

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 APRIL 25, 2024 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**  
5 **THE *RICHMOND TIMES-DISPATCH* APRIL 15, 2024 AND APRIL 22, 2024.**  
6

7  
8 **Members Present:** Walter L. Johnson, Jr., Chair  
9 Terrell A. Pollard, Vice-Chair  
10 Terone B. Green  
11 Barry R. Lawrence  
12 John R. Broadway  
13

14  
15 **Also Present:** Leslie A. News, Assistant Director of Planning  
16 Benjamin Blankinship, Secretary  
17 Paul M. Gidley, County Planner  
18 Sara Rozmus, County Planner  
19 Janaya Poarch, Accounting Clerk  
20

21  
22  
23 **\* Mr. Pollard's mic was not working during the meeting.**  
24

25 Mr. Johnson - Good morning and welcome to the Henrico County Board of  
26 Zoning Appeals for April 25<sup>th</sup>. For all that are able, will you please stand and join us in the  
27 Pledge of Allegiance.  
28

29 **[Recitation of Pledge of Allegiance]**  
30

31  
32 Mr. Johnson- Good Morning. Mr. Blankinship will now read our rules.  
33

34 Mr. Blankinship- Good morning, Mr. Chair, members of the Board, ladies, and  
35 gentlemen. I would also like to welcome everyone who is joining us remotely on Webex  
36 today. If you wish to observe the meeting but you do not intend to speak, then welcome  
37 and thank you for joining us. For those of you on Webex who would like to speak, we  
38 need to know that in advance so that we can connect you at the appropriate time. If you  
39 are an applicant, or if you have questions or comments on one of the cases, please press  
40 the chat button now. It's located on the bottom right corner of the screen, and when the  
41 chat window opens, please select Janaya Poarch from the list of participants, and let her  
42 know your name and which case you're interested in. The chat feature will only be used  
43 to identify speakers. So please do not type questions or comments into a chat. But please  
44 send a chat to Janaya Poarch now.  
45

46 So, for those of us in the room, as Secretary, I will call each case and will ask everyone  
47 in the room who intends to speak to that case to stand and be sworn in. Then a member  
48 of the Planning Department staff will give a brief presentation, then the applicant will have  
49 their opportunity to present their case. Then we will hear from anyone else who wishes to  
50 speak, in favor or in opposition. We'll hear from those in the room first, and then from  
51 those on Webex. After everyone has had a chance to speak, the applicant, and only the  
52 applicant, will have an opportunity for rebuttal.

53  
54 This meeting is being recorded, so for those of you in the room, we'll ask you to speak  
55 directly in the microphone on the podium, there, in the back of the room. We'll ask you to  
56 state your name, and please spell your last name to make sure we get it correctly in the  
57 record. Once your case is over, by the way, you're free to leave, there's no need for you  
58 to stay for the rest of the meeting.

59  
60 We do not have any requests for deferral or withdrawal.

61  
62 Mr. Johnson- Okay.

63  
64 Mr. Blankinship- We are short one member at the moment, but we are  
65 expecting him. So, I don't think we need to worry about deferring cases for that reason  
66 either. So, Mr. Chair, would you like me to call the first case?

67  
68 Mr. Johnson- Yes, call the first case.

69  
70 Mr. Blankinship- We have eight conditional use permits and three variances on  
71 this morning's agenda.

72  
73 **CUP2024-100347 - Chris and Alexandra Cromer: conditional use permit to keep one**  
74 **horse, one miniature horse, and five hens at 1161 Berryhill Road, Richmond**  
75 **Heights, Varina. Parcel 801-692-6375. Zoning: R-3, One-Family Residence District.**  
76 **Code Section: 24-4420.E, 24-4420.F and 24-4420.G.**

77  
78 Mr. Blankinship- The first conditional use permit is **Conditional Use Permit**  
79 **2024-100347**, Chris and Alexandra Cromer: a conditional use permit to keep horses and  
80 hens in the rear yard at 1161 Berryhill Road, in the Richmond Heights subdivision, in the  
81 Varina Magisterial District. Would everyone who intends to speak to this case please  
82 stand and be sworn in. Raise your right hands please. Do you swear the testimony you're  
83 about to give is the truth, the whole truth and nothing but the truth, so help you God?  
84 Thank you.

85  
86 Mr. Johnson- Okay.

87  
88 Mr. Blankinship- When it's your turn to talk I'll just remind you that you'll be at  
89 the podium at the back. Mr. Gidley, you can begin.

90

91 Mr. Gidley- Thank you Mr. Secretary. Good morning, Mr. Chair, members  
92 of the Board.

93  
94 Mr. Johnson- Good morning.

95  
96 Mr. Gidley- The subject property is located west of Osborne Turnpike, in  
97 the Richmond Heights subdivision, which was recorded back in 1925. The applicant's  
98 property contains just over two acres, and it has a home that was constructed back in  
99 1925. This is a view of the residence here. They also have a three-car garage and a  
100 workshop on the property. The applicant's purchased the property in April of 2021 and  
101 would like permission to keep one regular sized horse, one miniature horse, and five hens  
102 on the property. There are actually three components to this request. The first is the Board  
103 may authorize up to three horses by conditional use permit. The zoning ordinance  
104 requires each horse to have one fenced acre of pasture to support the horse. As you can  
105 see here, this is their backyard, and in the far back you can see they have a fenced acre  
106 of pasture there. And they've also worked with the extension agent and determined this  
107 can be improved to provide proper care for the horse. Second, miniature horses may be  
108 approved by the Board via conditional use permit also. They're asking for permission for  
109 just one miniature horse, and staff doesn't believe that'll be much different than having a  
110 large dog on the property. And third, up to six hens can be approved by conditional use  
111 permit. In the back center, here, you see a chicken coup, right here. They do have five  
112 hens in there, and they are asking permission to keep those five hens. Here's a little closer  
113 view. And this is located at least 170 feet from the nearest dwelling, so there's really  
114 minimum impact there. As for compatibility with the surrounding area, this area is semi-  
115 rural in character. Many lots contain two to five acres of lot area. As you can see here,  
116 there are agricultural uses, including horses, nearby on Osborne Turnpike and New  
117 Market Road. As a result, the applicant's request would be compatible with the  
118 surrounding area. This is the applicant's concept plan, here. The front, Berryhill Road,  
119 here, the house, and then the fenced in area in the back here. So, in conclusion, the  
120 applicants have a dwelling on just over two acres of land. They would like to keep one full  
121 sized horse, one miniature horse, and five hens. The surrounding area is semi-rural in  
122 character and so any impact from this should be limited. The miniature horse, as stated,  
123 shouldn't have any real impact. And the hens would be 170 feet from the closest neighbor.  
124 As a result, staff can recommend approval of this case subject to the conditions in your  
125 staff reports. If you have any questions, I'll be happy to answer those. Thank you.

126  
127 Mr. Blankinship- Mr. Chair, I'll just call your attention to several emails that were  
128 left at the place, at the table this morning, that refer to this case. All in support.

129  
130 Mr. Johnson- Okay. Thank you. Are there any questions from the Board or  
131 staff?

132  
133 Mr. Lawrence- I have a question.

134  
135 Mr. Johnson- Yes.

136

137 Mr. Lawrence- Mr. Gidley, I noticed the letter of opposition that we received  
138 said that the Cromers have kept two full-sized horses on their property since May of 2023.  
139 But there is only one horse, existing horse, mentioned in the staff reports. So, I'm curious  
140 what happened to the second horse. Do we know?  
141  
142 Mr. Gidley- They, actually had two when we were out there, but they are  
143 finding an alternative home for the second horse, is my understanding.  
144  
145 Mr. Blankinship- If they'd had enough acreage, I think they would have wanted  
146 to keep two horses, but the code specifically requires one acre of fenced pasture for each  
147 horse. So, that limited their ability.  
148  
149 Mr. Lawrence- Okay. And the hens are there? They have hens on the  
150 property, now?  
151  
152 Mr. Gidley- Yes.  
153  
154 Mr. Lawrence- And one horse, that should have required a conditional use  
155 permit but, I guess, wasn't discovered until after the fact.  
156  
157 Mr. Johnson- Because there are two horses out there now.  
158  
159 Mr. Gidley- That's right. And again, they're going to find an alternative  
160 home for one of the two.  
161  
162 Mr. Johnson- Alright.  
163  
164 Mr. Lawrence- So, they're going to find a home for one of the horses and then  
165 they wish to acquire another horse. A smaller horse.  
166  
167 Mr. Gidley- A miniature horse.  
168  
169 Mr. Lawrence- A miniature horse, okay. I'm also curious too, the opposition  
170 letter was from the home at 1160 Berryhill Road, which I guess is right across the street  
171 from the subject property. Do we know about how far the dwelling on that property is from  
172 the applicant's property? The Cromer's property?  
173  
174 Mr. Gidley- Is this it here Ben?  
175  
176 Mr. Blankinship- Yes.  
177  
178 Mr. Gidley- The animals being requested would be kept in the far back  
179 here. So, that's ...  
180  
181 Mr. Johnson- And that's also the fenced area there, as well.  
182

183 Mr. Gidley- Yes sir.  
184  
185 Mr. Lawrence- Okay. Can you show us where 1160 Berryhill Road is, Mr.  
186 Gidley?  
187  
188 Mr. Gidley- It's over here.  
189  
190 Mr. Lawrence- Okay. And how far would you say that dwelling is set back  
191 from the road?  
192  
193 Mr. Gidley- This distance here is 646 feet, so I would say it's at least 50  
194 feet back from the road.  
195  
196 Mr. Blankinship- Probably closer to 100.  
197  
198 Mr. Gidley- And then the animals would be kept by the applicant in their  
199 rear yard. So, you're probably looking at a 300-foot distance.  
200  
201 Mr. Lawrence- Okay. And the last question I have, Mr. Chairman, were the  
202 houses in this neighborhood, Mr. Gidley, I'm assuming they're served by well and septic.  
203 They're not on public water and sewer, are they?  
204  
205 Mr. Blankinship- Well and septic.  
206  
207 Mr. Gidley- That is correct, well and septic.  
208  
209 Mr. Johnson- Okay.  
210  
211 Mr. Lawrence- That's all I had Mr. Chairman, thank you.  
212  
213 Mr. Green- I have a question for Mr. Gidley. Just so we, so folks can  
214 understand. I suspect that a lot of people may add dogs, cats, hens without knowledge of  
215 the code. How does an individual know what they can and can not do? I mean, you know,  
216 because I just assume... We can't assume people always know what the laws are.  
217  
218 Mr. Gidley- Right. When it comes to animals, we've heard of people come  
219 in and the vet has let them know, you know, "hey, you're going to have to get a kennel  
220 permit or use permit for this." When it comes to hens, people don't always know that and  
221 a lot of times it's on a complaint basis that lets us know. And sometimes they find out and  
222 they go ahead and apply, you know, proactively then.  
223  
224 Mr. Green- Yeah. The only reason I ask that is because I can assume,  
225 I'm going to assume a lot of people will make honest mistakes and shouldn't necessarily  
226 be penalized for things that are done like that. If you don't know, you just don't know.  
227  
228 Mr. Gidley- Sure.

229  
230 Mr. Johnson- Also, ...  
231  
232 Mr. Green- And the other thing. You said that this area was prone to have  
233 a lot of horses in the area. So, them having a horse, or hens, would not be uncharacteristic  
234 of that area.  
235  
236 Mr. Gidley- That's exactly right.  
237  
238 Mr. Green- And do you know where the next horses are? I mean, is that  
239 neighbor complaining because it's just right across the street? Or are there other areas  
240 that have horses...  
241  
242 Mr. Blankinship- If you look very near the top of the page currently. Paul, you  
243 may be able to indicate with the mouse. There's a circular fence structure, yes, right there.  
244 I am not certain, but that appears to me to be a horse ring there. And if it is, that would be  
245 the closest. I know a couple of the emails that we received in support of this case  
246 specifically mentioned there are other horses in this subdivision. I can't confirm that. But  
247 if you go within a mile on Osborne Turnpike, or New Market Road, you'll certainly see  
248 horses and other farm animals.  
249  
250 Mr. Green- Okay. I'm just trying to ascertain, because if we're looking at  
251 measuring the distance between that person's house and where those horses are, what's  
252 the difference between the back of that person's house and that ring of horses? Would  
253 that be pretty much the same?  
254  
255 Mr. Blankinship- It looks like it's about the same distance. Yes sir.  
256  
257 Mr. Green- So, why wouldn't they be complaining about that as well?  
258  
259 Mr. Gidley- I can't speak for them, so...  
260  
261 Mr. Green- I just want that on record.  
262  
263 Mr. Gidley- Yes, sir.  
264  
265 Mr. Johnson- And also, with the chicken coup, is it closed in where you can  
266 avoid rain and such like that?  
267  
268 Mr. Gidley- Yes sir.  
269  
270 Mr. Johnson- I noticed that, because I can see the fence, but, you know, not  
271 anything else where they were going to be going in at night, is all. Okay.  
272  
273 Mr. Green- One other question is what we've always asked them to do,  
274 when they have chickens and hens, is to make sure the exterminator... Neighborhoods,

275 houses that are closer, we ask them to make sure that the pest control. Did we, have we  
276 decided when we have these more rural areas, what we should do?

277  
278 Mr. Blankinship- Well, we included the same condition that we usually do. It's  
279 condition number six in this case. Whether you think it's appropriate or not is, of course,  
280 up to the Board.

281  
282 Mr. Green- Yeah.

283  
284 Mr. Blankinship- But we did recommend it.

285  
286 Mr. Green- Okay. Thanks. I didn't focus on that one as much.

287  
288 Mr. Johnson- And also, with the storage of the food and all, so it would not  
289 impact the neighborhood.

290  
291 Mr. Blankinship- Yes sir, that is condition number four in the recommended  
292 conditions.

293  
294 Mr. Johnson- Okay.

295  
296 Mr. Lawrence- Mr. Chairman, I did have a follow up question, if I could. Mr.  
297 Gidley, do we allow horses in any residential district? I was thinking we only allowed  
298 horses in agricultural districts, so I'm learning something this morning. But under the CUP,  
299 horses, they're not treated the same way as hens, right?

300  
301 Mr. Blankinship- It's not the same as hens because there is the acre of fenced  
302 pasture requirement. But yes, you can apply for a conditional use permit in any of the  
303 residential districts, if you have at least one acre of fenced pasture per animal. And that's  
304 been in the ordinance in different forms since, I want to say, 1969. Since we had our first  
305 request for what they call an equestrian subdivision, where it was specifically marketed  
306 to people that the lots were large enough for a horse.

307  
308 Mr. Lawrence- Okay.

309  
310 Mr. Johnson- Right. Okay. Any other questions? We will now hear from the  
311 applicant.

312  
313 Ms. Cosby- Good morning. My name is Anne Neil Cosby, and I am an  
314 attorney at Greene Hurlocker. I'm here this morning representing Chris and Alex Cromer,  
315 who are the applicants in this case. I want to say, just from the outset, that the comment  
316 "you don't know what you don't know" until it's a little bit too late certainly applies in this  
317 case. In this case, the Comers purchased, fell in love with the property, and fell in love  
318 with the Varina District. Chris is going to address the BZA after I'm done. But that's  
319 certainly what happened. They fell in love with the property. Had these two horses and  
320 brought them on-site, and only found out later that a conditional use permit was required.

321 So, they immediately started working with staff to determine how to bring the property into  
322 compliance, which does mean one of the horses will have to go. Horses are companion  
323 animals so that's why a miniature horse will come in. So, they're trying to do this in a way  
324 that's in compliance with County's ordinances in all respects and is also very humane for  
325 the animal. So, that's why the miniature horse, who I understand is named Pretzel and  
326 has one eye, will be on the property, if that's approved. So, they're definitely trying to do  
327 the right thing here. But we appreciate that comment. On this case, you have a lot of  
328 information in your packet. And staff has done a tremendous job getting you all the  
329 information that you need. So, there is really very little for me to say from a legal  
330 perspective. So, and as I said, Chris is going to give you a little bit more of the background.  
331 So, I just wanted to briefly reiterate the legal standards that are here for your  
332 consideration. And to suggest just how this application fits within those standards. As  
333 you've heard, horses, miniature horses, and chickens are permitted in the R-3, and all  
334 other residential districts, so long as the BZA approves a conditional use permit and  
335 provided for the horses the one-acre requirement is met, and the other development  
336 standards are also satisfied. So, the application before you, and I won't list them all, lists  
337 the criteria for the Board, for the BZA to consider whether the request is consistent with  
338 the Comprehensive Plan, whether it's consistent with the Zoning Ordinance, and all of the  
339 requirements, whether the proposed use is appropriate for the location and compatible  
340 with the general area. And then, finally, whether the proposed use will not adversely affect  
341 the public health, safety, and welfare. I would suggest, rather than me going through all  
342 of those criteria for you this morning, you know, the Comprehensive Plan and Zoning  
343 Ordinance compliance, they're a little more objective in nature. I think that staff has, you  
344 know, fully analyzed those criteria and has concluded that this application is generally  
345 consistent with those requirements. So, really, I mean, to me, what comes down to the  
346 BZA for all of your subjective determination is whether or not this proposed use  
347 appropriate for the location and the general character of the area, and whether it will  
348 adequately protect public health and safety. And I would say there's nothing I can say  
349 that is more, I think, important than the letters that you've received from so many members  
350 of the community, of the neighborhood. You know that they support this use. They like  
351 the horses being there. That the horses bring such a benefit to all of the neighbors. So, if  
352 that helps you decide what is the impact of this proposed use on the area, I would  
353 definitely say it's all right there in the letters. There is the one letter from the adjacent, or  
354 across the street neighbor with some concerns that raises the public health and safety  
355 issue. And I think there the analysis would be the conditions that we just talked about.  
356 Number one, there would only be one horse. As we've described, one horse on the one  
357 acre consistent with the zoning ordinance. And then, also, those conditions that deal with  
358 the storage of feed, pest control, and waste removal. So, you know, I think those  
359 conditions along with the one acre would adequately address those concerns. So, I don't  
360 know that there's really anything else from a legal perspective. Again, I would just suggest  
361 that, you know, this is a community. This is a great case. I mean, an application where  
362 the community has really done my work for me. I think it's terrific. I would also be remise  
363 If I didn't say that the Board member for this district is also, based on the staff report,  
364 indicated that he supports this application. Which, you know, I think, says a lot. He cares  
365 very, very much about the Varina District. So, to me, there's nothing I can add based on



366 that. So, with that... If there are any questions, I will be happy to answer them. But I will  
367 hand it over to Chris who has a few comments. Thank you.

368  
369 Mr. Johnson- Thank you. Alright.

370  
371 Mr. Cromer- Good morning, my name is Chris Cromer. Spelled  
372 C.R.O.M.E.R. And my wife is here as well. Alex Cromer. First of all, I would like to thank  
373 the staff for all of your due diligence and effort putting together the staff report, for this  
374 whole process, and for helping us, guiding us through this whole conditional use process.  
375 I would also like to thank all of you on the Board for having us this morning and having  
376 the opportunity to present our case. As has been mentioned, we're seeking approval of a  
377 conditional use permit for our home. This is our first home, Alex and I's, and as was  
378 mentioned... There you go, perfect. ... In 2021, we found it. And it was a wild time to find  
379 a house. It still is. And we fought really hard to get this house. We're so happy that we  
380 found this one where it is. It's been Alex's main goal, for her entire life since she was  
381 seven years old, to, at some point in her life, to be able to have her horses on her land  
382 with her. So, going through this whole process of buying the house, putting in the time,  
383 the physical labor, and everything to make that a reality has been the most important  
384 thing to us since we've been here. Over the last, nearly, three years of being in Varina,  
385 we've developed so many relationships with so many people around our immediate  
386 neighborhood, but also just Varina at large. And it's just such a great experience. And we  
387 can very easily say that this is our forever home. We're going to stay. So, like we've  
388 mentioned, we currently have two horses. The first one is Orlick, he's about 23. And  
389 Sunny, who's five, and has all of the energy and curiosity of a toddler so. Orlick is Alex's  
390 childhood horse. She's had him for over 17 years. And she's ridden him in Steeple  
391 Chasing, doing Fox Hunting, trail rides, etc. He's getting older and was recently diagnosed  
392 with Cushing's Disease, which has treatment but still just, he's getting up there. And we  
393 want to retire him from Fox Hunting and more intensive activities, so that was the purpose  
394 of bringing on a second horse. To start to try and train him up. That being Sunny. And so,  
395 now, with this conditional use permit the terms that we've talked about already is we would  
396 move Sunny to a friend's property. It's a farm down in Charles City County and they have  
397 several other horses. It'll actually be a pretty good set up to be able to, him have more  
398 company and be able to train better. Alex, fox hunts with Princess Anne down, up and  
399 down Route 5, and takes him to what not, so that will work out pretty well. But we also  
400 don't want Orlick to be alone, so hence the miniature horse. And miniature horses are  
401 very commonly used as companion animals to full-sized horses, so they get along really  
402 well. We did already visit a rescue up near Charlottesville. They rescue miniature horses  
403 from all sorts of situations. We've already fallen in love with a couple. Affectionately  
404 they've already been named, I believe the name Ann had already mentioned was Pretzel,  
405 the other one is Bruh. So, funny little names there, but we're excited to find one of them  
406 to adopt. And, let's see, we also have, as part of our application, chickens. We have five  
407 chickens. We've also affectionately named them Tiffany, General Tso, Mecca, Flora, and  
408 Fauna. They're in the white coup that Paul showed. And we absolutely love how ridiculous  
409 they are. Also, sharing the eggs with neighbors and, obviously, we love using them  
410 ourselves. When we bought the house, we personally checked the building laws at the  
411 time, and I thought I understood them. I, through this process, understood that they

412 changed significantly after the fact. So, now we're trying to do what we can to make sure  
413 that we're in full compliance with the County moving forward. That's all I have to say. Just,  
414 thank you so much for the privilege of my wife and I being here today and presenting that  
415 to you. Thank you.

416  
417 Mr. Johnson- Okay. Yes. I was out there looking as well, and I noticed that  
418 your horses and chickens, and all is fixed up pretty well. Also, what got my attention too  
419 was feeding the animals, and the water in the bucket was plenty. And with soap and all  
420 cleaning the buckets. It hasn't been brought up before, but that was something you make  
421 it feel like it was another person, or something. But anyway, that's good. Other than that,  
422 does anyone else have any questions?

423  
424 Mr. Green- I have a question. First, you said General Tso's. So, now  
425 when I go to eat General Tso's, ... I'm going to hope I'm not eating your chicken. So,  
426 you've turned me off from eating that anymore..

427  
428 Mr. Cromer- Flora and Fauna were named by my wife.

429  
430 Mr. Green- You've hurt me.

431  
432 Mr. Green- The second question I have is for a point of clarification. If they  
433 had come in and asked, I know the zoning said they can only keep one horse per acre,  
434 but could they have gotten an opportunity to keep both horses if they'd asked?

435  
436 Mr. Blankinship- No, unfortunately not.

437  
438 Mr. Green- And do they have the option to extend the yard to anymore  
439 than what it is, or?

440  
441 Mr. Blankinship- There are houses on all of the surrounding lots.

442  
443 Mr. Green- No, I'm talking about on theirs?

444  
445 Mr. Blankinship- They don't have quite enough land. They're not far short, but  
446 they don't have enough land.

