line 673, it was just simply the word "coop." Page
 1343 32, line 1456, "coop," c-o-o-p. The last minor change was on page 29, line 1284.
 1344 I was discussing that this might adversely affect the value of the property or the
 1345 quiet enjoyment of the property rather than "quite." Minor items.
 1346

1347 Are there any other changes to the minutes? Do I hear a motion?
 1348

1349 Ms. Harris - I move that the minutes be approved as corrected.
 1350

1351 Mr. Baka - I'll second that motion. All in favor say aye. All
 1352 opposed say no. The ayes have it; the motion passes.
 1353

1354 On a motion by Ms. Harris, seconded by Mr. Baka, the Board **approved as**
 1355 **corrected the Minutes of the March 26, 2015**, Henrico County Board of Zoning
 1356 Appeals meeting.
 1357

1358

1359 Affirmative: Baka, Berman, Harris 3

1360 Negative: 0

1361 Absent: Bell, Nunnally 2

1362

1363 Mr. Baka - At this point, are there any other matters or questions
1364 to come before the Board?

1365

1366 Mr. Blankinship - There is no other formal business, Mr. Chairman. I
1367 know Mr. Berman had some difficulty getting his package delivered this month.
1368 Are there problems with the packages arriving on time?

1369

1370 Ms. Harris - I have no problem. I usually receive mine the Friday
1371 before the meeting.

1372

1373 Mr. Baka - I usually receive it that Friday afternoon.

1374

1375 Mr. Blankinship - I just wanted to make sure we didn't have a system
1376 problem that needed to be corrected, that it was just a one-time—or two-time, at
1377 least, issue. And if there is something specific about the mail delivery in area, Mr.
1378 Berman, we'll have to try to figure out a solution that works for you.

1379

1380 Mr. Baka - Would it affect the schedule if it came out a day
1381 earlier or if we received them on Thursday rather Friday. That would allow—
1382 especially because that weekend time, sometimes it's good to have it and be
1383 ready to go to look at sites on Saturday.

1384

1385 Mr. Blankinship - That's certainly one possibility that we can look at.
1386 The other would be to have the packages delivered by staff. That's what we do
1387 for the Planning Commission.

1388

1389 Ms. Harris - When did you actually receive it?

1390

1391 Mr. Berman - Saturday, but the staff was kind enough to bring me a
1392 copy right to my door before I got on the plane. Literally. Thank you.

1393

1394 Mr. Blankinship - Okay. We're also looking at moving forward with
1395 technology and having ways that you would be able to download the whole
1396 package or view whatever you wanted to view online. I think that would also help
1397 alleviate any issues if something does get lost in the mail.

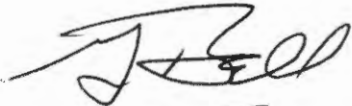
1398


1399 Mr. Baka - I appreciated getting the batched geo photographs
1400 that Mr. Berman had recommended to the staff recently. It's been a nice
1401 improvement to help us to be able to identify very early on in the month-long
1402 process where the sites will be prior to receiving the packets. It helps a lot.

1403

1404 Mr. Berman - I see that you enhanced it; you added more filters.
1405
1406 Mr. Blankinship - Yes.
1407
1408 Mr. Berman - That's awesome.
1409
1410 Ms. Harris - Do we know how many cases we have next month?
1411
1412 Mr. Blankinship - So far I think we only have two and one that I'm
1413 expecting to come in today. Today is the deadline.
1414
1415 Mr. Berman - Is it appropriate to ask if the pigeon coop case was
1416 appealed to the Circuit Court?
1417
1418 Mr. Blankinship - It is appropriate, and it has been appealed. Yes, an
1419 appeal has been filed.
1420
1421 Mr. Berman - Do we have a role in that appeal?
1422
1423 Mr. Blankinship - No, actually not. I will keep you updated as it
1424 proceeds.
1425
1426 Mr. Berman - Thank you.
1427
1428 Mr. Blankinship - Unless you get called as a witness, which you could
1429 possibly.
1430
1431 Mr. Baka - Very good. Any other questions? At this time, do we
1432 hear a motion to adjourn?
1433
1434 Mr. Berman - I move that we adjourn.
1435
1436 Ms. Harris - Second the motion.
1437
1438 Mr. Baka - All in favor say aye. All opposed say no. The ayes
1439 have it; the motion passes.
1440
1441
1442 Affirmative: Baka, Berman, Harris 3
1443 Negative: 0
1444 Absent: Bell, Nunnally 2
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1446
1447 The BZA stands adjourned. Thank you for attending today.
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~~Greg Baka~~ Gentry Bell
~~Acting Chairman~~
chairman


Benjamin Blankinship, AICP
Secretary