447  
448 Mr. Green- Okay. Just for clarification.

449  
450 Mr. Blankinship- We definitely looked at that as part of our review.

451  
452 Mr. Johnson- Okay. And does anyone else want to speak in support? Okay,  
453 opposition? Do we have any opposition?

454  
455 Mr. Blankinship- We do have one speaker on Webex, Judy Walton.

456  
457 Mr. Johnson- Okay.

458  
459 Ms. Walton- Good morning, this is Judy Walton.  
460  
461 Mr. Blankinship- Good morning.  
462  
463 Ms. Walton- Good morning. My last name is W.A.L.T.O.N. I apologize that  
464 Vernie and me were unable to be in attendance today. ... at Varina High School, so he  
465 had to go take care of that. But nonetheless, I wanted to give you guys a call and speak  
466 on this matter, because as I've written in our opposition letter, one of the things that I did  
467 want to address, is as one of the Board members mentioned, my neighbor behind me  
468 possibly has a horse ring. Actually, the neighbor behind me does not have any horses on  
469 the premises, so I just wanted to let you know that. So, you wondered why I was not  
470 complaining about that neighbor, is because they actually do not have horses like the  
471 Cromers do. The Cromers do. The Cromers having two horses on those premises, in the  
472 last year since the horses have been on the premises there have been some instances.  
473 One where as the Cromers went away, I believe for the weekend, or it might have been  
474 for the day, and the horse broke through the fencing. The existing fencing that's there.  
475 Then one of our neighbors had to go retrieve the horse, and we, then my husband had to  
476 go over there and re-secure the fencing for the Cromers. The second incident, or actually  
477 there were several incidences, whenever, we live in Varina and our neighbors like to shoot  
478 guns off in the air, or fireworks. It tends to startle the horses, and at that time, the Cromers  
479 will be on mission to go look for the neighbors who are, you know, causing the ruckus, if  
480 you will, and to go and confront them about shooting guns in the air, as well as fireworks.  
481 That most recently happened on December 21, 2023. And it was happening at nine, ten  
482 o'clock at night.  
483  
484 Of course, my husband is a 23-year Army veteran. He's done 56 months in combat, and  
485 he just wants his peace and quiet. If we stand on our front porch, or even if we open up  
486 our front window, the wind blows on to our property, directly onto our property because  
487 there is no barrier between us and the Cromers. And it's nothing but horse manure. So,  
488 that is something that we have been dealing with for like the last year. So, basically when  
489 we purchased this property, I personally looked into the zoning, I looked at the  
490 comprehensive plan for the area, and this is why we specifically chose this property. Just  
491 so my husband could have the peace and tranquility of his own property. Nobody bothers  
492 him. He can just enjoy being home in America. So, I just want to bring to the attention of  
493 the Board the recent things that happened with the horses on the premises and how it is  
494 affecting ourselves. One last thing is, I understand that three neighbors have supported  
495 this conditional use permit, however, two of the neighbors are actually not owner-  
496 occupied residences. They're actually two renters. And I did note that in my opposition  
497 letter.  
498  
499 Mr. Johnson- Okay.  
500  
501 Ms. Walton- Yes sir, and that's basically all I have to say. Thank you.  
502  
503 Mr. Johnson- Alright. Any questions?

504  
505 Mr. Green- No, I just want to articulate that, you know, if someone is  
506 shooting a gun, they can do that anywhere and no one can control that. And if they come  
507 into my neighborhood and shoot a gun, it's going to startle my dogs, startle me, and so, I  
508 don't know how you can control that. And I think it was very nice of you and your husband,  
509 if the horse did break out, to assist in getting it back in the pen. So, it shows that there's  
510 good community support with each other out there to do that. So, most people would not  
511 have done that. They would've called the police, but you know. I think they thanked you.  
512 If not, I thank you for doing that. Because we need more compassion in the County.  
513  
514 Mr. Johnson- Okay. Thank you. Also, you mentioned something about the  
515 horses. About smelling something. Is that what you were indicating?  
516  
517 Mr. Green- The manure.  
518  
519 Ms. Walton- The horse manure.  
520  
521 Mr. Johnson- The distance... The reason I was kind of curious about that is  
522 with even one, or two horses, that, the distance it makes a difference. Especially, being  
523 that close, but I'm from the farm. In the country, and we had something like that. And the  
524 ones across the road from us, we owned that as well, but still, you couldn't smell anything  
525 like that with just one or two horses, you know. I was just bringing that out for you. Even  
526 though ...  
527  
528 Ms. Walton- Actually, when the wind blows and it's a nice hot summer day,  
529 like last week, you cannot go outside my house. You cannot open my windows and we  
530 cannot sit on my front porch. It blows, I mean, you are more than welcome to come to our  
531 home, you can sit on our front porch, and you can experience what we experience. We  
532 have literally not sat on our front porch for the last year. Because the smell, it blows right  
533 into us.  
534  
535 Mr. Johnson- Okay.  
536  
537 Mr. Cromer- Am I able to...  
538  
539 Mr. Johnson- Yes.  
540  
541 Mr. Blankinship- You'll have a chance afterwards.  
542  
543 Mr. Johnson- Wait until she's finished.  
544  
545 Mr. Cromer- Okay.  
546  
547 Mr. Johnson- Okay.  
548  
549 Ms. Walton- Well, that's all I had to say sir.

550  
551 Mr. Johnson- Okay, thank you. Okay.  
552  
553 Mr. Blankinship- Are there any other speakers on Webex for this case? Staff,  
554 are there any other speakers on Webex for this case? There are not.  
555  
556 Mr. Johnson- There are none?  
557  
558 Mr. Blankinship- Not for this case.  
559  
560 Mr. Johnson- Okay.  
561  
562 Mr. Blankinship- It's your turn for rebuttal, and let me just say, let's please focus  
563 on the issues that are before the Board.  
564  
565 Mr. Johnson- Right.  
566  
567 Mr. Cromer- Totally understand, thank you. I do just want to bring up the  
568 first instance that we heard from a single neighbor, my wife and I completely changed our  
569 strategy towards waste removal. We have friends that are veterinarians. One works at  
570 Maymont, and recommended to us a spray that is an enzyme-based spray that helps  
571 break down waste significantly. Also, it neutralizes ammonia, which is the main thing that  
572 you smell that hurts your nose. So, we've been, weekly now, using like a pump sprayer,  
573 spraying anything that could be that. We've also been lugging that up and moving it to  
574 the back part of the property. Trying to spread it out, and eventually we're trying to  
575 compost and get it to breakdown and reduce the odor completely. And, I think, that was  
576 the most important things that I got...  
577  
578 Mr. Johnson- Okay.  
579  
580 Mr. Cromer- Thank y'all.  
581  
582 Mr. Johnson- Thank you. Any questions?  
583  
584 Mr. Green- No.  
585  
586 Mr. Johnson- Okay. Did you want to speak miss?  
587  
588 Mr. Blankinship- No, she is here just in case you had a question.  
589  
590 Mr. Johnson- Okay. Thank you. No one else wants to speak in opposition  
591 before we close our meeting? Okay. This public hearing is now closed. A motion would  
592 be in order. And I move that we approve this conditional use permit subject to the  
593 conditions recommended by staff. Now, it is consistent with the property, with agricultural  
594 use nearby, most of the neighbors have expressed support. And I move.  
595

596 Mr. Green- Second.  
597  
598 Mr. Johnson- Any discussion.  
599  
600 Mr. Pollard- ...that's all I wanted.  
601  
602 Mr. Johnson- Okay. Any others?  
603  
604 Mr. Green- Other than reinforcing that they said that they tried to mitigate  
605 the smell, and I'm just wondering the difference between that and someone that uses  
606 manure to fertilize their yard. You know, you're going to have a smell. So, I guess I  
607 shouldn't use manure to fertilize my yard.  
608  
609 Mr. Johnson- Thank you. Okay. Motion pass...  
610  
611 Mr. Green- No, we have to vote.  
612  
613 Mr. Johnson- It's now closed, what's the pleasure of the Board?  
614  
615 Board- Aye.  
616  
617 Mr. Johnson- All in favor. None opposed. Motion passed.  
618  
619 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **approved CUP2024-**  
620 **100347** subject to the following conditions:  
621  
622 1. This conditional use permit authorizes the keeping of one horse, one miniature horse,  
623 and five hens. All other applicable regulations of the County Code remain in force.  
624  
625 2. This conditional use permit applies only to the improvements shown on the plot plan  
626 filed with the application. Any additional improvements must comply with the  
627 applicable regulations of the County Code. Any substantial changes or additions to  
628 the design or location of the improvements will require a new conditional use permit.  
629  
630 3. The applicants must comply with the requirements of Sec. 24-4420 of the Zoning  
631 Ordinance. This includes requirements that the horse must have one acre of fenced  
632 pasture, the hens must be kept in a covered enclosure and not allowed to run free,  
633 and the activity must not produce any objectionable odors or vermin.  
634  
635 4. All animal feed stored on the site must be kept indoors, in a metal container with a  
636 secure lid or other sealed container impervious to vermin.  
637  
638 5. Waste from the horse, miniature horse, and hens must be composted in a responsible  
639 manner or removed from the property weekly. Until composted or removed, waste  
640 must be kept at least 100 feet from surface water and wells and covered with an  
641 impermeable barrier that will resist wind.

642  
643 6. Within 30 days of bringing the hens to the property, the applicant must submit an  
644 inspection report from a license pest control company addressing recommendations  
645 to prevent any infestation of vermin related to the keeping of hens. This condition must  
646 be satisfied by April 25, 2026, or this conditional use permit will expire.  
647

648  
649 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**  
650 **Negative:** **0**  
651 **Absent:** **0**  
652

653  
654 **CUP2024-100440 - Erin Bischoff: conditional use permit to keep up to six hens in**  
655 **the rear yard at 8709 Basswood Road, Wedgewood Park, Three Chopt. Parcel 754-**  
656 **750-6155. Zoning: R-3, One-Family Residence District. Code Section: 24-4420.G.**  
657

658 Mr. Blankinship- Alright, the second case is **Conditional Use Permit 2024-**  
659 **100440**, Erin Bischoff: a conditional use permit to keep up to six hens in the rear yard at  
660 8709 Basswood Road, in the Wedgewood Park subdivision, in the Three Chopt  
661 Magisterial District. Would everyone who intends to speak to this case please stand and  
662 be sworn in. Raise your right hands please. Do you swear the testimony you're about to  
663 give is the truth, the whole truth and nothing but the truth, so help you God? Thank you.  
664 Mr. Gidley.  
665

666 Mr. Gidley- Thank you Mr. Secretary. The subject property is located just  
667 west of Parham Road, roughly 2,000 feet south of its interchange with Interstate 64. The  
668 applicant's lot is roughly one-quarter of an acre and contains a home built in 1962. And  
669 this is the residence here. There is also a 240-square-foot detached accessory structure  
670 in the rear yard. The applicants would like to keep up to six hens in their rear yard. And  
671 they would be kept in a 3.5-foot by 4-foot chicken coup, along with an enclosed run that  
672 would measure six feet by nine feet.  
673

674 Mr. Blankinship- I'm going to interrupt you Mr. Gidley. This map is actually no  
675 longer correct. Can you put up the revised concept plan?  
676

677 Mr. Gidley- This one right here?  
678

679 Mr. Blankinship- No, that's the old one. No, those are photos. Sara, do you  
680 know which...  
681

682 Ms. Rozmus- (Off mic.)  
683

684 Mr. Blankinship- There are two concept plans, but they both appear to be the  
685 old one.  
686

687 Mr. Johnson- Is it the one he just had?

688  
689 Mr. Blankinship- No, that's the old map. Those are photos. The concept plan  
690 narrative, there wasn't anything below that, because there are more pages. Is there?

691  
692 Ms. Rozmus- (Off mic.)

693  
694 Mr. Blankinship- Okay. This will at least get the point across. Yeah, let's use  
695 this one instead. Alright. I apologize for interrupting you. Go ahead.

696  
697 Mr. Gidley- Okay, yeah, I had a notation in my report later on that  
698 highlights that. Okay. Anyway, the applicants would like to keep up to six hens in their  
699 yard, and they'd be in the rear yard. As I was getting ready to get into, they show it located  
700 just east of the storage building. However, in order to meet the required 25-foot side yard  
701 setback the location would need to be adjusted. And Mr. Blankinship did come up with  
702 this site plan here that shows the 25-foot side yard setback, along with the 40-foot rear  
703 yard setback. which gives you an idea of where the chickens would have to be placed  
704 within the middle area, right here.

705  
706 In evaluating this request, the property is zoned R-3 One-family Residence District, and  
707 the Comprehensive Plan designation is Suburban Residential 2. A single-family dwelling  
708 is consistent with this, and this Board can approve up to six hens by conditional use  
709 permit. This is where they were showing the proposed location of the coop. However, as  
710 noted, it would have to be adjusted, its location. The lots in this neighborhood, like a lot  
711 of neighborhoods, do have accessory structures in their rear yards. So, a small coop  
712 would not be out of character for the area. Regarding public health, safety, and welfare,  
713 chicken coops are required to have greater setbacks than most accessory structures. And  
714 that is designed to minimize impacts on the neighbors, such as odors. As noted, the  
715 proposed coop here would have to meet setbacks as shown on here. That would be 25-  
716 feet from the side lines and 40-feet from the rear line. This is somewhat out of date, but  
717 this gives you a rough idea of what the structure would look like, right here.

718  
719 So, in conclusion, the applicant wants to keep up to six hens in a backyard coop, the  
720 plans must be revised in order to meet the required setbacks. With that change, however,  
721 staff does not anticipate any detrimental impact on the neighborhood and can recommend  
722 approval of this request, subject to the conditions in your staff reports. This concludes my  
723 presentation. If you have any questions, I'll be happy to answer them. Thank you.

724  
725 Mr. Johnson- Okay. Any questions for staff? No. Okay. We'll now hear from  
726 the applicant.

727  
728 Ms. Bischoff- Good morning, my name is Erin Bischoff. Last name is spelled  
729 B.I.S.C.H.O.F.F. I would like to extend my thanks to the Board for their time and  
730 consideration. Mr. Secretary in particular in his patience and responding to my questions  
731 as I navigated the application process and the BuildHenrico portal. I do not have anything  
732 to add beyond the information covered in the application presentation materials. Except,



733 I would like to share that when we purchased this property, a little over a year ago, we  
734 chose to buy in Henrico County with the regulations and possibility of raising hens in mind.

735  
736 Mr. Johnson- Okay. With the chicken coop you have in the back, do you  
737 have any problem with having that moved back in the center line?

738  
739 Ms. Bischoff- So, we have not purchased the chicken coop or run, as of yet.  
740 We have been putting off any financial investment towards this project until we have  
741 approval from the Board.

742  
743 Mr. Johnson- Okay.

744  
745 Mr. Blankinship- And you did provide an updated concept plan. I'm sorry it's  
746 not in the presentation.

747  
748 Ms. Bischoff- That is correct. We did ...

749  
750 Mr. Blankinship- We do have an updated plan.

751  
752 Ms. Bischoff- ... measure out the space in the backyard to make sure...

753  
754 Mr. Blankinship- It is on the table before you. Thank you.

755  
756 Mr. Johnson- Thank you.

757  
758 Ms. Bischoff- There is a deck to the rear of the main structure on the  
759 property. So, we did measure to make sure the coop and run could fit in the existing  
760 space, with in that barrier that you had shown with the setbacks.

761  
762 Mr. Johnson- Okay. Thank you. Any questions from the staff? Okay. Is  
763 there any opposition for this case?

764  
765 Mr. Blankinship- There is no one on Webex Mr. Chair.

766  
767 Mr. Johnson- Okay. Thank you. Then, does anyone else wish to speak in  
768 support. None? Alright. With that we'll now ...

769  
770 Mr. Green- Mr. Chair, I move that we approve the conditional use permit  
771 subject to the conditions recommended by staff. It is consistent with the Comprehensive  
772 Plan and Zoning Ordinance. The applicant has revised the concept plan to meet the  
773 setback, and the coop will be screened by an existing building.

774  
775 Mr. Pollard- Second the motion.

776  
777 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

778

779 Board- Aye.  
780  
781 Mr. Johnson- All opposed say, Nay. All in favor. Motion passed.  
782

783 On a motion by Mr. Green, seconded by Mr. Pollard, the Board **approved** case **CUP-**  
784 **2024-100440** subject to the following conditions:  
785

786  
787 1. This conditional use permit authorizes the keeping of up to six hens in the rear yard.  
788 All other applicable regulations of the County Code remain in force.  
789

790 2. This conditional use permit applies only to the improvements shown on the revised  
791 plot plan and building design filed with the application. The coop must be located at least  
792 25 feet from the side lot lines, at least 40 feet from the rear lot line, at least 10 feet from  
793 the dwelling, and at least 6 feet from the existing accessory building. Any substantial  
794 changes or additions to the design or location of the improvements will require a new  
795 conditional use permit.  
796

797 3. The applicants must comply with the requirements of Sec. 24-4420.A and G of the  
798 Zoning Ordinance. This includes requirements that the hens be kept in the proposed  
799 enclosure and not allowed to run free, and that the activity must not produce any  
800 objectionable odors or vermin.  
801

802 4. Any feed stored on the site must be kept indoors, in a metal container with a secure  
803 lid or other sealed container impervious to vermin.  
804

805 5. Waste from the hens must be composted in a responsible manner or removed from  
806 the property weekly. Until composted or removed, waste must be covered with an  
807 impermeable barrier that will resist wind.  
808

809 6. Within 30 days of bringing the hens to the property, the applicant must submit an  
810 inspection report from a license pest control company addressing recommendations to  
811 prevent any infestation of vermin related to the keeping of hens. This condition must be  
812 satisfied by April 25, 2026, or this conditional use permit will expire.  
813

814  
815 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
816 **Negative: 0**  
817 **Absent: 0**  
818

819  
820 **CUP-2024-100460 - Catherine Davis: conditional use permit to build a detached**  
821 **garage in the side yard at 9920 Alf Court, Tall Timbers, Brookland. Parcel 767-762-**  
822 **4496. Zoning: R-2, One-Family Residence District. Code Section: 24-4404.A.1.**  
823

824 Mr. Blankinship-                    Alright. The next case is **Conditional Use Permit 2024-**  
825 **100460**, Catherine Davis: a conditional use permit to build a detached garage in the side  
826 yard at 9920 Alf Court, in the Tall Timbers subdivision, in the Brookland Magisterial  
827 District. Would everyone who intends to speak to this case please stand and be sworn in.  
828 Raise your right hands please. Do you swear the testimony you're about to give is the  
829 truth, the whole truth and nothing but the truth, so help you God? Thank you. Still Mr.  
830 Gidley.

831  
832 Mr. Gidley-                            Yes, sir. The subject property is located southeast of the  
833 intersection of Staples Mill Road and Warren Road. The applicant's property is located in  
834 a cul-de-sac and contains a roughly 2800-square-foot home with an attached two-car  
835 garage. As shown here, they would like to build a detached two-car garage at the end of  
836 the driveway to allow for additional storage space. The proposed garage would be 16 feet  
837 by 24 feet. And its siding and roofing would match that of the house. And here's a picture  
838 of the proposed garage. The applicant indicates that placing the proposed garage at the  
839 end of the driveway would avoid an easement in the rear yard, and also would avoid the  
840 need to remove mature landscaping that is also in the rear yard. The applicants have thus  
841 applied for the conditional use permit.

842  
843 In reviewing this request, the property is zoned R-2 Single-family Residence District.  
844 Single-family dwellings are permitted in this district and this Board can approve a  
845 detached garage in the side yard by a conditional use permit. This is an aerial of the site  
846 here and, as you can see, it is located in a cul-de-sac. And I just wanted to state that a  
847 detached structure would not be out of place. As you can see right down here, these  
848 applicants have a detached garage at the end of their driveway. And so, other than this  
849 being partially in the side yard, these would be quite similar. So, it would not be out of  
850 character with the surrounding area. In addition, the proposed garage would be set back  
851 roughly 30 feet further from the street than the existing house is. As far as impact to  
852 neighbors, the garage would go roughly right here in this grassed area. The closest  
853 neighbor is over here on the side. They don't have a whole lot of windows over here. And,  
854 as you can see, there is also evergreen landscaping here. So, staff doesn't really think  
855 there will be a significant impact on this neighbor. And then, again, in the back, as far as  
856 the neighbors back there, you can see all these mature trees back here. So, they would  
857 not really be impacted either by the proposed garage location. And, in fact, the applicant  
858 could put it in the rear yard by-right, so as a practical matter this would probably benefit  
859 the neighbors. So, long and short, staff does not really anticipate any detrimental impact  
860 from this proposed location. So, in conclusion, the applicant wishes to construct a  
861 detached garage at the end of their driveway. While located partially in the side yard, the  
862 proposed garage's exterior materials would match the existing home, its scale is  
863 consistent with the neighborhood, and the proposed location would not cause any  
864 detrimental impacts. As a result, staff can recommend approval of this request, subject to  
865 the conditions in your staff reports. If you have any questions, I'll be happy to answer  
866 those. Thank you.

867  
868 Mr. Johnson-                            Okay.

869

870 Mr. Green- I have a question, just for clarification. Just like earlier, I stated  
871 a lot of times people will do things and not recognize they're doing it. Did they know to  
872 do this because as they went to get a building permit they were told they had to come  
873 here? I presume.

874

875 Mr. Gidley- That is typically how it happens.

876

877 Mr. Green- Okay. Good.

878

879 Mr. Gidley- In the Permit Center they find out that you need special  
880 permission and how you apply.

881

882 Mr. Green- Yeah.

883

884 Mr. Johnson- Okay. Any other questions?

885

886 Mr. Lawrence- I had a question.

887

888 Mr. Johnson- Go ahead.

889

890 Mr. Lawrence- I had a question for Mr. Gidley. One or two questions. Mr.  
891 Gidley, you mentioned in the staff report there was a common area behind the applicant's  
892 property. Do you know what the width of that common area is? I'm assuming that is owned  
893 by the association?

894

895 Mr. Gidley- I would think that that is 40 or 50 feet, just looking at the  
896 setbacks here. Probably at least 50 feet in width.

897

898 Mr. Blankinship- It is variable. As you can see, the lot lines aren't quite parallel,  
899 so it depends on exactly where you measure it.

900

901 Mr. Lawrence- So, that's a 50-foot common area in addition to whatever the  
902 normal setback area would be for the property behind it, right?

903

904 Mr. Blankinship- Yes, sir.

905

906 Mr. Gidley- Yes, sir.

907

908 Mr. Blankinship- And it is owned by the association.

909

910 Mr. Lawrence- Okay, so the property is well buffered in the rear.

911

912 Mr. Gidley- Yes, sir.

913

914 Mr. Lawrence- Well buffered in the rear yard, as you stated. Also, isn't it  
915 common for houses, when houses are being built, to have garages to the side of the  
916 house?

917  
918 Mr. Gidley- It's not uncommon.

919  
920 Mr. Lawrence- I understand with the ordinance what the CUP requires, but if  
921 you're in construction, you know, many houses have garages in their side yard, right?

922  
923 Mr. Gidley- Particularly in more rural areas it is more common.

924  
925 Mr. Blankinship- And particularly, on the end of a cul-de-sac, like this, your lot  
926 is necessarily wider, so to make the yield work out they make them shallower. So, you  
927 have less depth to the rear yard at the end of a cul-de-sac, typically.

928  
929 Mr. Lawrence- Good point. That's all I had Mr. Chairman.

930  
931 Mr. Johnson- Okay, we will now hear from the applicant.

932  
933 Ms. Davis- Good morning, my name is Catherine Davis. And I want to  
934 thank you for my consideration for the detached garage. One of the main reasons, as he  
935 stated earlier, we would be approved for that, that structure in the neighborhood. It's very  
936 consistent with what's already there. The main concern is the location. Putting it in the  
937 back of the yard. That is a common area back there, but it is also very... That back, about  
938 ten feet of our yard is a drainage easement, so it stays fairly wet. And we have a bunch  
939 of plants back there that helps with that. I'm very big into landscaping, so I would hate to  
940 have to remove trees to put it there. The other major concern would be to have to extend  
941 the driveway that would my entire side yard a driveway and a garage. The location where  
942 we would like to put it would require us not to have to move any utilities, we've already  
943 had it marked. It's higher elevation, so it would be a better place to put a garage as far as  
944 the yard slopes down and it stays fairly wet back there. Which is not a concern for plants,  
945 but it would require us to put it on a lower spot in the yard which I am concerned would  
946 interfere with the drainage. And also, not having to remove all those trees, because those  
947 do have a nice buffer between our neighbors. We're very close to the neighbors behind  
948 us. So, because of the location of our yard, being a cul-de-sac, putting it where we request  
949 it to be would actually give it less sight line from most of our neighbors. Because our  
950 house would block it from the people to the left. And then all of the nice shrubs, there is  
951 a privacy fence that our neighbor has, that would block a lot of it. Putting it in the back  
952 yard, we would have to remove some trees, which would make it definitely much more  
953 visible to the people behind us, who have an even more shallow yard than we do. It would  
954 also help us to access the garage from the side door. We have an existing sidewalk there  
955 and have it more accessible to the existing garage, which theoretically is a two-car  
956 garage, but we've never been able to put two cars in there. So, that would allow us to be  
957 able to drive straight into the driveway, through the driveway, not have to extend the  
958 driveway, which you can see is extremely wide at the end. It would basically make the  
959 whole yard a driveway, and take away from the greenspace and, I think, make it less

960 attractive from the street. The nice thing with this neighborhood is all of the garages,  
961 detached garages, are side entry, so you're not going to be seeing a whole bunch of  
962 garage doors. And again, most of the neighbors in our cul-de-sac put garages, or  
963 detached sheds in years ago. We're just getting to it now, you know, with kids in college.  
964 But a lot of them have already been done. It's very consistent with two cul-de-sacs in Tall  
965 Timbers, as well as the neighborhood behind us. The main Tall Timbers. So, we feel like  
966 it would not be a detriment as far as where it is located to anybody. And it would minimize  
967 our having to do a lot of moving around utilities and extending the driveway to almost  
968 double the size. So, there's a lot of reasons why it would not be good for us to do that.

969  
970 Mr. Green- Thanks.

971  
972 Mr. Johnson- And also, you don't have any trees in the way, that would be  
973 in the way.

974  
975 Ms. Davis- Correct.

976  
977 Mr. Johnson- And it would be right beside...

978  
979 Ms. Davis- And no utilities there. The further back we move it, we also  
980 have a drainage, like a drainage line, from the corner of our property out to the woods  
981 there, where it's wet. We'd have to cut through that. You see where the grass gets real  
982 green back there. That's where a lot of stuff gets drained, back there. And putting a garage  
983 in that area would require us to have to move our drainage line to keep the water away  
984 from the house.

985  
986 Mr. Johnson- So, what we're going to have is it being closer to the house,  
987 rather than that green area there.

988  
989 Ms. Davis- Correct. Basically, it will be just a concrete apron attaching it  
990 to the existing driveway, which wouldn't require us to pave any further back into the yard.  
991 It would just kind of follow the angle of the house so that you could drive straight in and  
992 not have to extend. We couldn't think of a way to extend the driveway and not make it  
993 look different because it's so wide at the end there. You'd really have to extend the  
994 driveway in some way that would look, I don't think would look very aesthetically pleasing.

995  
996 Mr. Johnson- Okay, thank you. Are there any questions for the applicant.

997  
998 Mr. Lawrence- I just wanted to clarify. So, Ms. Davis, if I understand from the  
999 staff report, you plan on constructing the garage, the materials will look somewhat similar  
1000 to what's on your existing house, right?

1001  
1002 Ms. Davis- Exactly. We've got it... We're replacing the existing roof on  
1003 our house, so we wanted to do that all at the same time. But it would be the same vinyl  
1004 siding, same roof. We also have gray brick; it will match the gray brick. The style and  
1005 consistency of the house will look like, pretty much, what you see there. The colors, even

1006 the siding, the roof, the gutters, the style of the window, the garage door, all of that would  
1007 be consistent with the existing structure.

1008  
1009 Mr. Lawrence- Thank you.

1010  
1011 Mr. Johnson- Okay.

1012  
1013 Mr. Lawrence- Did you say there was any opposition, Mr. Chairman?

1014  
1015 Mr. Johnson- Is there any opposition?

1016  
1017 Mr. Blankinship- There's no one on Webex for this case.

1018  
1019 Mr. Johnson- Okay. Thank you. No others, and no opposition. Does  
1020 anybody else want to speak?

1021  
1022 Mr. Lawrence- I'm ready to make a motion Mr. Chairman.

1023  
1024 Mr. Johnson- Okay.

1025  
1026 Mr. Lawrence- The first thing I want to say is Ms. Davis, you have an  
1027 attractive house and I think this will fit in nicely with the neighborhood. It's a nice  
1028 neighborhood and I believe it is consistent with the other houses I've seen there. Having  
1029 said that, Mr. Chairman, I move that we approve this conditional use permit subject to the  
1030 conditions recommended by the staff. It is consistent with the Comprehensive Plan and  
1031 Zoning Ordinance. The proposed garage would be 30 feet behind the front of the house.  
1032 The garage would not change the look of the property from the street.

1033  
1034 Mr. Pollard- I second.

1035  
1036 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

1037  
1038 Board- Aye.

1039  
1040 Mr. Johnson- All opposed say, Nay. All in favor. Motion passed.

1041  
1042 On a motion by Mr. Lawrence, seconded by Mr. Pollard, the Board **approved** case **CUP-**  
1043 **2024-100460** subject to the following conditions:

1044  
1045 1. This conditional use permit authorizes a detached garage in the side yard. All other  
1046 applicable regulations of the County Code remain in force.

1047  
1048 2. This conditional use permit applies only to the improvements shown on the plot plan  
1049 and building design filed with the application. Any additional improvements must  
1050 comply with the applicable regulations of the County Code. Any substantial changes

1051 or additions to the design or location of the improvements will require a new conditional  
1052 use permit.

1053

1054 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
1055 must obtain approval of a Comprehensive Grading Plan and an Agreement in Lieu of  
1056 an Erosion and Sediment Control Plan from the Department of Public Works.

1057

1058 4. Any exterior lighting must be shielded to direct light away from adjacent property and  
1059 streets.

1060

1061 5. The new construction must match the existing dwelling as nearly as practical in  
1062 materials and color.

1063

1064 6. The applicant must obtain a building permit for the proposed garage by April 25, 2026,  
1065 or this conditional use permit will expire. If the building permit is cancelled or revoked  
1066 after that date due to failure to diligently pursue construction, this conditional use  
1067 permit will expire at that time.

1068

1069

1070 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**

1071 **Negative: 0**

1072 **Absent: 0**

1073

1074

1075 **CUP-2024-100496 - Justin Gilmer: conditional use permit to keep up to six hens in**  
1076 **the rear yard at 2622 Kenwood Avenue, Hermitage Park, Fairfield. Parcel 778-747-**  
1077 **6470. Zoning: R-4, One-Family Residence District. Code Section: 24-4420.G.**

1078

1079 Mr. Blankinship- Alright, our next case is **Conditional Use Permit 2024-**  
1080 **100496**, Justin Gilmer: a conditional use permit to keep up to six hens in the rear yard at  
1081 2622 Kenwood Avenue, in the Hermitage Park subdivision, in the Fairfield Magisterial  
1082 District. Would everyone who intends to speak to this case please stand and be sworn in.  
1083 Raise your right hands please. Do you swear the testimony you're about to give is the  
1084 truth, the whole truth and nothing but the truth, so help you God? Thank you. Ms.  
1085 Rozmus.

1086

1087 Ms. Rozmus- Thank you Mr. Secretary. Board, good morning.

1088

1089 Mr. Johnson- Good morning.

1090

1091 Ms. Rozmus- This applicant, Mr. Justin Gilmer, owns the property at 2622  
1092 Kenwood Avenue. This Cape Cod style house was built in 1950 and purchased by the  
1093 applicant in 2019. Mr. Gilmer also owns the adjoining property at 2620 Kenwood Avenue.  
1094 His intent is to build a chicken coop between 30 and 60 feet in the area between his two  
1095 outbuildings and kind of in the middle of his two lots. The proposed location of the chicken  
1096 coop is within 25 feet of the side lot, and over 35 feet from the rear. The property is fenced



1097 in at all sides. And staff has found that keeping of hens on the property should not have  
1098 any detrimental impact on the surrounding area as long as the applicant maintains the  
1099 property and follows suggested conditions included in the staff report. Here is the building  
1100 where he intends to store the chicken feed. And the coop location is going to go right  
1101 here.

1102  
1103 Mr. Johnson- Chicken coop. Okay.

1104  
1105 Ms. Rozmus- And that's all I got. I can answer any questions.

1106  
1107 Mr. Johnson- Are there any questions? If not, we'll hear from the applicant.

1108  
1109 Mr. Gilmer- Hi. I am Justin Gilmer, G.I.L.M.E.R. I thank y'all for taking the  
1110 time to listen to this. The idea, as she mentioned, is just to construct a chicken coop in  
1111 the area that's allowed by the setback requirements, and put some hens in there, and  
1112 have some chickens for joy and all the neighbors.

1113  
1114 Mr. Blankinship- And General Tso's!

1115  
1116 Mr. Johnson- And there are no roosters at all?

1117  
1118 Mr. Gilmer- No sir.

1119  
1120 Mr. Johnson- Okay. Okay, any other questions?

1121  
1122 Mr. Lawrence- I had one question. Just out of curiosity, Mr. Gilmer, did you  
1123 consider, I noticed you have an adjoining lot that's mostly unimproved. There's a structure  
1124 on the back of it. Did you consider putting the coop on that part of the property?

1125  
1126 Mr. Gilmer- On what part of the property sir?

1127  
1128 Mr. Lawrence- On the adjoining lot that's... You have two lots, if I recall from  
1129 the staff report.

1130  
1131 Mr. Gilmer- I do. It's all driveway. It's all asphalt going down to the garage.  
1132 And beside the garage, you can see I have my camper wedged back there. Trying to  
1133 keep that out of the line of sight. And then, behind it, I don't have the rear setback  
1134 requirement to put it back there. I would love to have it further back in the yard, but I'm a  
1135 Class A building contractor, so I'll be able to construct a coop to fit the needs wherever I  
1136 need to put it.

1137  
1138 Mr. Lawrence- I didn't notice before that other property was largely paved in  
1139 the front yard. A picture's worth a thousand words.

1140  
1141 Mr. Gilmer- Yeah, I bought it like that. When I went house hunting, I  
1142 wanted a driveway and a garage, I didn't care about the house so...

1143  
1144 Mr. Lawrence- Thank you. That's all I had Mr. Chairman.  
1145  
1146 Mr. Green- What was the comment about General Tso's?  
1147  
1148 Mr. Blankinship- I didn't hear anything about General Tso's!  
1149  
1150 Mr. Green- Oh, Okay.  
1151  
1152 Mr. Gilmer- I won't name the chickens after meals.  
1153  
1154 Mr. Green- Tell us they're not General Tso's so we can go back to eating.  
1155 Save me!  
1156  
1157 Mr. Johnson- Go ahead. Anyone else?  
1158  
1159 Ms. Setier- My name is Kathleen Setier. Kathleen with a K. Last Name  
1160 S.E.T.I.E.R.  
1161  
1162 Mr. Johnson- Okay.  
1163  
1164 Ms. Setier- And I'm Justin's next-door neighbor, and I just basically  
1165 wanted to say that he's spoken with the neighbors and none of us have any objection.  
1166  
1167 Mr. Blankinship- Which side are you on?  
1168  
1169 Mr. Johnson- Support.  
1170  
1171 Ms. Setier- I am the one with the triangular garden in the back. Left side  
1172 there.  
1173  
1174 Mr. Johnson- Okay. Thank you.  
1175  
1176 Mr. Blankinship- Thank you for coming.  
1177  
1178 Mr. Johnson- You want to speak?  
1179  
1180 Ms. Michelle- My name is Cassandra Michelle, M.I.C.H.E.L.L.E. I'm Justin's  
1181 partner, I do not live at the residence. So, I will be helping to take care of the chickens. I  
1182 love chickens. Promise to name them some silly names.  
1183  
1184 Mr. Johnson- Okay. Thank you. Any questions?  
1185  
1186 Mr. Blankinship- And there is no one on Webex for this case.  
1187

1188 Mr. Johnson- Okay. And again, just before you make your motion. Where  
1189 are you going to put that location at now?  
1190

1191 Mr. Gilmer- There's a fence going around between the garage and the  
1192 deck on the back of the house. So, I was going to build the coop... So, it's a four-foot  
1193 picket fence that actually goes around the entire property. Well, the structured property,  
1194 not the driveway. And I was going to build it to try and keep the simple roof on it, but about  
1195 at that picket fence height so it's not sticking out above. So, it's not very noticeable from  
1196 the yard. You wouldn't really be able to stand up taller. And just build in the space that  
1197 I'm allowed to build in for the run and the coop. So, kind of shallow to the ground. Yeah,  
1198 there it is. So, see where the fence is... And that's the front of the fence that you can see  
1199 right there. It's the same fence that's around the back. So, it'd be built kind of behind that.  
1200 Sheltered, you know, kind of out of eyesight, along with all the other stuff I'm trying to hide  
1201 back there. Campers, and Jeeps and stuff.  
1202

1203 Mr. Johnson- Okay. Thank you. Okay, any other questions?  
1204

1205 Mr. Pollard- I move to approve the conditional use permit subject to the  
1206 conditions recommended by the staff. It is consistent with the Comprehensive Plan and  
1207 the Zoning Ordinance. There are no objections from neighbors...  
1208

1209 Mr. Lawrence- Second.  
1210

1211 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
1212

1213 Board- Aye.  
1214

1215 Mr. Johnson- All opposed say, Nay. Okay. Motion passed.  
1216

1217 Mr. Gilmer- Thank you very much. Y'all have a great day.  
1218

1219 Mr. Johnson- Thank you.  
1220

1221 On a motion by Mr. Pollard, seconded by Mr. Lawrence, the Board **approved** case **CUP-**  
1222 **2024-100496** subject to the following conditions:  
1223

1224 1. This conditional use permit authorizes keeping up to six hens (no roosters). All other  
1225 applicable regulations of the County Code remain in force.  
1226

1227 2. This conditional use permit applies only to the improvements shown on the plot plan  
1228 and building design filed with the application. Any additional improvements must comply  
1229 with the applicable regulations of the County Code. Any substantial changes or additions  
1230 to the design or location of the improvements will require a new conditional use permit.  
1231

1232 3. The applicants must comply with all of the requirements of Sec. 24-4420.A and G of  
1233 the Zoning Ordinance. This includes requirements that the hens be kept in a covered

1234 enclosure and not allowed to run free, and that the activity must not produce any  
1235 objectionable odors or vermin.

1236  
1237 4. Any feed stored on the site must be kept indoors, in a metal container with a secure  
1238 lid or other sealed container impervious to vermin.

1239  
1240 5. Waste from the hens must be composted in a responsible manner or removed from  
1241 the property weekly.

1242  
1243 6. Within 30 days of bringing the hens to the property, the applicant must submit an  
1244 inspection report from a license pest control company addressing recommendations to  
1245 prevent any infestation of vermin related to the keeping of hens.

1246  
1247  
1248 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
1249 **Negative: 0**  
1250 **Absent: 0**

1251  
1252  
1253 **CUP-2024-100551 - Chris Pollock: conditional use permit to allow an accessory**  
1254 **dwelling unit at 7602 Hampshire Road, Westham, Tuckahoe. Parcel 761-737-2445.**  
1255 **Zoning: R-3, One-Family Residence District. Code Section: 24-4406.**

1256  
1257 Mr. Blankinship- Alright, the next case is **Conditional Use Permit 2024-**  
1258 **100551**, Chris Pollock; a conditional use permit to allow an accessory dwelling unit at  
1259 7602 Hampshire Road, Westham, in the Tuckahoe Magisterial District. Would everyone  
1260 who intends to speak to this case please stand and be sworn in. Raise your right hands  
1261 please. Do you swear the testimony you're about to give is the truth, the whole truth and  
1262 nothing but the truth, so help you God? Thank you. And Mr. Chair, I will call your attention  
1263 to the two emails that were left at the table, referring to this case. Ms. Rozmus.

1264  
1265 Ms. Rozmus- Yes, so this property is located at 7602 Hampshire Road, just  
1266 west of the intersection with Shrewsbury. It is a ranch-style home on .43-acres and was  
1267 purchased by Christopher Pollock and Kelly Barberian in 2020. The applicant intends to  
1268 build a 1,300-square-foot detached garage, with an 800-square-foot ADU on the second  
1269 floor. The ADU is what is in front of the Board today. The garage is actually allowed by  
1270 right. The property is zoned R-3 One-family Residence District and designated Suburban  
1271 Residential 2 on the Land Use Map. In both classifications the ADU is allowed, but the  
1272 proposed ADU is going to be situated 12 feet from the rear lot line and five feet from the  
1273 left side lot line, with direct access to an existing driveway. The topography of the lot lends  
1274 the location of the proposed ADU to the back third of the parcel because of the drastic  
1275 slope, not drastic, but reasonable slope of the property. The slope of the property also  
1276 adds a potential impact to the rear neighbors, who have voiced their concerns. Because  
1277 the rear neighbor's lot is actually going to be 10-feet higher, or 10-feet lower than the  
1278 ADU. So, this rear neighbor has expressed concern on the privacy of their lot, their  
1279 property with the ADU, and also the kind of impact of the building. The size and the

1280 location of the building is both consistent with zoning code. And we also have support of  
1281 the neighbor on the right side, who said she likes where it is. She doesn't want it on the  
1282 right. And here is the location for the ADU, it's going to be kind of right here. And you can  
1283 see the existing driveway, and the entire property is fenced. There's some pretty nice tree  
1284 coverage in the rear as well. And then this is the view of the slope going up to the house.  
1285 And I can answer any questions.

1286  
1287 Mr. Green- It looks like that unit has a second-floor porch or deck.

1288  
1289 Ms. Rozmus- It does. It does have a second story, I guess you could call  
1290 that a porch. A little outdoor area, and that was the main concern of the rear neighbor.  
1291 Was that outdoor area just peering into her property. So, that is something to take into  
1292 consideration.

1293  
1294 Mr. Green- So, the neighbor was concerned that they would be peering  
1295 in.

1296  
1297 Ms. Rozmus- Yes.

1298  
1299 Mr. Johnson- Okay. Any other questions? None. Any applicant? Alright,  
1300 we'll hear from the applicant.

1301  
1302 Mr. Pollock- Good morning, everybody.

1303  
1304 Mr. Johnson- Go ahead.

1305  
1306 Mr. Pollock- My name is Chris Pollock, P.O.L.L.O.C.K. I appreciate your  
1307 consideration and also this is my first time going through this process. So, the help that  
1308 you guys provided was actually awesome as well. You don't get that in all counties around  
1309 here, so much appreciated. As you can see, we are looking to do a garage with an 800-  
1310 square-foot apartment above it. Over the last 48 hours or so, I really tried to get the  
1311 message out to my neighbors, and I think I should have done that sooner. I didn't realize  
1312 that it'd trigger, I think, some concern I was looking to rent to college students or others  
1313 in the area. It's actually for my mom to come and live in, is the intent so. As I've mentioned,  
1314 this is my first time going through this so if I seem unprepared, frankly, it's because I am.  
1315 If you have any questions, I'll be happy to answer them.

1316  
1317 Unknown speaker- ....

1318  
1319 Mr. Pollack- We did involve the neighbor immediately to the left when  
1320 planning this because of some drainage concerns. Stuff we're looking to resolve.

1321  
1322 Unknown speaker- ....

1323  
1324 Mr. Pollock- They actually leave in the winter, so they were in Florida.

1325

1326 Ms. Rozmus- She's called twice though. And she apologized for not being  
1327 able to attend.  
1328  
1329 Mr. Johnson- Also, you know that there's going to be just one kitchen, right?  
1330  
1331 Mr. Pollock- Right, yeah.  
1332  
1333 Mr. Johnson- Okay.  
1334  
1335 Mr. Broadway- Mr. Chairman, I have a question. How high will this building  
1336 be with the ADU?  
1337  
1338 Mr. Pollock- So, with the dimension, I believe, on the elevations, I don't  
1339 know that I have them in my head, but I know we had some back and forth to back, so it  
1340 did conform to the requirements. I think if you look at the Building Plan 2 Page, I think the  
1341 math is there on the drawing.  
1342  
1343 Ms. Rozmus- I think it was 23, but I don't want to say the wrong number and  
1344 have to go back on that. We measure from the ground to the mid-point on the roof, so I  
1345 wrote it in the staff report, but I can't remember the number off the top of my head. But it  
1346 is within compliance of the zoning code.  
1347  
1348 Mr. Blankinship- Yes, the Zoning Ordinance limits the height at 20-feet, but it  
1349 can be measured either at the curb or the location of the building. In this case, the curb  
1350 is a foot or two higher than the location of the building. So, it barely comes in at the 20-  
1351 foot requirement, but it does meet the requirements.  
1352  
1353 Mr. Broadway- But visibility in the back of your house is going to be taller than  
1354 your house actually, right?  
1355  
1356 Mr. Pollock- No because the house sits up so high. The property slopes  
1357 fairly drastically from the road towards the back.  
1358  
1359 Mr. Broadway- Oh, because of the slope.  
1360  
1361 Mr. Pollock- The house is substantially higher.  
1362  
1363 Mr. Johnson- Okay.  
1364  
1365 Mr. Blankinship- But for the same reason, it will look taller to the neighbors  
1366 because they'll be looking up at it.  
1367  
1368 Mr. Pollock- The back neighbors, yeah.  
1369  
1370 Mr. Blankinship- Yeah. I'm sorry, yes, the neighbors to the rear.  
1371

1372 Ms. Rozmus- You won't be able to see it from the road.  
1373  
1374 Mr. Johnson- Yes. Only one accessory dwelling can be here. Okay. Alright,  
1375 any other questions for the applicant?  
1376  
1377 Mr. Green- Well, I'm just looking at, I guess one of the persons in  
1378 opposition. They said a lot of the previous plantings and vegetation on the property has  
1379 been eliminated, then they say the remaining vegetation is to be removed as referenced  
1380 in the paragraph above. Well, even if he didn't build it, he could eliminate that vegetation.  
1381 So, I don't see why that should be problematic because that's your backyard. You can do  
1382 what you want to do with it, I guess.  
1383  
1384 Mr. Pollock- When we bought the house in 2021, I believe, it was, the  
1385 backyard was extremely, completely overgrown. We did remove a lot at that point, which  
1386 I guess they're referencing. And I do think that we'll probably need to remove that one  
1387 tree on the left, that you see in that photo. Yeah. That will end up being removed.  
1388  
1389 Mr. Johnson- Okay.  
1390  
1391 Mr. Lawrence- I have one question for the applicant, Mr. Chairman.  
1392  
1393 Mr. Johnson- Okay.  
1394  
1395 Mr. Lawrence- And maybe for staff too. So, could the accessory dwelling,  
1396 could it be located closer to the main dwelling to provide additional setback from the  
1397 applicant's rear neighbor?  
1398  
1399 Mr. Pollock- Yeah, I mean, I think it probably could. I was looking to tuck it  
1400 as best I could, kind of in that back corner. But part of what we'll do, should we get  
1401 approved, with the building permit we're going to do some rework with the driveway and  
1402 kind of do a little turnaround too. So, we can certainly accommodate something like that  
1403 if that's what we need to do.  
1404  
1405 Mr. Lawrence- And this is a question, I guess, more for Sara, but the garage  
1406 does not require a conditional use permit, right? Just the accessory dwelling piece of this.  
1407  
1408 Ms. Rozmus- Yes.  
1409  
1410 Mr. Johnson- Thank you.  
1411  
1412 Mr. Lawrence- Thank you.  
1413  
1414 Mr. Johnson- Any other questions? Okay. Thank you. Have they been  
1415 sworn in?  
1416  
1417 Mr. Blankinship- Yes, they have. We also have one speaker on Webex.

1418  
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1463

Mr. Johnson- Okay.

Ms. Cassidy- Hi, my name is Amanda Cassidy, C.A.S.S.I.D.Y. And I am the homeowner directly behind Mr. Pollock. So, it's the one with the wooden fence. And so, we face onto Horsepen, and back up to Hampshire. I'm sympathetic with the idea of the garage and the ADU, but I'm very concerned about the overall size of this proposed structure. We have, as you can see, a great slope that was talked about. We've had a lot of drainage issues in the past. The County has actually spent a lot of money trying to address those issues on the front of our house because we are also at the bottom of Horsepen Road. I'm just worried that something of this size would change the runoff and have a negative impact on our property that we can't really predict at this point in time. So, I want to raise that as a concern. Also, just the size of the building is not really in keeping with the other garages and units that we've been seeing in our neighborhood. We just wanted to get, kind of, the scale of this compared to what else we see around us. We went around and found that there are a few detached garages around us. Some of them appear to have ADUs over the top them. We looked at ones that were in about a quarter of a mile of our house. We found six that had ADUs. And we note that this structure is just dramatically larger than anything else we see around us. Most of the properties that we found the garage components were 576 square feet to 840 square feet. This is proposed 1,312 square feet. It's going to be 80% bigger than any of the other garages that we saw with ADUs in the neighborhood. And then the ADU is also bigger. It's, as we understand it, the maximum allowed by the county. And it would be 50% larger than the average ADUs, that's part of those ADU garage components, that are elsewhere in the neighborhood. And just the enormous scale of the proposal exacerbates our concerns about the drainage and the runoff in general and the effect that it's going to have on us being down, down grade from the facilities. And then, we've already mentioned, the second story porch. We have a five-foot privacy fence on the back. Our back property line that connects with this. That's our property fence there. The porch would be at nine and a half feet high, so it would be almost double the size of our fence. It would just be there hanging above that, so we have no way of continuing to have privacy in our backyard. To be able to enjoy it without having that additional dwelling kind of looming there, above our backyard and very close to our property line. So, given all those concerns, we just ask specifically if there needs to be an ADU, or if there needs to be any outdoor component to the ADU that it be moved to the front of the structure, not on the rear of the structure. Or put it at ground level so that it minimizes the impact on the neighbors in the rear. Thank you very much, I appreciate it. You know I mentioned the drainage issues we've had; I can say that the County has really worked to help address them and we appreciate that very much. Just don't want to introduce new ones at this point in the process. Thank you.

Mr. Johnson- Okay.

Ms. Anderson- Good morning, my name is Betsy Anderson, A.N.D.E.R.S.O.N. I'm directly behind the structure of Mr. Pollock. I've lived there most of my life, on and off. It is a beautiful neighborhood with lovely rolling hills, mature established greenery, and that kind of thing. Landscaping. My main concern is the size of



1464 the structure. My house is directly behind, without a privacy fence. I do have a chain-link  
1465 fence. The structure, with the sloping lot, trees... it's going to be at least the one tree  
1466 that's going to be removed, it's what blocks my view. Would be blocking my view. The  
1467 stuff along my fence are shrubs. They're not trees, except for at the Cassidy's end, which  
1468 really wouldn't protect me. I'm a big gardener. I entertain in my backyard. I have a  
1469 screened-in porch where I entertain all the time. Having the porch structures and these  
1470 windows overlooking my property I find very invasive. I also expressed great concern  
1471 about the drainage issue. Living there as long as I have, I have seen where there is the  
1472 drainage problem coming through the back yard. And where building the structure in the  
1473 landscaping and all helped to deter, but this property, this structure is going to be so large  
1474 it is bound to affect what has been done. And like Ms. Cassidy had said, the  
1475 neighborhood, the County has worked so hard trying to help us with the drainage  
1476 problems. The other thing that I wanted to say is, several things. I've spoken to an  
1477 appraiser; he said having a huge structure like that 12-feet from my back fence would  
1478 be... would probably negatively impact the value of my property. On my end, to try and  
1479 accommodate for the sloping lot, the foundation would have to be built up 10-feet. So,  
1480 basically, from my backyard you're looking at a three-story structure in some points. My  
1481 other concern is, yes, if the mother is going to live there, and this is allowed, that would  
1482 be fine. But if the mother decides not to, what conditions would need to be met and how  
1483 would they be monitored if the property was going to be rented, or something like that.  
1484 Those are my concerns. Thank you.

1485

1486 Mr. Johnson- Okay. Thank you. Did you have another applicant?

1487

1488 Mr. Dickens- My name is Joseph Dickens, D.I.C.K.E.N.S. I am a lot away  
1489 from the current proposed structure and, you know, I'm concerned about the drainage  
1490 issues, of course. Because that's always a problem because we're kind of at the bottom  
1491 of the hill there. And the other thing is, just to make it plain, you know, the structure is 32  
1492 feet by 41 feet. Thus, it has a footprint of 1,312 square feet, and it will be two stories in  
1493 height, approximately 25 feet tall. While on the back there, because of the slope, it'll be  
1494 about 35 feet tall. 35 feet from ground level. Okay. And, not only that, so if you look at  
1495 that, you know, so 1,312 times two, for a two-story home, that's 2,624 square feet. You  
1496 know, the footprint, it's the footprint of a 2,600-square-foot home. I've been told that the  
1497 presence of such a structure, such a large structure close to the property line there would  
1498 decrease our property values, and just cause all kinds of problems. And not only that, but  
1499 it would be abundantly visible from my lot, and especially, I mean, these two people here,  
1500 I mean that's what they're going to see. A 30, 35-foot structure 12 feet away from their  
1501 yard. Okay. I mean, that's a big deal. And if you were to go there, maybe you've been  
1502 there, I don't know, but it would disrupt the continuity of the landscape in that area. And  
1503 where their lot is located, furthermore, I mean, it's only one house away from the end of  
1504 the street there, but really, if you look at the map, it's kind of in the middle of that area.  
1505 You see where that is there and you see all those homes are very, very close to that  
1506 structure. And yeah, I can say that I am vehemently opposed to that. And I might add that,  
1507 you know, if in fact this is the live-in part of the structure, of course you could modify  
1508 garages to make a 2,600-square-foot house. But the live in part of the current proposed  
1509 structure is on the second floor, okay. Well, if this is for an older person, okay, then why

1510 don't they build a dwelling that's one floor, you know. Because elderly people look for  
1511 places with first floor bedrooms. And so, clearly, it's probably not aimed for that. Yeah,  
1512 I'm just vehemently opposed to this. Thank you.

1513  
1514 Mr. Johnson- Okay. Thank you.

1515  
1516 Mr. Green- Just a point of clarification and I have several questions. Point  
1517 of clarification, to address your concern about living on a second floor. My mother and  
1518 father, my mother is 91 and my father is 93, and they live in a three-story house.  
1519 Basement, first floor, and second floor. And to deal with the issue of my mother's mobility  
1520 they put in one of those chair lifts. And so, I don't know that that's the plan, but, you know,  
1521 to suggest that someone, because they're old, they need to potentially live all on one  
1522 level, you know, that's just a matter of personal preference and choice.

1523  
1524 Ms. Rozmus- I believe his mother is only 63 as well.

1525  
1526 Mr. Green- Well, it doesn't matter.

1527  
1528 Ms. Rozmus- I didn't consider that old, so.

1529  
1530 Mr. Green- I'm 63, so I'm old. But I just take issue with that suggestion  
1531 because like I said, my mother and them are on three levels and she has mobility  
1532 problems. The second thing is it's my understanding that this unit is 800 square feet. The  
1533 whole thing is 800 square feet. Now what is the square footage of the entire house, and  
1534 then what is the square footage of the neighbor's houses? Because it's comparable to ...  
1535 I know that we have to take into consideration when they're building these units, does the  
1536 size of the unit compare to the person's house. But now you have me thinking, how does  
1537 this compare to the unit of houses behind it.

1538  
1539 Ms. Rozmus- So, Mr. Pollocks house, I calculated the livable square feet.  
1540 And I of course didn't write it down, but I do believe it's in the staff report. And it includes  
1541 his finished basement, so that's what gave him the little extra square footage to allow the  
1542 exact 800 square feet for an ADU.

1543  
1544 Mr. Blankinship- 2,642.

1545  
1546 Ms. Rozmus- Thank you, sir.

1547  
1548 Mr. Green- The whole unit?

1549  
1550 Ms. Rozmus- His house.

1551  
1552 Mr. Blankinship- His main house.

1553  
1554 Mr. Green- His main house. Okay.

1555

1556 Ms. Rozmus- And then the whole unit, I guess, would include... Would just  
1557 be 1,300, which would include the 800-square-foot ADU.  
1558  
1559 Mr. Green- Okay, because...  
1560  
1561 Mr. Blankinship- They'd be added together.  
1562  
1563 Ms. Rozmus- Yeah.  
1564  
1565 Mr. Blankinship- So, 1,300 on the garage floor and 800 above. 2,112 would be  
1566 the total square footage of the floor area of the proposed building.  
1567  
1568 Ms. Rozmus- Right.  
1569  
1570 Mr. Green- So, point of clarification, I'm looking at it at 800, not factoring  
1571 all that in. So, the gentleman was actually pretty accurate when he said close to 2,400-  
1572 square-foot?  
1573  
1574 Ms. Rozmus- Yeah, total. But the garage is allowed by right. So, if Mr.  
1575 Pollock wanted to just build a garage of this size, he would be permitted to do that. The  
1576 ADU is the part that requires the CUP.  
1577  
1578 Mr. Green- And, just for point of clarification, the other thing we have to  
1579 take into consideration, because he's putting in a kitchen, that would prevent him from  
1580 renting. He would have to come back to us, right?  
1581  
1582 Mr. Blankinship- It can not be used for short-term rentals.  
1583  
1584 Mr. Green- Short-term rentals.  
1585  
1586 Ms. Rozmus- He could rent it to whomever he chooses to, and we don't  
1587 really have the authority to tell him he can't.  
1588  
1589 Mr. Green- And then, another thing, this is something we're beginning to  
1590 see. A whole lot of accessory dwelling unit requests coming in. Just like I said at the last  
1591 meeting, we're seeing a lot of folks who want screened porches. We're seeing a lot of  
1592 folks who want hens. We're seeing a lot of folks who want additional dogs. So, now we're  
1593 seeing a lot, that the tide is changing that folks are moving toward these accessory  
1594 dwelling units. I guess that the real question I have is what is this in comparison to the  
1595 size of the houses behind it?  
1596  
1597 Ms. Rozmus- I think that they're comparable. I mean, I'm sorry, compared  
1598 to the ADU size?  
1599  
1600 Mr. Green- What is the size of your house miss?  
1601

1602 Ms. Anderson- The square footage of my home is 1,480 square feet.  
1603  
1604 Ms. Rozmus- I mean, that wasn't part of my research.  
1605  
1606 Mr. Green- I know.  
1607  
1608 Mr. Blankinship- But that doesn't include the finished basement, right?  
1609  
1610 Ms. Rozmus- Of her house?  
1611  
1612 Ms. Anderson- No, it does not.  
1613  
1614 Mr. Johnson- Right.  
1615  
1616 Mr. Broadway- Well, I have a question. He could build the garage by right, but  
1617 do we have any restrictions on the size of a garage? I mean, 1,300 square feet is an awful  
1618 large garage.  
1619  
1620 Ms. Rozmus- It is.  
1621  
1622 Mr. Blankinship- There is a limitation, but it was changed with the 2021 code  
1623 update. It used to be overly strict in many people's views and it was changed to... It's  
1624 30% of the rear yard that can be covered by all of your accessory structures. So, if you  
1625 had several different buildings and a pool, we'd add all that together, and it's 30% that's  
1626 the limit. It used to be much more restrictive.  
1627  
1628 Mr. Pollard- So, ...  
1629  
1630 Ms. Rozmus- No. He'd be compliant. He'd just have to get a building permit  
1631 approved.  
1632  
1633 Mr. Johnson- Okay.  
1634  
1635 Ms. Rozmus- She seems kind of neutral on it. She just was happy where it  
1636 was. She didn't want it closer to her property. So, I can't say if she was opposed or  
1637 approved.  
1638  
1639 Mr. Broadway- Well, Mr. Chair, can we ask a couple more questions of Mr.  
1640 Pollock?  
1641  
1642 Mr. Blankinship- If we're finished with opposition. I mentioned that there was  
1643 one speaker on Webex. Apparently, he's Ms. Cassidy's husband, and he said she did a  
1644 great job and he does not need to speak.  
1645  
1646 Mr. Johnson- Okay. Anyone else want to speak before...  
1647

1648 Mr. Blankinship- Y'all can sit back down.  
1649  
1650 Mr. Johnson- Yeah. It said only one accessory dwelling not exceeding 800  
1651 square feet. And if that is happening within that, then we are within the regulations.  
1652  
1653 Mr. Blankinship- But of course, the Board could limit it further. That is the  
1654 maximum.  
1655  
1656 Mr. Green- I just want to say something. Growing up, I grew up in the city  
1657 and there was always a garage that a neighbor had that was unfinished, it almost looked  
1658 like the size of a house. And now with gentrification currently in the city, someone has  
1659 come through, bought that property, and it's, basically, a three-story. And they have, I  
1660 think they have what seems like a garage. You enter through the alley. Garage on the  
1661 ground floor, and it must have livable units on the top. It's large. But that's just something  
1662 sometimes you just have to look at. But the real question is how are we going to help  
1663 these individuals with the drainage problem?  
1664  
1665 Ms. Rozmus- So, the drainage ... Do you? Is that for me again?  
1666  
1667 Mr. Green- It's a County...  
1668  
1669 Ms. Rozmus- So, the drainage problem has been addressed a little bit. I will  
1670 say that the neighbor on the left side, I spoke to her, and she said that they've had some  
1671 consistent issues with the drainage. And then she felt that when they put in, or when Mr.  
1672 Pollock put in his driveway, it kind of exacerbated it a little bit in her yard. But they've been  
1673 working together to resolve the problem. Mr. Pollock has been very upfront and honest  
1674 with her, and she was not upset about that. She was just concerned that during  
1675 construction it would actually impact. And then, maybe, if they intended on, like expanding  
1676 the driveway creating more of that impermeable surface area, it would create more runoff  
1677 into her yard. But it sounds like it's been addressed.  
1678  
1679 Mr. Green- But the individuals behind, to the rear.  
1680  
1681 Ms. Rozmus- I didn't know about the rear drainage issues. That was not  
1682 really brought up to me. It was mostly the height of the ADU that was the problem. So, I  
1683 can't really... I don't have the institutional knowledge of the drainage issue.  
1684  
1685 Mr. Blankinship- Condition number three of the recommended conditions is  
1686 that they have to obtain approval of a comprehensive grading plan and agreement in lieu  
1687 of an erosion control plan from the Department of Public Works.  
1688  
1689 Mr. Green- Are they aware?  
1690  
1691 Mr. Blankinship- If this approved, it will be examined by Public Works.  
1692  
1693 Mr. Green- Are the neighbors aware of that condition?

1694  
1695 Audience Member- We're aware of it. I'm just not sure ...  
1696  
1697 Mr. Blankinship- We can't have all this off microphone conversation.  
1698  
1699 Mr. Johnson- Yes. Any questions for the applicant?  
1700  
1701 Mr. Broadway- Yeah. Mr. Pollock, prior to today's meeting, what  
1702 conversations have you had with your neighbors about this?  
1703  
1704 Mr. Pollock- Well, I talked extensively to the adjacent one that we talked  
1705 about. I have not talked to any of these folks behind us. I emailed someone, I don't know  
1706 if it's one of three, and I called Mr. Dickens. In all fairness, it was in the last 48 hours. So,  
1707 we may need some time to talk back and forth and try to work things out.  
1708  
1709 Mr. Broadway- Yeah, I'm wondering if perhaps you might need a little more  
1710 time to see if there's some compromise.  
1711  
1712 Mr. Pollock- Totally. I agree totally. I was going to ask. So, the concerns  
1713 that were voiced just now about the balcony, and the windows, and the overlooking, I'm  
1714 more than happy to address those with these folks. And kind of work something out,  
1715 whether the ground space out there is a good idea. I don't mean this question to be  
1716 confrontational, just more for productive conversations going forward. If we're to have this  
1717 conversation, the size of the structure is not really up for debate. I mean that's all kind of  
1718 by right, isn't it? Or am I missing something?  
1719  
1720 Mr. Blankinship- Well, everything's up for debate. Everything's negotiable. The  
1721 Board could limit the size. There is a maximum that the Board can not go above. They  
1722 don't have the delegative authority to approve greater than 800. But, if they believe that  
1723 an 800 square foot ADU would have impact on neighbors that a 600 square foot ADU  
1724 would not, if there's a rational basis for that, they could limit it.  
1725  
1726 Mr. Pollock- Yes, sir. Okay. But not the size of the structure itself?  
1727  
1728 Mr. Blankinship- Well, there is a limit on that as well, but yes. If you took the  
1729 ADU out then you wouldn't be here at all.  
1730  
1731 Mr. Pollock- Gotcha.  
1732  
1733 Mr. Johnson- Right.  
1734  
1735 Mr. Pollock- Understood. Thank you. Yeah, I'm more than happy to meet  
1736 with you folks individually, or separately, and talk about the deck and the window, and  
1737 that kind of stuff that's related to the ADU. And just briefly, to put your mind at ease Mr.  
1738 Dickens, the unit is, if you look at it, the bathroom's completely ADA. We put in a wider

1739 staircase with the intention of one day putting in a stairlift. So, all that stuff's been  
1740 considered.

1741  
1742 Mr. Johnson- Okay.

1743  
1744 Mr. Broadway- Okay. Mr. Chair, I have a motion to make, if I may.

1745  
1746 Mr. Johnson- Yes.

1747  
1748 Mr. Broadway- I move that we defer this request to the May 23<sup>rd</sup> meeting in  
1749 order to give Mr. Pollock an opportunity to discuss this with his neighbors.

1750  
1751 Mr. Lawrence- Second.

1752  
1753 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

1754  
1755 Board- Aye.

1756  
1757 Mr. Johnson- All opposed? Okay, this case is deferred to the next meeting.

1758  
1759 Mr. Pollock- Thank you.

1760  
1761 Mr. Johnson- Thank you.

1762  
1763 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **deferred** case  
1764 **CUP-2024-100551** until the May 23, 2024 Board of Zoning Appeals meeting.

1765  
1766  
1767 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
1768 **Negative: 0**  
1769 **Absent: 0**

1770  
1771  
1772 **CUP-2024-100562 - John Hanky: conditional use permit to allow a detached garage**  
1773 **in the front yard at 2482 New Market Road, Varina. Parcel 815-688-1545. Zoning: A-**  
1774 **1, Agricultural District. Code Section: 24-4404.A.1.**

1775  
1776 Mr. Blankinship- Alright, the next case is **Conditional Use Permit 2024-**  
1777 **100562**, John Hanky: a conditional use permit to allow a detached garage in the front  
1778 yard at 2482 New Market Road, in the Varina Magisterial District. Would everyone who  
1779 intends to speak to this case please stand and be sworn in. Raise your right hands please.  
1780 Do you swear the testimony you're about to give is the truth, the whole truth and nothing  
1781 but the truth, so help you God? Thank you. Ms. Rozmus.

1782  
1783 Ms. Rozmus- Yes. So, this property is located, like you said, at 2482 New  
1784 Market Road. It is .3 miles west of the intersection of Strath Road. The property is about

1785 12-acres, and it was purchased by Mr. Hanky in 2023. Prior to the purchase of the  
1786 property, it did contain a dilapidated single-family home and the existing detached garage.  
1787 As of December, and obviously when we were there, the home has been demolished.  
1788 And Mr. Hanky, the reason for his request is the property is currently zoned A-1, however,  
1789 the Future Land Use Map designates about 4.5 acres of the front of the property as  
1790 Commercial Concentration and the remainder of the acreage as Suburban Residential.  
1791 So, Mr. Hanky wants to leave the front portion of his property available in case he  
1792 potentially wants to rezone, to commercial use obviously. That is not the case right now,  
1793 but he wants to have that option available. The garage is currently positioned over 300  
1794 feet from New Market Road, and it is in really nice condition currently. Because of the  
1795 nice condition of the current garage, he wants to keep that structure and then locate a  
1796 single-story ranch-style home behind it. Due to the ample setback, the well-established  
1797 tree growth, and the general size of the lot, staff would recommend approval and has  
1798 found no detrimental impact to the surrounding area.

1799  
1800 Mr. Johnson- Okay. Any questions? With that, we will now hear from the  
1801 applicant.

1802  
1803 Mr. Lawrence- Can I ask a question of staff, Mr. Chairman? Can I ask staff a  
1804 question, Mr. Chairman, before we hear from the applicant? Sara, so I just want to clarify,  
1805 I believe this is the case but... So, I understand that part of the property is in a flood zone  
1806 and there's also earthworks located on the site. So, this structure would not be located in  
1807 either of those areas. Is that correct?

1808  
1809 Ms. Rozmus- That is correct.

1810  
1811 Mr. Lawrence- Okay.

1812  
1813 Mr. Johnson- Yes.

1814  
1815 Mr. Lawrence- That's all I have Mr. Chairman.

1816  
1817 Mr. Johnson- Okay.

1818  
1819 Mr. Hanky- Good morning, Mr. Chairman, members of the Board. I'm Jay  
1820 Hanky. I'm the owner and the applicant. I want to thank Sara and the staff for their work.  
1821 I'd like to thank staff for the whole property. We've been looking at it a while before we  
1822 bought it and continue to try and plan it correctly. But at the moment we're just proceeding  
1823 with the house for myself and my wife. And I'm really just here to answer any questions  
1824 you might have about it. But otherwise would respectfully request your approval of our  
1825 request.

1826  
1827 Mr. Johnson- Okay. Any questions from the Board? Nope. Questions?  
1828 None. Let's see. The structure may not occupy more than 30% of the rear yard area,  
1829 right?

1830



1831 Mr. Blankinship- This one is Agricultural zoning, right Sara?  
1832  
1833 Ms. Rozmus- Right. It's zoned A-1.  
1834  
1835 Mr. Blankinship- Is it the same requirement?  
1836  
1837 Mr. Blankinship- I think that's true, but of course he's got a 12-acre lot, so 30%  
1838 of that would be ...  
1839  
1840 Ms. Rozmus- A lot of space, yeah.  
1841  
1842 Mr. Johnson- Okay. And not exceed 20...  
1843  
1844 Mr. Blankinship- 20 feet in height.  
1845  
1846 Mr. Johnson- Okay. No questions? With that, I'd like to make a motion. I  
1847 move that we approve the conditional use permit subject to the conditions recommended  
1848 by the staff. It is consistent with the Comprehensive Plan and the Zoning Ordinance. And  
1849 the garage has been there for many years without causing any problems. Now, this  
1850 approval would allow a new dwelling to be further from the road which will maintain the  
1851 rural character. With that I move for approval.  
1852  
1853 Mr. Pollard- Second.  
1854  
1855 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
1856  
1857 Board- Aye.  
1858  
1859 Mr. Johnson- All opposed say, Nay. Motion passed.  
1860  
1861 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved** case **CUP-**  
1862 **2024-100562** subject to the following conditions:  
1863  
1864 1. This conditional use permit allows a detached garage in the front yard. All other  
1865 applicable regulations of the County Code remain in force.  
1866  
1867 2. This conditional use permit applies only to the improvements shown on the "Permit  
1868 Plat Showing Proposed Dwelling" by the Bay Companies dated February 8, 2024, and  
1869 the building design by Moffett and Company dated January 2024, filed with the  
1870 application. Any additional improvements must comply with the applicable regulations of  
1871 the County Code. Any substantial changes or additions to the design or location of the  
1872 improvements will require a new conditional use permit.  
1873  
1874 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
1875 must obtain approval of an environmental compliance plan from the Department of Public  
1876 Works.

1877  
1878 4. Approval of this request does not imply that a building permit will be issued. Building  
1879 permit approval is contingent on Health Department requirements, including, but not  
1880 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well  
1881 location.

1882  
1883 5. The applicant must obtain a building permit for the proposed dwelling by April 25,  
1884 2026, or this conditional use permit will expire. If the building permit is cancelled or  
1885 revoked after that date due to failure to diligently pursue construction, this conditional use  
1886 permit will expire at that time.

1887  
1888  
1889 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
1890 **Negative: 0**  
1891 **Absent: 0**

1892  
1893  
1894 **CUP-2024-100624 - Robin Ballard: conditional use permit to keep more than four**  
1895 **dogs at 3204 Howard Street, Mayfair Place, Fairfield. Parcel 806-731-0097. Zoning:**  
1896 **R-3, One-Family Residence District. Code Section: 24-4420.C.**

1897  
1898 Mr. Blankinship- Alright, next is **Conditional Use Permit 2024-100624**, Robin  
1899 Ballard: a conditional use permit to keep more than four dogs at 3204 Howard Street, in  
1900 Mayfair Place, in the Fairfield Magisterial District. Would all who intend to speak to this  
1901 case please stand and be sworn in. Raise your right hands please. Do you swear the  
1902 testimony you're about to give is the truth, the whole truth and nothing but the truth, so  
1903 help you God?

1904  
1905 Thank you. And Mr. Chair, I'll call your attention to one email that was left on your, on the  
1906 table for you.

1907  
1908 Mr. Johnson- Okay.

1909  
1910 Mr. Blankinship- Mr. Gidley.

1911  
1912 Mr. Blankinship- Thank you, Mr. Secretary. The subject property is located  
1913 near the intersection of East Laburnum and Harvie Road. It is a corner lot that contains  
1914 just over one-fifth of one acre in area. The residence is here in brick. The applicant  
1915 purchased the property in January and is keeping eight Dalmatians there. In February the  
1916 County received a complaint regarding the large number of animals and stating that they  
1917 were causing odor problems. In response, the applicant has applied for a conditional use  
1918 permit to keep the dogs, that range in age from one to five years old. In reviewing this  
1919 request, as this Board is aware, you can keep up to four pets by right. Beyond this requires  
1920 approval of a conditional use permit by this Board. The keeping of double the number of  
1921 pets allowed under the Zoning Ordinance is rather intensive for a neighborhood of modest  
1922 lots that were recorded prior to 1960. As noted, the County became aware of the issue

1923 following a complaint. When staff visited the site, the owner did not appear to have  
1924 cleaned up after the dogs, and a slight odor was noticed, despite it being a cool and windy  
1925 day. Staff would anticipate that this could become an issue, especially, on a warm and  
1926 humid day like we would get in the summertime. And the nearest home is actually only  
1927 12-feet away from the applicant's backyard. In conclusion, the applicant would like to keep  
1928 eight Dalmatians on a modest sized parcel. The County had received a complaint  
1929 regarding the number of dogs being excessive and also an odor problem. Staff is also  
1930 concerned about this many animals in a relatively dense area as well. As a result, due to  
1931 the detrimental impacts on nearby property staff recommends denial of this conditional  
1932 use permit. This concludes my presentation. If you have any questions, I'll be happy to  
1933 answer those. Thank you.

1934  
1935 Mr. Green- Can you tell us what type of dogs they were trying to keep?  
1936

1937 Mr. Gidley- Dalmatians.  
1938

1939 Mr. Green- Okay.  
1940

1941 Mr. Johnson- Those are large ones. Okay.  
1942

1943 Mr. Lawrence- I have one question for Mr. Gidley if I could Mr. Chairman.  
1944 Have we received, Mr. Gidley, any other complaints, other than the one you referred to?  
1945

1946 Mr. Gidley- The complaint that came in was the only one that we received,  
1947 and it was from someone who would have received a notice in the mail, as required by  
1948 state law.  
1949

1950 Mr. Lawrence- Do we know where that person lives approximate to this?  
1951

1952 Mr. Gidley- I know where the person lives, but I'm not allowed to give that  
1953 out. I will state to this Board that the person was required under state law to receive a  
1954 written notice of the hearing because they are nearby.  
1955

1956 Mr. Lawrence- Okay. Thank you.  
1957

1958 Mr. Johnson- Okay. We will now hear from the applicant.  
1959

1960 Ms. Ballard- Good morning, my name is Robin Ballard. B, as in boy,  
1961 A.L.L.A.R.D. And I may be unprepared because this is all new to me, but I thank you for  
1962 hearing me. I do own eight dogs and the home was purchased in January of 2004. So,  
1963 I've been there 20 years. I haven't had any complaints of the dogs. Yet we do treat the  
1964 property to keep the odor down. We clean the yard and we're about to put up a privacy  
1965 fence. No other neighbors, that I'm aware of, has ever had any complaints.  
1966

1967 Mr. Johnson- And you said... Go ahead.  
1968

1969 Mr. Pollard- ...  
1970  
1971 Ms. Ballard- I think it is two years now.  
1972  
1973 Mr. Pollard- How long have you had your dogs?  
1974  
1975 Mr. Anderson- We got our first dog January of 2020. And then it's kind of a  
1976 situation where I purchased a dog from people or produced puppies. And that's how.  
1977  
1978 Mr. Blankinship- Can you tell us your name please sir?  
1979  
1980 Mr. Anderson- My name is Ziah Anderson, A.N.D.E.R.S.O.N.  
1981  
1982 Mr. Blankinship- Thank you.  
1983  
1984 Mr. Green- Excuse me. You said you have eight dogs?  
1985  
1986 Mr. Anderson- No. So yeah, we do have eight dogs, yes.  
1987  
1988 Mr. Green- Currently at the property?  
1989  
1990 Mr. Anderson- Yes.  
1991  
1992 Mr. Johnson- Are you aware of the regulations for the number of dogs?  
1993  
1994 Mr. Anderson- So, when we first purchased our first dog, I did all the research  
1995 as far as licensing information as far as kennels go. Because that was pretty much the  
1996 main goal. Part of what was read, and was offered to me from the County website, it only  
1997 stated that there was a kennel fee for up to 50 dogs for \$50.00. And it did also state  
1998 information of dog licensing information as well.  
1999  
2000 Mr. Green- But are you aware that the County only allows three dogs?  
2001  
2002 Mr. Anderson- No, I wasn't. And per the County website, there's four dogs  
2003 allowed in the home.  
2004  
2005 Mr. Gidley- It is four or under.  
2006  
2007 Mr. Blankinship- It is four now. And in his, well not defense exactly, but I will  
2008 say that if you search our website from the Animal Protection side, you'll get a different  
2009 set of information than what you get on the Planning Department side. And they're not  
2010 very well coordinated. I've addressed this before, but they're not very well coordinated,  
2011 so. It is easy to do some research on the County website on "can I have dogs" and not  
2012 come upon our limitations. Of course, that doesn't change our limitations. But it does go  
2013 to {inaudible}.  
2014

2015 Mr. Pollard- What's the purpose...

2016

2017 Mr. Anderson- So, the beginning purpose was to kind of change the mindset

2018 of individuals about the Dalmatian. Mainly because a lot of people see them as

2019 aggressive, or just family dogs. And what I would like to say is after owning plenty, I would

2020 say these dogs are more intelligent than most of your working dogs. They just haven't

2021 been able to be put through the rigorous, and through the test of showing that intelligence.

2022 And so, now, I'm kind of in the process of offering service dogs to people. I do training

2023 and different things like that so. I'm in the process of changing the face of the Dalmatian

2024 just so there's a better outlook on the dog at the end of the day.

2025

2026 Mr. Green- Are they full grown dogs or puppies?

2027

2028 Mr. Anderson- All of my dogs are full grown.

2029

2030 Mr. Gidley- One to five years old.

2031

2032 Mr. Anderson- Yes, and I've raised all of them from puppies. Whether it be

2033 they were bred from a litter or purchased from another breeder, they were all raised in my

2034 household to kind of have the same values, that of a working dog or that of a service dog.

2035

2036 Mr. Johnson- Go ahead.

2037

2038 Mr. Pollard- How big do they get?

2039

2040 Mr. Anderson- So, your biggest Dalmatian, well on paper in standard, they're

2041 not supposed to be bigger than 65 pounds. But again, keeping them in that working class

2042 and different things like that, weight is one of the biggest things. So, keeping them down...

2043 My heaviest dog is only about 45 pounds. And that's my five-year-old.

2044

2045 Mr. Pollard- And how tall?

2046

2047 Mr. Anderson- 18 inches at the shoulders for the shortest, and about 21

2048 inches at the shoulders for the tallest.

2049

2050 Mr. Green- But I noticed that there's no fence around the property.

2051

2052 Mr. Anderson- There is a fence around the property.

2053

2054 Mr. Green- There is a fence?

2055

2056 Mr. Blankinship- It's a chain-link fence.

2057

2058 Mr. Anderson- It's a chain-link fence. We will be putting up an eight-foot

2059 privacy fence this weekend.

2060

2061 Mr. Gidley- You can't go eight feet.  
2062  
2063 Mr. Johnson- Okay, you can't.  
2064  
2065 Mr. Blankinship- Seven.  
2066  
2067 Mr. Anderson- So, you said seven?  
2068  
2069 Mr. Blankinship- Yes.  
2070  
2071 Mr. Anderson- Okay, we'll do seven.  
2072  
2073 Mr. Johnson- Okay.  
2074  
2075 Mr. Broadway- I'm just curious, in the report it says when staff visited the site,  
2076 the dogs were not in the rear yard. Where were they?  
2077  
2078 Mr. Anderson- The dogs are kept in the house, just like any other dog that is  
2079 owned by a family.  
2080  
2081 Ms. Ballard- The property is ... from the front yard to the back yard, but it's  
2082 all fenced in.  
2083  
2084 Mr. Broadway- So, all these dogs stay in the house?  
2085  
2086 Mr. Anderson- Correct. Yes. Everybody has their own kennel. They're own  
2087 space to sleep. We allow three of them to sleep out in the living room on the couch, and  
2088 different things like that. But everybody has their own kennel and clean space.  
2089  
2090 Mr. Polard- ... is the goal to ...  
2091  
2092 Mr. Anderson- Potentially, yes. If I am allowed. But per what I was reading,  
2093 again, on the Henrico County website, chapter five, animals, that was updated 8/9/22,  
2094 one of the definitions of being kenneled. It states here that any establishment of which  
2095 five or more K-9s, Felines, or hybrids are either kept for the purpose of breeding, hunting,  
2096 training, renting, buying, boarding, or showing. So, with that it seems I am able to do  
2097 breeding. I'm able to sell my puppies and also to show my puppies as well from the kennel  
2098 that I would have at home.  
2099  
2100 Mr. Blankinship- As I was saying, it seems that way, but that is not accurate.  
2101 Now, as far as Animal Protection is concerned, that is the definition they use. But under  
2102 the Zoning Ordinance we use different definitions. And in a residential area you cannot  
2103 do boarding or breeding. That can only be done in an agricultural zone.  
2104  
2105 Mr. Johnson- True.  
2106

2107 Mr. Pollard- Training, is that permitted?  
2108  
2109 Mr. Blankinship- Probably, yes. There is a little bit more gray area for training,  
2110 depending on whether you're training your dogs or other people's dogs. If they're bringing  
2111 their dogs to you or you're going to their house to do the training. It's a little bit more of a  
2112 gray area.  
2113  
2114 Mr. Johnson- Yes. And that regulation is only four dogs would be what we  
2115 have regulations for.  
2116  
2117 Mr. Blankinship- Unless there is a conditional use permit you are limited to four,  
2118 right.  
2119  
2120 Mr. Pollard- Right.  
2121  
2122 Mr. Johnson- And if they have babies, or something like that, that is also  
2123 different.  
2124  
2125 Mr. Blankinship- Yeah, you have 12 weeks, 14 or 16 or something like that,  
2126 number of weeks about that, but they don't count until that age, but once they reach that  
2127 age, they have to be rehomed.  
2128  
2129 Mr. Anderson- That age is four months.  
2130  
2131 Mr. Blankinship- Four months, so 16 weeks.  
2132  
2133 Mr. Green- With all due respect, why can't the County just create a simple  
2134 hyperlink that would direct a person to Zoning?  
2135  
2136 Mr. Blankinship- That is an excellent question.  
2137  
2138 Mr. Green- I mean, that... You can't penalize individuals for reading  
2139 something and then think they could go someplace else. That seems to be our problem  
2140 now, and that needs to be corrected.  
2141  
2142 Mr. Blankinship- I agree with you.  
2143  
2144 Mr. Pollard- ... to get the number down?  
2145  
2146 Mr. Anderson- That can take a while. It usually takes a while to vet people for  
2147 homes. I do have the potential of finding a few places that could set up a few of my dogs.  
2148 But again, that will take some time to communicate with them, the individuals, and to  
2149 make that move.  
2150

2151 Mr. Johnson- Yes, because that would be one of the regulations that you  
2152 will have to take care of as well. Any questions? Any questions for the applicant from the  
2153 Board?

2154  
2155 Mr. Lawrence- I don't think so. It sounds to me, from what you're saying, that  
2156 these dogs are treated like family members.

2157  
2158 Mr. Anderson- Yeah, they're treated and raised like family members. I will  
2159 say the yard does get cleaned once a week. So, typically, in that time, there may be a  
2160 chance for a bad smell. But that's only in the winter. Just because in the winter I don't  
2161 treat the yard based off the type of soil we have in the backyard. The chemicals can pool  
2162 up, and sitting chemicals and water tend to not be good for the digestive system of the  
2163 dog. So, I typically wait until the summer when the heat is a little bit more prominent. That  
2164 way it allows the yard to cure a lot faster and I'm allowed to let my dogs out a lot sooner  
2165 so that they're not getting sick or spreading any germs.

2166  
2167 Mr. Lawrence- We'll be lucky if some of the children in the county are treated  
2168 as well as your dogs are.

2169  
2170 Mr. Anderson- Yeah. I will say that a lot of kids that go to Ratcliff, at the end  
2171 of our street, their parents stop by in the morning as kind of a "hey, let's look at the dogs  
2172 before we head to school." We kind of are the neighborhood liaison for the dogs. We had  
2173 an incident where one of our distant neighbor's dogs ran away, got hit by a car, and I was  
2174 able to facilitate a vet visit for them. Kind of in a quick manor just so they could get that  
2175 taken care of. And different things like that.

2176  
2177 Mr. Lawrence- I applaud you for your care, but we do have an ordinance to  
2178 consider. It sounds like you're following all the right rules and regulations in terms of how  
2179 they're being cared for. I think a lot, a lot of the complaints we get too, don't we, with the  
2180 large number of dogs, are dogs running in people's yards, running at large. Which creates  
2181 noise problems and other problems.

2182  
2183 Mr. Anderson- We do typically find that our house can be the safe spot for a  
2184 lot of the roaming dogs in the neighborhood. Just a few weeks ago we did end up rescuing  
2185 one of the dogs that was roaming, out of the two that were running around. I circled the  
2186 neighborhood for a little bit trying to find the family of that dog. It didn't turn up, but I did  
2187 end up calling the Animal Police, and they were able to let me know that the family had  
2188 contacted them in search of their dog. So, we were able to kind of facilitate that return  
2189 home for that dog as well. Just the same as we would any of ours.

2190  
2191 Mr. Lawrence- Do you have periodic viewings at home of the video *101*  
2192 *Dalmatians*?

2193  
2194 Mr. Anderson- I don't think I'd have to watch it too much because we kind of  
2195 live it, you know.

2196



2197 Mr. Lawrence- Understood. Thank you. That's all I had Mr. Chairman.  
2198  
2199 Mr. Johnson- Okay. Again, the animals that are allowed, only in the rear  
2200 yard, and allowed four animals. Or 12 weeks, or some that's 12 weeks old or something  
2201 you can have more until they grow up to 12 weeks.  
2202  
2203 Mr. Anderson- That means that most families with a pet would have to have  
2204 their dogs in the backyard full time?  
2205  
2206 Mr. Blankinship- They don't have to be outside versus inside. If you have a  
2207 structure, like a doghouse or something, they would be allowed in the rear, but not in the  
2208 front.  
2209  
2210 Mr. Anderson- Okay.  
2211  
2212 Mr. Johnson- Okay. Any other questions?  
2213  
2214 Mr. Blankinship- Did you want to speak?  
2215  
2216 Ms. Garvey- I do.  
2217  
2218 Mr. Johnson- Yes. Okay.  
2219  
2220 Ms. Garvey- Hi, my name is Nicki Garvey, G.A.R.V., as in Victor, E.Y.  
2221  
2222 Mr. Johnson- Okay.  
2223  
2224 Ms. Garvey- I am a dog breeder and trainer. And I met with this family  
2225 multiple times. We talk a lot of times whether they have questions about finding good  
2226 homes and changing the face of the breed of Dalmatians. You brought up 101  
2227 Dalmatians, when that came out there was a massive run on the Dalmatian breed. Just  
2228 like when "AirBud" came out there was a massive run-on German, Golden Retrievers. If  
2229 you actually look at bite statistics right after AirBud, the bite statistics on Golden  
2230 Retrievers, they were the number one dog bite shortly after that. Because people just  
2231 started breeding dogs without any care for their temperament or training, or what they're  
2232 actually for. So, Dalmatians had it even worse because they have a very severe deaf  
2233 population. This family has done a fantastic job on vetting their breed, making sure they're  
2234 taking care of their animals, that they get them the proper veterinary services, and things  
2235 like that. Obviously, they're not, like, leaving their dogs out all the time. And we talk a lot  
2236 about finding the right homes, doing what kind of training I do. I have a service dog, and  
2237 I've done service dog training and other kinds of training. I also do herding work and we've  
2238 talked about whether or not Dalmatians would be a good fit for that. Just finding different  
2239 spaces where Dalmatians can start to shine and the breed can start to recover. So, with  
2240 that, when you do any kind of breeding, or have multiple animals,... My heart's a little high  
2241 because I'm not used to a microphone. So, when you have breeding dogs, or just dogs  
2242 you're doing training with, not all of them are going to fit all the different kinds of work.

2243 Also, with the dogs, you do end up accumulating a lot of them. I have nine right now. But  
2244 I live in Chesterfield in an agricultural zone, so. But, you know, especially with their work  
2245 with every other animal in the neighborhood and their outreach, that's super important to  
2246 consider when it comes to having so many animals. You also have to make the decision,  
2247 can they all get along, and they do a really good job with all of that. You know, the cleaning  
2248 and stuff, I forgot to mention we'd talked about it one day recently. I use a service that  
2249 comes and cleans twice a week for my dogs, because I have so many of them. And they  
2250 also do a monthly treatment that's like a different kind of enzyme, and I meant to give  
2251 them that information, and I have not yet. So, that's on me. But I think that they take really,  
2252 really good care of their animals. They have the ability to take really good care of their  
2253 animals. A slight smell does happen when you have a lot of them, especially if you do  
2254 have puppies. Because a litter can be anywhere from one puppy up to, I've had a litter of  
2255 twelve. And that, obviously, during those times when you're doing the whelping's, that is  
2256 something that can increase the odor. And just being more cognizant and more aware of  
2257 it is just something that happens as you grow into this industry. As you get used to it and  
2258 try and problem solve issues as they grow.

2259  
2260 Mr. Johnson- Okay, thank you. Alright ...

2261  
2262 Mr. Lawrence- I have a question.

2263  
2264 Mr. Lawrence- Can I ask a question, Mr. Chairman?

2265  
2266 Mr. Johnson- Yes.

2267  
2268 Mr. Lawrence- While we have her at the podium.

2269  
2270 Mr. Johnson- Go ahead. Yes.

2271  
2272 Mr. Lawrence- You're talking about...

2273  
2274 Mr. Blankinship- You mean Ms. Garvey?

2275  
2276 Mr. Lawrence- Yes. Ms. Garvey, can I ask you a question? It sounds like  
2277 you've got a lot of knowledge in this field. Just for my own edification, you mentioned  
2278 about different things triggering the popularity of dogs. Can you explain why there are so  
2279 many Golden Doodles and Labradoodles in my neighborhood?

2280  
2281 Mr. Lawrence- We have a 12-year-old Dachshund that my daughter and son-  
2282 in-law adopted from the Baltimore SPCA two years ago, and they came to live with us  
2283 while they were renovating a house. We've had their Dachshund with us, so I walk him a  
2284 lot through the neighborhood, and he feels, you know, like a real minority because the  
2285 large majority of the dogs we see in our neighborhood now are Doodles. Can you explain  
2286 what's caused that trend?

2287

2288 Ms. Garvey- Actually, it has to do with the health of both of the breeds. So,  
2289 Poodles got over-bred, and Labs, obviously, we talked about Golden Retrievers, how they were  
2290 over-bred, but also the popularity of animals in just general culture. Everyone wants one,  
2291 but a lot of people have allergies, or they have a cleanliness problem with hair, and things  
2292 like that. So, Golden Retrievers because they are a hypoallergenic kind of thing, which has  
2293 to do with what generation of Golden Retriever you have whether it's hypoallergenic or not.  
2294 So, it got really popular. And so, there's another way to breed better health with Golden  
2295 Retrievers. My neighbors love Golden Retrievers, and they have a lot of bone marrow  
2296 cancers that they keep getting very young. And that again is about poor breeding  
2297 standards. Poor focus on the health of the dog. I breed a working class of dog, Shetlands.  
2298 And that's what she is. She looks like a mini-Ausie. And my dogs have gone off to herd,  
2299 as well as... And that's why we were talking about herding... service dog work, and that  
2300 sort of stuff. And so, I breed a service dog. And they do tend to be smaller and leaner.  
2301 Dalmatians tend to get, like they got bred larger, again, because people didn't care about  
2302 the health of them. But yeah, Golden Retrievers, it's because of the hypoallergenic thing  
2303 and they got very popular because of that.

2304  
2305 Mr. Lawrence- Thank you.

2306  
2307 Mr. Green- It's a status thing.

2308  
2309 Ms. Garvey- Yes.

2310  
2311 Mr. Green- It's a real status. Mr. Gidley, can you ... We've addressed this  
2312 issue before and when we've asked for folks to reduce the dog population, if I'm not  
2313 mistaken, in one instance we gave the individuals, what, a year to ...

2314  
2315 Mr. Gidley- It's usually six months to a year.

2316  
2317 Mr. Green- No, it was another person that...

2318  
2319 Mr. Blankinship- Yeah, at least one case was a year.

2320  
2321 Mr. Green- Yeah, it was a year that we gave them.

2322  
2323 Mr. Pollard- Was that ... was when ...

2324  
2325 Mr. Green- Yeah, but they still had a large number.

2326  
2327 Mr. Blankinship- Each case is unique.

2328  
2329 Mr. Gidley- Sometimes people have older dogs too, whereas these are  
2330 younger, so they're not going to pass anytime soon, I suspect. If I can address that. I  
2331 guess, a lot of times a happy medium seems to be to give people so much time to get the  
2332 number down to a reasonable limit. And I debated that in preparing the staff report but, in  
2333 this case, we did have a complaint from a nearby property owner. And when I went out

2334 there was extensive... When I walked along the fence I was like ugh, for all the piles of  
2335 waste that was there. And I guess my concern was if we went out for a year or so, the  
2336 complainant would have to go through the summer and have to potentially deal with the  
2337 odor concern. And that's where I came from on my recommendation, and why I was a  
2338 little bit tougher in this case. But obviously the Board has to weigh, you know, what it  
2339 hears and where they're at on this issue as well. I just wanted to explain why I handled it  
2340 a little bit differently.

2341  
2342 Mr. Green- Is it possible for us to give them time to reduce the number,  
2343 as well as put a condition in that they do a more expeditious job of cleaning up the waste?

2344

2345 Mr. Gidley- Yes sir.

2346

2347 Mr. Green- Okay.

2348

2349 Mr. Johnson- Okay.

2350

2351 Mr. Anderson- Am I allowed ...

2352

2353 Mr. Johnson- Yes, you can come back.

2354

2355 Mr. Anderson- Being, being that we don't know who the complainant is, I will  
2356 say, in the circle that we have on that corner lot, and the street that follows directly behind  
2357 it. Directly next to me there is a house with two dogs, sometimes there is three. And then,  
2358 a few houses behind me, and then also a few houses to the left of us as well, there are  
2359 dogs as well. So, the smell could be coming from anywhere. Just based off of not knowing  
2360 where the complainant's home is, or who that person is. And then, those houses that are  
2361 adjacent to the... next to the car in the driveway, those houses are owned by older people  
2362 with dogs that typically don't come outside and clean up their yards. So, you'll see a lot  
2363 of times they'll have their maintenance guy come and then what ever didn't get picked up  
2364 it's just getting flung around to the next house, or a little bit further closer to the gate. And  
2365 that could also be the same for the houses that are left of the bush as well.

2366

2367 Mr. Johnson- Also, one of the things ... go ahead and then I'll.

2368

2369 Mr. Pollard- How long have you ...

2370

2371 Mr. Anderson- A year. It's been a year since we got the last dog.

2372

2373 Mr. Johnson- Okay. I wanted to also indicate to you that the dogs need to  
2374 be confined to the premises at all times as well.

2375

2376 Mr. Anderson- None of our dogs...

2377

2378 Mr. Johnson- And also, that the number of dogs needs to be limited to four  
2379 dogs as well. Not unless you are going, sending them someplace else.

2380  
2381 Mr. Blankinship- Unless this permit's approved.  
2382  
2383 Mr. Green- Well, the question I have is this. If he's had eight dogs and the  
2384 limit is four, and if you get routine veterinary care then a vet should have also alerted the  
2385 County that there was a problem. So, that makes me, not to question, but to question  
2386 whether they are getting the routine veterinary care.  
2387  
2388 Mr. Anderson- Yeah, so we, we have a few vets around the County that we  
2389 go to just based off of availability. Our main vet is Springfield Veterinary Center, and that's  
2390 where I take most of my dogs to. The other two vets are just emergency vets, just in case,  
2391 you know, they aren't able to handle the situation at the time.  
2392  
2393 Mr. Green- You said you take your two main dogs, you don't take them  
2394 all?  
2395  
2396 Mr. Anderson- I said two main vets.  
2397  
2398 Mr. Green- Two main vets. So, has there been a situation where all eight  
2399 dogs have been to the same vet?  
2400  
2401 Mr. Anderson- Yes.  
2402  
2403 Mr. Green- So, why didn't that trigger them to be alerted? Just seems to  
2404 me that this was complaint driven, right?  
2405  
2406 Mr. Blankinship- Yes.  
2407  
2408 Mr. Gidley- Yes sir, this was.  
2409  
2410 Mr. Green- Why wasn't this vet driven if there's a statute there?  
2411  
2412 Mr. Gidley- A lot of times people come to us saying their vet told them that  
2413 they needed to get a use permit because they were over the limit.  
2414  
2415 Mr. Green- Yeah, well what I'm saying is he is over the limit, so why didn't  
2416 his vet tell him that?  
2417  
2418 Mr. Gidley- I don't know.  
2419  
2420 Mr. Johnson- We need to have those taken down as well, over a period of  
2421 time.  
2422  
2423 Mr. Blankinship- Mr. Chair, we do have one speaker on Webex.  
2424  
2425 Mr. Johnson- Okay.

2426  
2427 Mr. Blankinship- Would you like to hear from them now?  
2428  
2429 Mr. Johnson- I would like to hear from them?  
2430  
2431 Mr. Green- For or against?  
2432  
2433 Mr. Blankinship- In opposition. Is Yvonne still on Webex? She notified us a  
2434 minute ago that her phone was about to die.  
2435  
2436 Ms. Bullock - Hello?  
2437  
2438 Mr. Blankinship- Yes.  
2439  
2440 Ms. Bullock - Can you hear me?  
2441  
2442 Mr. Blankinship- Yes ma'am.  
2443  
2444 Ms. Bullock - Yes, I'm on.  
2445  
2446 Mr. Blankinship- Alright, it's your turn to speak.  
2447  
2448 Ms. Bullock - Yes, I've been listening to the case and some of the stuff,  
2449 allegations that he's making is not true.  
2450  
2451 Mr. Blankinship- Can you tell us your last name first?  
2452  
2453 Ms. Bullock- Bullock, B.U.L.L.O.C.K.  
2454  
2455 Mr. Blankinship- Okay. Thank you. Go ahead.  
2456  
2457 Ms. Bullock- And I live there. And when people come to my house, and  
2458 knock on my door, those dogs are about to jump the damned fence trying to get to them.  
2459 So, I don't know why you're sitting in that courtroom lying today about your pets. I don't  
2460 know why. You come down. People come to my house the first thing that they say is that  
2461 it smells like dog shit. I can't have no cookouts. I can't have nobody come over. So, why  
2462 are you sitting there lying about your dogs.  
2463  
2464 Mr. Pollard- Ma'am, that language ... the question before the Board.  
2465  
2466 Mr. Johnson- Yes.  
2467  
2468 Ms. Bollock- ... Am I telling a lie? Am I telling a lie? You tell them if I'm lying.  
2469  
2470 Mr. Pollard- Thank you. Any questions?  
2471

2472 Mr. Johnson- Yes.  
2473  
2474 Ms. Bollock- You tell me if I'm lying. Don't make me come there.  
2475  
2476 Mr. Pollard- Ma'am.  
2477  
2478 Mr. Johnson- Yes. Go ahead. Go ahead.  
2479  
2480 Ms. Bollock- I'm the house on the left. He said those two have dogs. I don't  
2481 have no dogs. I have grandkids. I don't have dogs. They can't come to my house.  
2482  
2483 Mr. Pollard- Ma'am, how far are you from the home?  
2484  
2485 Ms. Bollock- Next door.  
2486  
2487 Mr. Green- The white house?  
2488  
2489 Ms. Bollock- Yes. Yes.  
2490  
2491 Mr. Johnson- After we finish with her, then we'll get you.  
2492  
2493 Mr. Green- Okay.  
2494  
2495 Ms. Bollock- Yes.  
2496  
2497 Mr. Pollard- Thank you.  
2498  
2499 Mr. Johnson- Okay. Thank you. Any more...  
2500  
2501 Mr. Green- Hold on. Do you have dogs Miss?  
2502  
2503 Ms. Bollock- I don't. My daughter has a dog. The dog don't come over to  
2504 my house. It stays at her house, due to the fact that I told her not to bring the dog over,  
2505 cause I don't want the dog getting no polio or nothing like that for all them dogs sitting in  
2506 that yard eating their own shit. I told her not to bring it.  
2507  
2508 Mr. Johnson- Okay. Thank you.  
2509  
2510 Mr. Green- Thank you.  
2511  
2512 Ms. Bollock- You welcome.  
2513  
2514 Mr. Johnson- Okay. Thank you.  
2515  
2516 Mr. Anderson- So, the neighbor to the right of me, in that white house, also  
2517 has a neighbor to the right of them that also has a dog. Directly across the street from

2518 them is also another dog. But again, I will say, like most dogs when someone walks past  
2519 their dwelling or their property, they're going to come to fence and try and check it out.  
2520 There has never been a situation where any of my dogs have jumped over into her yard  
2521 or attacked any of her visiting neighbors. There have been moments before where she's  
2522 had cookouts before and has never offered a neighborly hand in saying "hey, can we find  
2523 a solution to this". Yeah.

2524  
2525 Mr. Blankinship- You mentioned a privacy fence earlier. Would that be between  
2526 your property and the person that just spoke?

2527  
2528 Mr. Anderson- It will be going around the street side, the back side, and then  
2529 that side as well of her house.

2530  
2531 Mr. Green- The front?

2532  
2533 Mr. Anderson- Then we will also be putting a person gate, I guess you can  
2534 call it, in between the tree and in between the home. Just for, you know, kind of access  
2535 for us to walk from the front into the back without ...

2536  
2537 Mr. Blankinship- I understand.

2538  
2539 Mr. Johnson- Okay.

2540  
2541 Mr. Green- I just want to say something. We all love dogs. We have dogs.  
2542 You know, I've had as many as two. But the zoning rules state that we, that you can only  
2543 have up to four. When it comes to dog smell and all of that. Well, dogs are dogs, and so  
2544 if you let them out in the yard they're going to go. Mine goes in a particular area that I  
2545 don't necessarily clean up and you know, I just let nature take its course. The other thing  
2546 is, you have people, yes fences help. But I remember my mother-in-law would visit and  
2547 my neighbor across had an invisible fence with a German Shepard, and the German  
2548 Shepard would charge, and she didn't realize the invisible fence was there, so that would  
2549 always cause some problems for her. Because you just didn't know that the fence was  
2550 there so. And I just say that to say that this is just life problems, but we've got to adhere  
2551 to the four-dog rule. And at times we've granted some extension based on certain  
2552 conditions, but I would be more apt to continue with the four-dog rule. Grant you some  
2553 extension, some time to reduce the population so you can stay within the County  
2554 ordinances. Because if everybody, if we allow you to have eight dogs, then what if your  
2555 other neighbor wanted to have six dogs. And somebody else wanted to have five dogs.  
2556 And somebody else wanted to have... You know. She (Ms. Garvey) lives in a county  
2557 where you can have them, and so it's fine with her but there's got to be a limit we've got  
2558 to reach. And it's not that we're not sensitive to you, because I think everybody has  
2559 animals. And I feel like Mr. Lawrence is going to keep his daughter's dog.

2560  
2561 Mr. Lawrence- My wife wants us to.

2562



2563 Mr. Green- Yeah. So, we're sensitive to that but we've just got to be  
2564 cognizant of the large number.  
2565  
2566 Mr. Johnson- And because of that, one of the things that, you know, being  
2567 that many dogs, we have to limit it. And we could give you, what, eight to 12 months to  
2568 get down to four dogs. Because, if you don't then someone can come around and give a  
2569 ... What is it called?  
2570  
2571 Mr. Green- Violation.  
2572  
2573 Mr. Johnson- Violation. Okay.  
2574  
2575 Mr. Pollard- Is there anybody else to speak to this case?  
2576  
2577 Mr. Blankinship- We're done.  
2578  
2579 Mr. Johnson- Okay, with that...  
2580  
2581 Mr. Pollard- I'm ready for a motion.  
2582  
2583 Mr. Johnson- Okay.  
2584  
2585 Mr. Pollard- I move to deny the variance ... because of the complaint...  
2586 and ...  
2587  
2588 Mr. Anderson- Can I ask for more time?  
2589  
2590 Mr. Pollard- How about eight months?  
2591  
2592 Mr. Blankinship- Mr. Pollard, before you repeat that. If you deny the permit we  
2593 can't put conditions on it.  
2594  
2595 Mr. Green- Yeah.  
2596  
2597 Mr. Blankinship- Can I recommend that you change the motion to approve the  
2598 permit for a term of eight months subject to the conditions recommended in the staff  
2599 report. And additional, well, the expiration being an additional condition.  
2600  
2601 Mr. Pollard- I move we approve the permit for a term of eight months so  
2602 that ...  
2603  
2604 Mr. Green- Second.  
2605  
2606 Mr. Johnson- It's been motioned and seconded, the approval for eight  
2607 months. All in favor say, Aye.  
2608

2609 Board- Aye.  
 2610  
 2611 Mr. Johnson- All opposed say, Nay. Motion passed.  
 2612  
 2613 Mr. Blankinship- Alright.  
 2614  
 2615 Mr. Johnson- Eight months.  
 2616

2617 On a motion by Mr. Pollard, seconded by Mr. Green, the Board **approved** case **CUP-**  
 2618 **2024-100624** subject to the following conditions:  
 2619

- 2620 1. This conditional use permit authorizes the keeping of up to eight dogs (dalmatians) on  
 2621 the property. No new or replacement animals may be added.  
 2622
- 2623 2. The approval is not for the boarding, breeding, or fostering of dogs at any time.  
 2624
- 2625 3. The applicant must maintain the property so that noise and odors are controlled.  
 2626
- 2627 4. No later than June 15, 2024, the applicant must install an opaque vinyl or wooden  
 2628 privacy fence, at least six feet in height, along the perimeter of the rear yard.  
 2629
- 2630 5. This approval will expire December 31, 2024, after which time the number of pets on  
 2631 the property must not exceed four.  
 2632

2633			
2634	<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Pollard</b>	<b>5</b>
2635	<b>Negative:</b>		<b>0</b>
2636	<b>Absent:</b>		<b>0</b>

2637  
 2638  
 2639 **CUP-2024-100628 - Bhavini and Mayush Mehta: conditional use permit to allow an**  
 2640 **accessory dwelling unit at 12325 Haybrook Lane, Henley, Three Chopt. Parcel 733-**  
 2641 **776-1238. Zoning: A-1, Agricultural District. Code Section: 24-4406.**  
 2642

2643 Mr. Blankinship- The last conditional use permit before we get to the three  
 2644 variances is **Conditional Use Permit 2024-100628**, Bhavini and Mayush Mehta: a  
 2645 conditional use permit to allow an accessory dwelling unit at 12325 Haybrook Lane, in the  
 2646 Henley subdivision, in the Three Chopt Magisterial District. Would everyone who intends  
 2647 to speak to this case please stand and be sworn in. Raise your right hands please. Do  
 2648 you swear the testimony you're about to give is the truth, the whole truth and nothing but  
 2649 the truth, so help you God? Thank you. Mr. Gidley.  
 2650

2651 Mr. Gidley- Thank you Mr. Secretary. The subject property is located  
 2652 northwest of where Nuckols Road and Pouncey Tract Road intersect. It is in the Henley  
 2653 subdivision, as you noted. And this is an agriculturally zoned subdivision with acre-plus  
 2654 lots. The applicant currently has a two-story 8,225-square-foot home under construction

2655 on the property. He recently sought to amend his building permit to include an accessory  
2656 dwelling unit, ADU, on the first floor of the home. You see a little bit of it in here, in this  
2657 section of the home. In order for this building permit revision to be approved, however,  
2658 the applicant has applied for the required conditional use permit. In evaluating this  
2659 request, the property is zoned A-1 Agricultural District and is designated as Rural  
2660 Residential on the Future Land Use Map. A single-family dwelling is consistent with both  
2661 of these designations and an ADU may be permitted with a conditional use permit. As  
2662 noted in your staff reports, there are several requirements for an ADU to meet and all of  
2663 these are met by the applicant.

2664  
2665 Mr. Johnson- Okay.

2666  
2667 Mr. Gidley- So, with regard to compatibility with the surrounding  
2668 neighborhood, this is the first request for an ADU in the subdivision. However, due to the  
2669 acre-plus lots in the neighborhood, and the fact that the ADU would be located internal to  
2670 the residence, means there should be little impact on the scale or intensity of the  
2671 neighborhood. Finally, regarding the public's health, safety, and welfare this is only a one-  
2672 bedroom ADU, and as noted is located inside the dwelling. As you can see here, they  
2673 actually have a four-car garage available, along with a long driveway. As a result, staff  
2674 does not anticipate any issue with parking impacting the neighbors. In conclusion, the  
2675 applicants are constructing a home on a lot that is over one-acre in area. They would like  
2676 to include a one-bedroom accessory dwelling unit within the home. Given the large size  
2677 of the lot, plentiful parking, and the fact that this would be internal to the home, staff does  
2678 not anticipate any detrimental impact on nearby property owners. As a result, we can  
2679 recommend approval of their request subject to the conditions in your staff reports. If you  
2680 have any questions, I'll be happy to answer those. Thank you.

2681  
2682 Mr. Johnson- Okay. Thank you. Any questions?

2683  
2684 Mr. Lawrence- I had one question for Mr. Gidley.

2685  
2686 Mr. Johnson- Okay.

2687  
2688 Mr. Lawrence- According to the staff report, there's going to be a kitchen  
2689 located, I guess it'd be a second kitchen. One located in the accessory dwelling, and one  
2690 located in the home. When I looked on the site plan, I didn't see a kitchen identified on  
2691 there. Is there a way you can identify that for us? I'm just curious as to where that is.

2692  
2693 Mr. Gidley- We have a site plan in here, but it didn't show the whole  
2694 house. Let's see here. Survey...

2695  
2696 Mr. Blankinship- Concept plan, maybe? Yeah.

2697  
2698 Mr. Gidley- Yeah. Within the green is the ADU, but the house is much  
2699 more extensive than what you're seeing here.

2700

2701 Mr. Lawrence- Right.  
2702  
2703 Mr. Gidley- That's why you probably were not able to notice.  
2704  
2705 Mr. Lawrence- But there is going to be a kitchen within the ADU though,  
2706 right?  
2707  
2708 Mr. Blankinship- Yeah. If you scroll down Paul, you'll see picture one and  
2709 picture two. Oh, well.  
2710  
2711 Mr. Lawrence- Yeah, keep going. That one right there.  
2712  
2713 Mr. Blankinship- They're there, but they're not bookmarked. Can you hit the hit  
2714 the page down button there at the top of the page, right under the word presentation? Go  
2715 up to the toolbar, there's a down arrow. Let's see if that gets us ... Okay, well, sorry. I  
2716 did see it's the area that's marked "Picture 2".  
2717  
2718 Mr. Green- That's where the kitchen is?  
2719  
2720 Mr. Blankinship- Right.  
2721  
2722 Mr. Lawrence- Okay.  
2723  
2724 Mr. Blankinship- There is a rendering of what the kitchen would look like. It  
2725 should be available in here as well.  
2726  
2727 Mr. Lawrence- And that's why the applicant is having to apply for an ADU,  
2728 because the renovation, or this extension of the house will include a separate kitchen?  
2729  
2730 Mr. Blankinship- Right. It has a separate kitchen, a separate bathroom, a  
2731 separate living room, a separate sleeping area, and a separate exterior entrance. You  
2732 can get outside the building without really going through the rest of the dwelling.  
2733 Sometimes, these are real close judgement calls, you have another one next month that's  
2734 sort of similar to this. And you know we usually talk to the applicant during the building  
2735 permit process and say, "Well, if you open a doorway here, or close a doorway there,  
2736 then we'll be able to approve your building permit". And in some cases they'll say "fine,  
2737 I'll do that" and in other cases they'll say "well, let's go ahead and do the conditional use  
2738 permit".  
2739  
2740 Mr. Lawrence- I can see why there may be a fine line between...  
2741  
2742 Mr. Blankinship- Yes. Exactly, it's a judgement call, so.  
2743  
2744 Mr. Lawrence- Yeah.  
2745  
2746 Mr. Johnson- So, this has a kitchen on both levels then?

2747  
2748 Mr. Blankinship- Well, they're both on the same level, but there's a kitchen that  
2749 serves the main house, and then there's a separate small kitchen that serves just the  
2750 accessory dwelling.  
2751  
2752 Mr. Johnson- Okay. Thank you. Any other questions? Okay. If not, we'll now  
2753 hear from the applicant.  
2754  
2755 Mr. Mehta- Good morning. My name is Mayush Mehta. Last name is  
2756 spelled M.E.H.T.A. I want to thank the Planning staff and the Zoning Board for hearing  
2757 our application today. This ADU is actually for my mother, who actually lives with us right  
2758 now, currently, as a permanent living situation for her. This allows her to have her own  
2759 independent space and own independent lifestyle. And with the benefit of us still being  
2760 together. So, yeah, that kitchen is in those two yellow squares. The larger square has a  
2761 cooktop, a fridge, and a microwave. And then the smaller square is where the sink and  
2762 the dishwasher is.  
2763  
2764 Mr. Johnson- Okay.  
2765  
2766 Mr. Mehta- And we did not realize that we had to apply for a permit since  
2767 it is not a renting situation. It's a permanent living situation for my mother. And we found  
2768 out by actually stumbling upon it by speaking to the subs who are doing this work on our  
2769 house that said, "hey, you may want to submit for a permit on this", and we did. And we  
2770 want to make sure that we are doing the right thing by code and make sure that it's not  
2771 affecting or impacting anything negatively.  
2772  
2773 Mr. Johnson- Okay. Thank you.  
2774  
2775 Mr. Blankinship- We do have one or two speakers on Webex. Sir, did you want  
2776 to speak?  
2777  
2778 Mr. LaMere- I'm Sam, the General Contractor. L.A.M.E.R.E. The original  
2779 plan was approved with this unit installed the way it is. The kitchen and everything. The  
2780 only thing that we added that was not approved by the building drawing was putting a  
2781 stove. Before it was just a warming kitchen with a microwave, or whatever. But his mom  
2782 does like to have a cooking area, so she has that for herself. If she's by herself or they're  
2783 away on vacation, or something like that, she doesn't have to go into the main kitchen  
2784 and cook for herself. So, this way here we just added that. And we have approval for the  
2785 vent, and everything is by code. And that's what really brought it up because the inspector  
2786 was saying, you know we have this, and so we were forthright "we want to do this, what  
2787 do we need to do". So, we ended up filing for the conditional use permit just to make sure  
2788 everybody was on the same page. And like I said, this apartment, well, not apartment, but  
2789 living quarters was approved with the original plans. I guess we are just updating it to say  
2790 that we are having a stove in the kitchen, so.  
2791  
2792 Mr. Johnson- Okay.

2793  
2794 Mr. Blankinship- Okay. Can we hear from the Webex, the citizens on  
2795 Webex?  
2796  
2797 Mr. Johnson- Yes.  
2798  
2799 Mr. LeMere- I have a full set of plans...  
2800  
2801 Mr. Johnson- Okay.  
2802  
2803 Mr. Blankinship- Can we hear from the people on Webex, please? I'm  
2804 waiting for the Rosenbergs to come on Webex. I'm being told they are unmuted and live,  
2805 but if they have their own self muted, maybe that's the problem, or maybe they stepped  
2806 away. Hello?  
2807  
2808 Mr. Johnson- Did you hear something?  
2809  
2810 Mr. Green- Were they for or against?  
2811  
2812 Mr. Blankinship- We don't have that. All we have are the case number  
2813 and their names. At least I don't have that. Staff, were we told whether they were in favor  
2814 or opposition?  
2815  
2816 Mr. Johnson- Can staff hear?  
2817  
2818 Mr. Blankinship- Mr. and Mrs. Rosenberg, if you're able to hear, we are  
2819 not able to hear you. I don't know if you're muted or... Well, I'm sorry Mr. Chair, we're not  
2820 able to...  
2821  
2822 Mr. Green- Do you know the Rosenbergs?  
2823  
2824 Mr. Mehta- I do not.  
2825  
2826 Mr. Johnson- Okay.  
2827  
2828 Mr. Blankinship- Having issues with his mic. Okay.  
2829  
2830 Mr. Pollard- ... (mentions own mic issue)  
2831  
2832 Mr. Green- Can he type his...  
2833  
2834 Mr. Blankinship- I guess so, he must've typed that.  
2835  
2836 Mr. Green- Can we ask if he is for or against?  
2837  
2838 Mr. Johnson- For or against as well. Okay.

2839  
2840  
2841 Mr. Blankinship- It's a terrible feeling when people think you're speaking  
2842 and you're not, or people don't know that you're speaking.  
2843  
2844 Mr. Green- What should we do? Should we wait, or...  
2845  
2846 Mr. Johnson- Let's see what else we need.  
2847  
2848 Mr. Blankinship- Yes, sir. Well, it's two, a husband and wife, I think. Aaron  
2849 and Heather Rosenberg, I'm assuming husband and wife.  
2850  
2851 {inaudible}  
2852  
2853 Mr. Green- They can't type nothing in, right?  
2854  
2855 Mr. Blankinship- Apparently, they let us know they were having issues...  
2856  
2857 Mr. Rosenberg- Hello?  
2858  
2859 Mr. Blankinship- Hi! Yes, here we are. Thank you.  
2860  
2861 Mr. Rosenberg- My apologies for the technical difficulties. I actually had  
2862 to call in, and I really... First off, thank you for the opportunity to speak. And really, my  
2863 wife and I, which represents the adjacent property merely called in to get more  
2864 information. And in advance we were asked if we wanted to speak prior to getting the  
2865 information, and after getting the information we're in full support of this. And actually,  
2866 commend the generational plan that our future neighbors have for their family and thing  
2867 that is quite admirable. So, that really is the only thing I had to say, and other than that  
2868 we welcome them to the neighborhood.  
2869  
2870 Mr. Blankinship- That's wonderful. And thank you for your patience in  
2871 ticking with us for two and a half hours, and your patience for getting your microphone to  
2872 work.  
2873  
2874 \*Laughter {inaudible}  
2875  
2876 Mr. Rosenberg- Thank you. Alright.  
2877  
2878 Mr. Johnson- Thank you.  
2879  
2880 Mr. Rosenberg- {inaudible} Bye-bye.  
2881  
2882 Mr. Johnson- Okay. Now,... {inaudible}...  
2883

2884 Mr. Blankinship- You can close the hearing, since I assume you have no  
2885 rebuttal?

2886  
2887 \*Laughter {inaudible}

2888  
2889 Mr. Mehta- I'd be happy to answer any other questions.

2890  
2891 Mr. Johnson- Okay. Now we'll... We'll now close the hearing.

2892  
2893 Mr. Green- Mr. Chair, I move that we approve this conditional use  
2894 permit subject to the conditions recommended staff. It is consistent with the  
2895 Comprehensive Plan and the Zoning Ordinance. The dwelling unit is part of a principal  
2896 dwelling so will not be seen by the neighbors. The approval will allow for a family member  
2897 to have an independent living area inside the home.

2898  
2899 Mr. Lawrence- Second.

2900  
2901 Mr. Johnson- It's been motioned and second. All in favor say, Aye.

2902  
2903 Board- Aye.

2904  
2905 Mr. Johnson- All opposed say, Nay. Motion passed.

2906  
2907 On a motion by Mr. Green, seconded by Mr. Lawrence, the Board **approved** case **CUP-**  
2908 **2024-100628** subject to the following conditions:

- 2909  
2910 1. This conditional use permit authorizes an accessory dwelling unit within the dwelling  
2911 on the property. All other applicable regulations of the County Code remain in force.  
2912  
2913 2. This conditional use permit applies only to the improvements shown on the building  
2914 design (concept plan) filed with the application. Any additional improvements must  
2915 comply with the applicable regulations of the County Code. Any substantial changes  
2916 or additions to the design or location of the improvements will require a new conditional  
2917 use permit.  
2918  
2919 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
2920 must obtain approval of a Comprehensive Grading Plan and an Agreement in Lieu of  
2921 an Erosion and Sediment Control Plan from the Department of Public Works.  
2922  
2923 4. The applicant must obtain a building permit for the proposed accessory dwelling unit  
2924 by April 25, 2026, or this conditional use permit will expire. If the building permit is  
2925 cancelled or revoked after that date due to failure to diligently pursue construction, this  
2926 conditional use permit will expire at that time.

2927



2928  
 2929 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**  
 2930 **Negative:** **0**  
 2931 **Absent:** **0**

2932  
 2933  
 2934 Mr. Blankinship- Alright, that completes the conditional use permit portion of  
 2935 this morning's agenda.

2936  
 2937 **VAR-2024-100241 - Jose Yohannan: variance from the front yard setback, public**  
 2938 **street frontage requirement, lot area requirement, and lot width requirement to**  
 2939 **build a single-family dwelling at 340 Grayson Street, Providence Park Annex,**  
 2940 **Fairfield. Parcel 792-737-8940. Zoning: R-5, General Residence District. Code**  
 2941 **Section: 24-3105.E.1, 24-4306.E.1 and 24-6402.A.2.**

2942  
 2943 **The applicant has 3,445 square feet lot area, 35 feet lot width, 35 feet public street**  
 2944 **frontage, and 20 feet front yard setback, where the Code requires 6,000 square feet**  
 2945 **lot area, 50 feet lot width, 50 feet public street frontage, and 35 feet front yard**  
 2946 **setback. The applicant requests a variance of 2,555 square feet lot area, 15 feet lot**  
 2947 **width, 15 feet public street frontage, and 15 feet front yard setback.**

2948  
 2949 Mr. Blankinship- We now have three variances. The first is **Variance 2024-**  
 2950 **100241**, Jose Yohannan: a variance from the lot area requirement, lot width requirement,  
 2951 and public street frontage requirement to build a single-family dwelling at 340 Grayson  
 2952 Street, in the Providence Park Annex Subdivision, in the Fairfield Magisterial District.  
 2953 Would everyone who intends to speak to this case please stand and be sworn in. Raise  
 2954 your right hands please. Do you swear the testimony you're about to give is the truth, the  
 2955 whole truth and nothing but the truth, so help you God? Thank you. Mr. Gidley.

2956  
 2957 Mr. Johnson- Sir. Sir, you can sit until after he's finished. Okay.

2958  
 2959 Mr. Gidley- Thank you, Mr. Secretary, Mr. Chair. The subject property is  
 2960 located just south of the Richmond Raceway. It was recorded in 1916, prior to the  
 2961 adoption of the first zoning ordinance in 1933. You should be familiar with this  
 2962 neighborhood, as there've been several cases here. There are twelve 35-foot-wide lots  
 2963 on the western side of Grayson Street. The subject property is the last remaining vacant  
 2964 lot on this side of the street. This is a picture of the lot here. The subject property was  
 2965 acquired by the Perry family in 1945, and they owned it until this past October when it  
 2966 was sold as part of a tax sale. There was a home here until 2007, but it has since been  
 2967 demolished and the lot has been vacant since 2007. I will note that the Perrys never  
 2968 owned any of the adjacent lots as well. The new owner would like to construct a dwelling  
 2969 on the property, as you can see here, but needs variances for lot area, lot width, and  
 2970 public street frontage. The lot only has 35 feet of lot width and 3,445-square-foot of lot  
 2971 area. Again, this is the home being proposed. As you may recall, a number of variances  
 2972 have been granted in this neighborhood in recent years. Two lots down, at 334 Grayson,  
 2973 a variance was granted this past August, and a home is now under construction there.

2974  
2975 In evaluating this request, staff believes two Threshold tests are met. First, as it stands  
2976 the lot may not be developed for its intended use as a residence absent a variance.  
2977 Secondly, the second Threshold was met as the lot was buildable when it was recorded  
2978 in 1916, but then with the adoption of lot area and width standards in 1945 it became non-  
2979 conforming. So, there is a hardship related to the physical condition of the lot that is a  
2980 result of a change in the Zoning Ordinance. Since two Threshold Tests are met, we can  
2981 look at the five subtests, all of which need to be met as well. Staff believes these are met,  
2982 as noted in your staff report, including the lack of detrimental impact on nearby property.  
2983 In fact, a new home here would probably enhance the neighborhood.

2984  
2985 So, in conclusion, absent a variance a dwelling may not be constructed on the property.  
2986 The hardship is also due to changes in the Zoning Ordinance that occurred after the lot  
2987 was already platted. Staff believes each of the subtests are met. As a result, we can  
2988 recommend approval of this request subject to the conditions in your staff reports. If you  
2989 have any questions, I'll be happy to answer those. Thank you.

2990  
2991 Mr. Johnson- Yes. Also, I noticed, looking over the area there, the houses  
2992 are, some are larger than others. And it's not uniform as some of the other neighborhoods  
2993 are.

2994  
2995 Mr. Gidley- Yes sir, as the neighborhood is changing and you're getting  
2996 new investment, a lot of those are two-story homes in that area.

2997  
2998 Mr. Johnson- Okay.

2999  
3000 Mr. Johnson- Alright, now we want to hear from the applicant. Okay.

3001  
3002 Mr. Yohannan- Morning Chair, and Board. My name is Jose Yohannan...

3003  
3004 Mr. Blankinship- I mispronounced it. I used a Spanish pronunciation.

3005  
3006 Mr. Yohannan- It's alright. In America it's called "Jose", but in my country, I'm  
3007 from India, and thankfully I am here...

3008  
3009 Mr. Johnson- Okay.

3010  
3011 Mr. Yohannan- Me and my wife. I am a Civil Engineer for the City of  
3012 Richmond, and my wife... We have two beautiful boys. One is at VCU and the other one  
3013 high school... And as I'm working in this beautiful place, I'm trying to own my place living  
3014 close to VCU. That's why I found this place. As long as I'm working on that area, this  
3015 place, I found an existing sewer line and water line on that property. And later I found  
3016 there was a dwelling before, that's why I auctioned that and I can put a small house to  
3017 give my kids to when they have studying in the VCU they can use that building. Along  
3018 with that, I was dealing with all the homeowners nearby, that are beside that property.  
3019 And there's not too many people living over there, and nice people. I talked to Martha on

3020 the right side, the left side of that... too. And they're always happy to me, to come over  
3021 there to build that property, or something there in that area. So, I am happy. I don't know  
3022 the process going through, then I auctioned that property. Then I came to the Planning  
3023 Department, and they are so helpful. He told me, Jose, to go for, because there was no  
3024 building lasting ten years, you need to go for this process first. Otherwise, the Planning  
3025 Department will be unable to get the building opportunity. That's why I come through. I  
3026 didn't know if I was first sitting here, I didn't prepare this at all. Heard the applicant saying  
3027 that... It's a first experience for me here. But if the County approves for me to build, I  
3028 guarantee I will build a small house there for beautiful and I will be very helpful. I'll try my  
3029 best to help the neighborhood over there. And I'll put that house as a small size house.  
3030 And I know the property also, because I am a Civil Engineer, I measured that property, it  
3031 is 100-foot from the footpath to the back fence, and 34.5-foot width. Existing fence. And I  
3032 do know there are some regulations, and that existing property is only within the 10-foot  
3033 of the property mark, but the new law is not allowing to build that one. But if the County  
3034 allows me to a 25-foot setback from the front, and 25-foot from the back, then the  
3035 remaining will be a 50-foot. I can make a nice single-story 1,000-square-foot, single-story  
3036 and give it to my kids as long as they are studying at VCU, and later who knows. Maybe  
3037 even move out to that location for my retirement. Me and my wife can move there because  
3038 I love that area because that is a cul-de-sac and it is the corner of Henrico County and  
3039 the City of Richmond.

3040  
3041 Mr. Johnson- Okay.

3042  
3043 Mr. Yohannan- I appreciate it. And thank you for the opportunity for me to talk  
3044 on behalf of that.

3045  
3046 Mr. Johnson- Okay.

3047  
3048 Mr. Green- Thank you.

3049  
3050 Mr. Johnson- Thank you. You are proposing for a two-story building?

3051  
3052 Mr. Yohannan- If allowed 1,000 square feet. To fit the setback from the rear  
3053 and the front, then it's 1,000 square feet, then I won't need the two-story.

3054  
3055 Mr. Johnson- Go ahead.

3056  
3057 Mr. Blankinship- Here's the problem, Mr. Yohannan, you didn't put that on your  
3058 original application, so we didn't advertise the front yard setbacks. We didn't notify the  
3059 neighbors that you'd be requesting a front yard setback. So, if you want to ask for a front  
3060 yard setback, I'm afraid we'd have to put you off to next month and readvertise and  
3061 renotify. What you had applied for was the lot area, lot width, and public street frontage  
3062 that was also necessary, so we added that. But the site plan that you submitted shows  
3063 the 35-foot setback, so we didn't advertise the setback on the front yard.

3064

3065 Mr. Gidley- And I think that new home, two down, is at 35 feet front  
3066 setback.  
3067  
3068 Mr. Yohannan- May I speak?  
3069  
3070 Mr. Blankinship- Yes.  
3071  
3072 Mr. Yohannan- Okay. Thank you. I can go back to my builder, to the planner,  
3073 for submitting the drawing for that one. So, I am afraid if I pay him, and it's not approved,  
3074 then I will lose that money. I will get a rough plan for that 25-foot setback from the front  
3075 and 25 from the back, I am happy to step back in front of the Board.  
3076  
3077 Mr. Blankinship- Sorry sir, it wasn't clear to me. Do you want to go forward with  
3078 a 35-foot front yard, or do you want to come back next month?  
3079  
3080 Mr. Yohannan- I'll come back next month, with the less setback, for that one.  
3081  
3082 Mr. Johnson- Okay.  
3083  
3084 Mr. Yohannan- And I do have one question for addition to that. If there is any  
3085 restriction for that setback or do you want to hear from the residents?  
3086  
3087 Mr. Blankinship- Well, we would have to readvertise and the residents would  
3088 have an opportunity to speak.  
3089  
3090 Mr. Yohannan- I'm totally okay ...  
3091  
3092 Mr. Blankinship- So, theoretically, someone could have looked up the case and  
3093 seen what was requested, and they could say, "well, I'm not opposed to that as long as  
3094 he doesn't want a front yard setback".  
3095  
3096 Mr. Yohannan- Oh, I know that. I'm starting anew for this project. That is my  
3097 mistake and I'm fully acknowledging that's my mistake, and apologies. My apologies.  
3098  
3099 Mr. Blankinship- It's quite alright. It's an easy misunderstanding, but we just, in  
3100 order to keep all the "I"s dotted and the "T"s crossed, we have to advertise what we  
3101 approve. You can always approve less than what's advertised but you can't approve more  
3102 than what's advertised.  
3103  
3104 Mr. Johnson- And once again, most of the houses are one level. And as I  
3105 went through that area, yours would've been nice. I just want it to be similar to the other  
3106 houses as well.  
3107  
3108 Mr. Yohannan- I do. I accept that one. But that ... house at 334, that recently  
3109 County approved, they make a two-story, but on the opposite side is a bigger house. And

3110 the road I saw is 25-30 foot wider road... I will, I will make everybody happy. I will work  
3111 with the planner and make sure it's a nice plan.

3112  
3113 Mr. Johnson- Okay. Anybody have questions? Okay.

3114  
3115 Mr. Pollard- I move that we defer this case to May 23<sup>rd</sup> to provide an  
3116 opportunity to notify the neighbors about the ...

3117  
3118 Mr. Johnson- Okay.

3119  
3120 Mr. Pollard- Setback.

3121  
3122 Mr. Green- Setback, yeah. Second.

3123  
3124 Mr. Johnson- Okay, it's been motioned and second for deferral. All in favor  
3125 say, Aye.

3126  
3127 Board- Aye.

3128  
3129 Mr. Johnson- All opposed say, Nay. Motion passed.

3130  
3131 Mr. Yohannan- Thank you.

3132  
3133 Mr. Johnson- Okay.

3134  
3135 Mr. Yohannan- And I'll come back the next month.

3136  
3137 Mr. Johnson- Yes.

3138  
3139 Mr. Yohannan- Right?

3140  
3141 Mr. Johnson- Thank you.

3142  
3143 On a motion by Mr. Pollard, seconded by Mr. Green, the Board **deferred** case **VAR-2024-**  
3144 **100241** until the May 23, 2024, Board of Zoning Appeals meeting.

3145  
3146  
3147 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**  
3148 **Negative:** **0**  
3149 **Absent:** **0**

3150  
3151  
3152 **VAR-2024-100559 - Shivam Paul: variance from the rear yard setback to build a**  
3153 **second-floor deck at 5701 Averys Court, Covington, Three Chopt. Parcel 743-776-**  
3154 **6007. Zoning: R-2AC, One-Family Residence District (Conditional). Code Section:**  
3155 **24-3308.D. The applicant has 35 feet rear yard setback where the Code requires 45**

3156 **feet rear yard setback. The applicant requests a variance of 10 feet rear yard**  
3157 **setback.**

3158  
3159 Mr. Blankinship-                    Alright, the next case is **Variance 2024-100559**, Shivam Paul:  
3160 a variance from the rear yard setback to build a second-floor deck at 5701 Averys Court,  
3161 in the Covington subdivision, in the Three Chopt Magisterial District. Would everyone who  
3162 intends to speak to this case please stand and be sworn in. Raise your right hands please.  
3163 Do you swear the testimony you're about to give is the truth, the whole truth and nothing  
3164 but the truth, so help you God? Thank you. Ms. Rozmus.

3165  
3166 Ms. Rozmus-                            Thank you Mr. Secretary. The applicants, Mr. & Mrs. Paul,  
3167 purchased this 2,500-square-foot home in 2010. Which included a 700-square-foot  
3168 garage and a 513-square-foot patio. Mrs. Paul is requesting a variance of 10 feet to build  
3169 a second story deck on the back into the rear setback of the property. The property is  
3170 zoned R-2A, which requires a setback of 45 feet. I will say, pretty consistent with most of  
3171 the homes in the development, the home was built pretty close to the rear setback, so  
3172 there's not a ton of room in the rear. The Zoning Ordinance allows a patio in the rear yard  
3173 and any first-floor deck to extend up to 10 feet into the rear setback. A second story deck  
3174 must comply with the rear setback, that is why they are asking for a variance. Staff  
3175 evaluated the request with a variance analysis and determined that the property already  
3176 has a reasonable beneficial use, and the rear yard setback was already in effect when  
3177 the home was built. Therefore it's, a variance, is not applicable. The potential impact of  
3178 this second-story deck is also noted. It could potentially reduce privacy to the home in the  
3179 rear. Although we did not hear from them, so as far as we know they're okay with it. I  
3180 believe Mrs. Paul did reach out to her neighbors and her neighbors were fine with the  
3181 deck. However, in conclusion, the project does not meet the Threshold Tests for an  
3182 applicable variance, so staff is recommending denial because the property already has  
3183 beneficial use.

3184  
3185 Mr. Johnson-                            Okay.

3186  
3187 Mr. Blankinship-                    I should have mentioned this, Mr. Chair, but there's also an  
3188 email that was left on the table regarding this case. When the applicants read the staff  
3189 report they wrote a lengthy response to it, and that's on the on the table.

3190  
3191 Mr. Johnson-                            Okay.

3192  
3193 Mr. Blankinship-                    I'm sure they'll share the contents of that with you.

3194  
3195 Mr. Johnson-                            Okay, thank you.

3196  
3197 Ms. Rozmus-                            It's also a self-created hardship, because the second story  
3198 deck is already built, or beginning to be built. I do have some notes on the timeline. On  
3199 the application for a building permit, but I'm sure Mrs. Paul can speak for that as well.  
3200 Because she had had some comments on that. But I can answer any questions if you've  
3201 got anything.

3202  
3203 Mr. Johnson- Okay. Any questions from the Board. If not, we'll hear from the  
3204 applicant.

3205  
3206 Ms. Paul- Okay, yeah. Thank you, sir. It's very nice to meet you. I'm  
3207 Shivam Paul. My husband John Paul. We have lived in this community 13, 14 years now.  
3208 Hadn't done any modifications to the house for a very long time. The reason why we  
3209 started the project is we had an existing patio but with age it was cracking, sinking in, so  
3210 we wanted to fix that problem. And since it is at the end of the cul-de-sac a lot of water  
3211 comes and stays very close to the house, so we wanted to have a shaded porch kind of  
3212 feel about the patio. That was the whole intention when we spoke to the builder and talked  
3213 about it. And honestly, we did not know that we had to go through the permit process to  
3214 build a deck, and he started working on it. And one of the neighbors was asking about  
3215 the project and they asked, "have you gotten the permit", and that's when we realized that  
3216 we needed to get the permit. The project started October of last year. November, we  
3217 halted the project. We said no more work other than this until we get the approval. So, we  
3218 applied for approval from the association, which was granted. And we applied to the  
3219 County. The County came back to get the soil testing done and because of the condition,  
3220 of it being wet, so we got that, and it passed. And we got the engineering drawings done,  
3221 and we submitted to the County, and we realized the nature of the lot... If you look at the  
3222 aerial view, it kind of looks like, from the back of the house it's kind of like a triangle. It's  
3223 narrow at one end, and it goes wide. And where the patio sits, it's on the narrow end, and  
3224 the 45-foot setback is at our breakfast area. That is the nook that is coming out. And if  
3225 you measure from it, it's exactly at 45. But the rest of it gradually going from 45, 47, and  
3226 then up to 60 feet. The Permit Center said we can move the deck and it's allowable to  
3227 have the second story deck towards the garage where it is a wider area. But that wouldn't  
3228 serve a purpose for us to have a deck or a porch there because we would have to get out  
3229 to enjoy the area from our side garage door. We wanted to have the benefit of our existing  
3230 patio, but have it covered so we can just sit outside. Am I missing anything? We spoke  
3231 to, and they suggested that it has to go through the variance process, and that is why we  
3232 are requesting. The project started in October of last year, since that, if you view the aerial  
3233 view, we did not know you needed a permit and approval before work started and we paid  
3234 80% of the material cost and labor already to the contractor. And we definitely want to  
3235 address if there are privacy issues, as it came in the report. If our deck is not allowed, it's  
3236 okay. We don't want to have a deck, all we wanted was a covered porch. And our porch,  
3237 no side walls, just open so we can be outside. We get significant sun in the back ... We  
3238 get significant sun in the back and so part of that covering would be for us in the evenings,  
3239 and in the afternoon, to be able to sit back there. And we wanted a permanent structure  
3240 and not like a temporary awning, or something, back there.

3241  
3242 Ms. Paul- So, you know, we can protect from the rain. And if you, as  
3243 seen in the picture, it's not seen right at breakfast. We have a crawl space and with the  
3244 rain, and everything, we have a lot of water just goes down that slope. So, that's the  
3245 reason we want to keep it where it is and have it cover all the window areas. And we can  
3246 use the space... We did talk to our neighbors about it, and they know about this project,

3247 and we really wanted to have some decision made. If we have to modify it, how we can  
3248 do it. And we are completely willing to address any issues you have.

3249  
3250 Mr. Paul- Do you have a top view? From a privacy standpoint, it's not  
3251 much of an issue if you look at the angles at which there, you know, the home is. And  
3252 there's going to be landscaping. There have been, there are some trees. We're actually  
3253 going to put in one more tree in that corner as part of our plan. So, at the end of the day  
3254 it's like, the neighbor behind us is the only one who's potentially impacted. We've got  
3255 trees along the sides. And then once, you know, that tree goes up, at the end of the day,  
3256 that's going to be a non-issue from a privacy standpoint.

3257  
3258 Ms. Paul- And it's just like we wanted to do something. You know, we  
3259 can address the issues and yet enjoy the space. We have elderly parents who come, not  
3260 often, but when they do come, it's like a space for them to be outside for some time.

3261  
3262 Mr. Green- That second floor that you have, is that accessed from the top  
3263 to get to the second level?

3264  
3265 Ms. Paul- So, that was in the proposed plan that you have. There is a  
3266 window there right now. It's a master bedroom there and there is a window. And we  
3267 submitted those drawings to the Permit Center. We would convert that window into a door  
3268 to come out.

3269  
3270 Mr. Green- Okay.

3271  
3272 Mr. Johnson- Okay. Any other questions for the applicant?

3273  
3274 Mr. Green- Yeah. You said that you did go through your association and  
3275 that they didn't have any problems with it?

3276  
3277 Ms. Paul- No problems. I have the approval letter and everything from  
3278 them.

3279  
3280 Mr. Green- Associations are tough to get approvals from so that, that's a  
3281 good thing. And I'm concerned. You said you spent about 80% of the cost already, so you  
3282 guys got a lot of stuff sitting there. How much are you into this thing for?

3283  
3284 Ms. Paul- What is that, sorry?

3285  
3286 Mr. Green- How much have you spent so far? Because I don't want to  
3287 see you lose money.

3288  
3289 Ms. Paul- So, we are 45 to 48,000. 45 to him and the rest for the  
3290 resurveying to be done and all of the stuff to be done and submitted to the County. So,  
3291 yeah. So, like so far for this project 48, I have spent. The other three is on me because I  
3292 didn't get the permit prior. And I had to get all of the paperwork so. The total estimate



3293 that he has given me, 62, 63,000. Yeah, we still need to put the pavers. The pavers are  
3294 still sitting right there, which go on the floor area.

3295  
3296 Mr. Green- Right. Well, yeah, you know, that... A lot of people, like I said  
3297 earlier, are doing things not realizing their doing something and then you're making a  
3298 correction. And that's important. The mere fact that you're standing here before us and  
3299 didn't just go ahead and do it, you know. I applaud the fact that you said when a neighbor  
3300 said something to you, you know, you stopped. So, it's not like you did it and are going  
3301 through. So, I appreciate that. Also, I'm in Three Chopt, and I've been in that area, and I  
3302 rode by. And it looks, you know, from what I can see, I don't particularly have any real  
3303 problems with it. And once again, this is a growing trend with people wanting enclosed  
3304 porches, and now you're seeing the deck. It's an improvement. I think the comment was  
3305 that it could be, could potentially be a problem with your neighbor. It didn't say it was. So,  
3306 it could be potential. So, it could not be. So, based on that, you know, Mr. Chair, I'm ready.  
3307 If there's no other comments.

3308  
3309 Mr. Johnson- Anyone else? Okay. Any other comments? Anyone else in  
3310 opposition?

3311  
3312 Mr. Blankinship- There's no one on Webex.

3313  
3314 Mr. Johnson- Okay. Okay.

3315  
3316 Mr. Green- Mr. Chair, I heard staff. I heard the staff report but like, once  
3317 again this is something I think that we're going to need to deal with going forward with  
3318 Planning, as well as Board of Supervisors. And I would move that we approve this  
3319 variance. I move that we approve this variance subject to conditions recommended by  
3320 the staff. The property can not be put to any reasonable use without a variance, they  
3321 applicant did not create the hardship, the property is unique and should not be subject to  
3322 the same rear yard setback as other houses in the neighborhood.

3323  
3324 Mr. Johnson- Okay.

3325  
3326 Mr. Broadway- I'll second.

3327  
3328 Mr. Johnson- It has been motioned and seconded. All in favor say, Aye.

3329  
3330 Board- Aye.

3331  
3332 Mr. Johnson- All opposed say, Nay. Motion passed.

3333  
3334 On a motion by Mr. Green, seconded by Mr. Broadway, the Board **approved** case **VAR-**  
3335 **2024-100559** subject to the following conditions:

3336  
3337

- 3338 1. This variance applies only to the rear yard setback requirement for a second-story  
 3339 deck only. All other applicable regulations of the County Code remain in force.  
 3340  
 3341 2. This variance applies only to the improvements shown on the plot plan and building  
 3342 design filed with the application. Any additional improvements must comply with the  
 3343 applicable regulations of the County Code. Any substantial changes or additions to the  
 3344 design or location of the improvements will require a new variance.  
 3345  
 3346 3. The applicant must obtain a building permit for the proposed deck by April 25, 2026,  
 3347 or this variance will expire. After that date, if the building permit is cancelled or revoked  
 3348 due to failure to diligently pursue construction, this variance will expire at that time.  
 3349

3351	<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence</b>	<b>4</b>
3352	<b>Negative:</b>		<b>0</b>
3353	<b>Absent:</b>	<b>Pollard</b>	<b>1</b>

3354  
 3355  
 3356 **VAR-2024-100626 - William Swift: variance from the lot area requirement and lot**  
 3357 **area requirement to build a single-family dwelling at 9516 Hungary Road,**  
 3358 **Brookland. Parcel 755-761-8935. Zoning: A-1, Agricultural District. Code Section:**  
 3359 **24-6402.A.2 and 24-8302.A. The applicant has 24,400 square feet lot area (outside**  
 3360 **of floodplain) where the Code requires 30,000 square feet lot area. The applicant**  
 3361 **requests a variance of 5,600 square feet lot area.**  
 3362

3363 Mr. Blankinship- Alright, the last case... the last case this morning is **Variance**  
 3364 **2024-100626**, William Swift: a variance from the lot area requirement to build a single-  
 3365 family dwelling at 9516 Hungary Road, in the Brookland Magisterial District. Would ...  
 3366 Please raise your right hand. Do you swear the testimony you're about to give is the truth,  
 3367 the whole truth and nothing but the truth, so help you God? Thank you.  
 3368

3369 Mr. Johnson- Okay.  
 3370

3371 Mr. Blankinship- We received some information late yesterday, I think, from the  
 3372 Department of Public Works regarding the Chesapeake Bar Resource Protection Area.  
 3373 Which is going to have some impact on his house's location. So, I think Paul is discussing  
 3374 that with him, but it doesn't have any direct bearing on the variance because this is a lot  
 3375 area variance. And that would just be about where on the lot the house can be located.  
 3376

3377 Mr. Johnson- Okay.  
 3378

3379 Mr. Gidley- Yes, sir I was showing him what Public Works had just given  
 3380 us regarding the RPA buffer.  
 3381

3382 Mr. Blankinship- Let me have the rest of them. Go ahead.  
 3383

3384 Mr. Gidley- Basically, what that's showing in the red and cream colors are  
3385 the RPA. The applicant can get a waiver, potentially, to go into the cream color area from  
3386 Public Works. But we just wanted them to be aware of that and that he's going to have to  
3387 work with the Department of Public Works with regards to the RPA if the variance is  
3388 granted from this Board from the Zoning Ordinance.

3389  
3390 Mr. Johnson- Okay.

3391  
3392 Mr. Gidley- The subject property is located on the north side of Hungary  
3393 Road, just east of Springfield Road. This was a 16-acre parcel in 1947. One acre was  
3394 divided off as part of a family division, and a year later a single-family home was  
3395 constructed. In 1987, Henrico County acquired 0.097-acres for the widening of Hungary  
3396 Road. In 2014, the home was demolished following a house fire. The new owners of the  
3397 property would like to construct a home here. Because it is considered a pre-1960 lot, the  
3398 minimum lot size is met. However, since 1978, the Zoning Ordinance has required the lot  
3399 area to be met exclusive of the floodplain. The property, however, only has 24,400 square  
3400 feet exclusive of the floodplain, rather than the required 30,000 square feet. As a result,  
3401 it cannot be used for a dwelling unless a variance is approved.

3402  
3403 In evaluating this request, staff believes two of the Threshold Tests are met. First, as it  
3404 stands, the lot may not be developed for its intended use as a residence absent a  
3405 variance, which is arguably an unreasonable restriction on the property. Especially since  
3406 a dwelling was here previously but was damaged by fire, as noted. The second Threshold  
3407 Test is also met. The lot was buildable when it was formed in 1947. However, as noted,  
3408 the Zoning Ordinance was amended in 1978, to require the lot area be met exclusive of  
3409 the floodplain. So, there was a change in the Zoning Ordinance that made this lot non-  
3410 buildable. Since at least one Threshold test was met we can look at the five subtests. As  
3411 noted in your staff report, staff believes these are met. This includes a lack of detrimental  
3412 impact. As you can see here, the property is basically surrounded by woods on three  
3413 sides, and Hungary Road on the fourth side. I would note that we did receive the drawing  
3414 yesterday from Public Works, showing the RPA buffer. Ultimately the property will have  
3415 to perform an on-site delineation. Depending on what that shows, he will likely need to  
3416 apply for an administrative exception from the Public Works Department for part of this  
3417 buffer and may need to make some changes to the home's design and location.

3418  
3419 In conclusion, absent a variance a home may not be constructed on the property. There's  
3420 also a hardship due to a change made to the Zoning Ordinance regarding the floodplain.  
3421 Finally, staff believes all five subtests are met, including lack of detrimental impact on  
3422 nearby property. As a result, we recommend approval of this request subject to the  
3423 conditions in your staff reports. This concludes my presentation. If you have any  
3424 questions, I'll be happy to answer those. Thank you.

3425  
3426 Mr. Johnson- Half of the property is in the flood zone? Is it?

3427  
3428 Mr. Gidley- A little less than half. The flood zone is noted right here. So,  
3429 basically following this line. This may be 35% of the property that is in the flood zone.

3430  
3431 Mr. Johnson- Flood zone.  
3432  
3433 Mr. Gidley- And then what happens is you have an RPA buffer that comes  
3434 out. Not so much from the flood zone, but from the stream here that comes out. So. that's  
3435 going to, as noted on that report you received, further restrict where the home can go.  
3436 But they can work with Public Works to get an exception from part of the RPA buffer.  
3437  
3438 Mr. Johnson- Okay. And you've got about a quarter of the lot that you could  
3439 put something on, even though it's in the floodplain?  
3440  
3441 Mr. Gidley- Well, you can't build in the floodplain Mr. Johnson. What  
3442 happens is the lot meets the lot area requirement of 30,000 square feet. However, there's  
3443 also a requirement in code that it needs to be met exclusive of the floodplain.  
3444  
3445 Mr. Johnson- Exclusive.  
3446  
3447 Mr. Gidley- So if you take that portion of the floodplain...  
3448  
3449 Mr. Johnson- Take the floodplain out.  
3450  
3451 Mr. Gidley- If you take that portion of the lot that's within the floodplain  
3452 away from the lot area, then they are shy of the lot area. And that's why they need a  
3453 variance.  
3454  
3455 Mr. Johnson- Okay, thanks.  
3456  
3457 Mr. Gidley- Yes, sir.  
3458  
3459 Mr. Johnson- Alright.  
3460  
3461 Mr. Lawrence- I had a few questions, sir, for Mr. Gidley if I could.  
3462  
3463 Mr. Blankinship- I will try to answer them so he can breathe.  
3464  
3465 Mr. Lawrence- I'm just fascinated by this property because I've been driving  
3466 by it when I worked for Henrico County. For 28 years, I'd drive by it every day. And in my  
3467 post-retirement, I walk by the property. And as I walk by the property, actually it's hard to  
3468 walk on Hungary Road along the property because the vegetation comes right to the road.  
3469 There's a nice little path that used to be a driveway, I think, that you can kind of circle  
3470 around to get back and stay on Hungary. So, I guess that maybe there have been some  
3471 people that have been trespassing. We won't mention any names, but I've always been  
3472 interested in it. And there used to be a house on the property and all of a sudden the  
3473 house disappeared. And I wasn't certain why. And now I know from the staff report that  
3474 there was fire damage that happened to the house. So, I guess, to my questions, Mr.

3475     Gidley. First of all, are public utilities currently available to the property? It looks like the  
3476     house previously was, maybe, on a well and septic system. Is that correct?

3477  
3478     Mr. Gidley-                     They would have to connect to public water and sewer  
3479     because I'm sure it's within the 300 feet.

3480  
3481     Mr. Lawrence-                 I'm assuming with the townhouse complex on one side, and  
3482     then there's been some other residential development further down, that that would  
3483     provide opportunity to extend public utilities there.

3484  
3485     Mr. Gidley-                     Yes. If they're within 300 feet they're going to have to connect.

3486  
3487     Mr. Lawrence-                 Okay. And would the property owner be required to extend the  
3488     sidewalk that currently ends at the end of the townhouse complex?

3489  
3490     Mr. Gidley-                     I don't know the answer to that question.

3491  
3492     Mr. Blankinship-             I would think not. I don't think that they can require that just on  
3493     a building permit. I think there has to be more development for the Board to be able to  
3494     require that.

3495  
3496     Mr. Lawrence-                 Maybe Mr. Yob can use some of the federal money to do that.

3497  
3498     Mr. Blankinship-             It could be that the County will extend it. Yes.

3499  
3500     Mr. Lawrence-                 Okay. Then, I guess, my other question, Mr. Gidley, it was  
3501     referenced in your staff report, but if you could elaborate as to why rezoning the parcel is  
3502     not a good avenue and why that was the language used in the staff report. To me that  
3503     seems like it normally would be the cleanest way to go from A-1 zoning to residential  
3504     zoning, but I'm sure there's some logic as to why that is not the best route to pursue.

3505  
3506     Mr. Gidley-                     The applicant did talk to the rezoning folks in Comprehensive  
3507     Planning. One of the issues they had was that most of the development around there's  
3508     zoned multi-family and then there's C-1 conservation zoning behind it. So, there's not a  
3509     lot of single-family zoning in the immediate area and they tend to hesitate to take just one  
3510     parcel to rezone it to something that is not really characteristic of the area. So, ultimately,  
3511     I think the applicant decided his best bet was to just go ahead and just get a variance.

3512  
3513     Mr. Lawrence-                 So, the concern is maybe, is that's what they might  
3514     characterize as spot zoning?

3515  
3516     Mr. Blankinship-             Yes.

3517  
3518     Mr. Gidley-                     Yes. I didn't want to say that, but yes.

3519  
3520     Mr. Johnson-                    Okay.

3521  
3522 Mr. Lawrence- I won't go any further with that one then. That's all the  
3523 questions I had Mr. Chairman.  
3524  
3525 Mr. Johnson- Okay. Any other questions?  
3526  
3527 Mr. Green- So, my question is what will that unnamed person do once a  
3528 house is built? How will they trespass?  
3529  
3530 Mr. Blankinship- They'll have to cross the street or something.  
3531  
3532 Mr. Gidley- That's why they'd want the sidewalk.  
3533  
3534 Mr. Lawrence- I'd like to retract my question about the sidewalks.  
3535  
3536 Mr. Blankinship- Excellent segway to the applicant.  
3537  
3538 Mr. Swift- My name is William Swift, S.W.I.F.T. Interesting backstory  
3539 short, but I knew that family for 50 years probably. And when Mr. Burnett passed away,  
3540 Ronnie said that he wanted to try and keep the lot, but the other siblings said "no, let's  
3541 sell it". So, he talked to someone at the County. I have no name, but he said, "Ronnie are  
3542 you sure it's a buildable lot?" He said "yes, I've talked to... I don't know any names, I  
3543 should've investigated a little more on my own. I said, "well maybe I'll get two lots out of  
3544 it". He said, "no, we just want to sell it". So, I'm standing here now and if I can get one lot  
3545 I'll be clicking my heels, so. It's really been a battle going through this. And I really  
3546 appreciate your time and consideration. And Mr. Hinson has been super helpful too.  
3547  
3548 Mr. Johnson- Thank you.  
3549  
3550 Mr. Blankinship- I will say, you have four years after a house burns down to  
3551 replace it without going through this process. So, that answer was probably true when  
3552 they gave it to you.  
3553  
3554 Mr. Lawrence- I had a question.  
3555  
3556 Mr. Lawrence- Mr. Swift, do you have any idea... There's also an unimproved  
3557 parcel just to the east of your property too. Do you know what the plans are for that or  
3558 what the status of that property is?  
3559  
3560 Mr. Swift- Far as I know, it's owned. It's an undeveloped parcel that's  
3561 owned by the association back there.  
3562  
3563 Mr. Blankinship- That's correct, and it is almost entirely in the floodplain.  
3564  
3565 Mr. Lawrence- Okay. So it will likely not be developed then?  
3566

3567 Mr. Blankinship- Correct.  
3568  
3569 Mr. Swift- And there also is a sewer connection at the property.  
3570  
3571 Mr. Lawrence- Okay. That's all I had Mr. Chairman.  
3572  
3573 Mr. Johnson- Was that a well cap that was on the previous... Yeah, right  
3574 there.  
3575  
3576 Mr. Swift- That is a well.  
3577  
3578 Mr. Johnson- It is, okay.  
3579  
3580 Mr. Gidley- And there is a condition, I believe, in your staff report that  
3581 states that the Health Department has to be satisfied that any well and septic that was  
3582 there has been secured.  
3583  
3584 Mr. Johnson- Secured, okay. Okay. Alrighty.  
3585  
3586 Mr. Lawrence- Can you see if there's any opposition, Mr. Chairman?  
3587  
3588 Mr. Johnson- No?  
3589  
3590 Mr. Blankinship- No. There's no one else on Webex.  
3591  
3592 Mr. Johnson- Okay.  
3593  
3594 Mr. Lawrence- Well, I'm ready to make a motion, Mr. Chairman.  
3595  
3596 Mr. Johnson- Okay.  
3597  
3598 Mr. Lawrence- I move that we approve this variance subject to conditions  
3599 recommended by staff. There's no other reasonable use for the property. The area  
3600 outside the floodplain is larger than most of the lots in the area. There was a house on  
3601 the property for many years. The other tests are met, as stated in the staff report.  
3602  
3603 Mr. Green- Second.  
3604  
3605 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
3606  
3607 Board- Aye.  
3608  
3609 Mr. Johnson- All opposed say, Nay. None. Motion passed.  
3610  
3611 Mr. Green- We forgot the condition that that unnamed person isn't  
3612 allowed to trespass.

3613  
 3614 Mr. Swift- Might have some Dalmatians on it, I don't know.  
 3615  
 3616 Mr. Blankinship- Thank you for your patience.  
 3617  
 3618 Mr. Lawrence- Thank you, Mr. Swift.  
 3619  
 3620 On a motion by Mr. Lawrence, seconded by Mr. Green, the Board **approved** case **VAR-**  
 3621 **2024-100626** subject to the following conditions:  
 3622

- 3623 1. This variance applies only to the lot area requirement exclusive of the floodplain for  
 3624 one dwelling only. All other applicable regulations of the County Code remain in force.
  
- 3625 2. This variance applies only to the improvements shown on the plot plan filed with the  
 3626 application. Any additional improvements must comply with the applicable regulations  
 3627 of the County Code. Any substantial changes or additions to the design or location of  
 3628 the improvements will require a new variance.
  
- 3629 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must  
 3630 obtain approval of a Comprehensive Grading Plan, an Agreement in Lieu of an  
 3631 Erosion and Sediment Control Plan, and a Floodplain Development Permit from the  
 3632 Department of Public Works.
  
- 3633 4. The distance to the Special Flood Hazard Area (SFHA) must be measured from the  
 3634 closest part of the structure to the SFHA; the side of the structure is closer than 40'  
 3635 away from the SFHA. Proposed residential structures located between 15' and 40'  
 3636 away from the SFHA may be permitted in accordance with Sec. 10-9(o) of the Henrico  
 3637 County Code if the lowest floor, including mechanical equipment, of the structure(s) is  
 3638 elevated 1' above the Base Flood Elevation (BFE).
  
- 3639 5. The applicant must provide right-of-way dedication or road improvements as required  
 3640 by Traffic Engineering.
  
- 3641 6. Any dwelling on the property must be served by public water and sewer.
  
- 3642 7. The applicant must ensure any well or septic system on the Property has been  
 3643 secured to the satisfaction of the Health Department.
  
- 3644 8. The applicant must obtain a building permit for the proposed single-family dwelling by  
 3645 April 25, 2026, or this variance will expire. After that date, if the building permit is  
 3646 cancelled or revoked due to failure to diligently pursue construction, this variance will  
 3647 expire at that time.  
 3648

3649  
 3650 **Affirmative:** **Broadway, Green, Johnson, Lawrence** **4**  
 3651 **Negative:** **0**  
 3652 **Absent:** **Pollard** **1**



3653  
3654  
3655 Mr. Blankinship- Mr. Chair, that brings us to the minutes from the March  
3656 meeting. Mr. Lawrence has reviewed them for commas and apostrophes, but none of his  
3657 proposed corrections affected the meaning of anything in the words. So, you can handle  
3658 those as you choose.  
3659  
3660 Mr. Lawrence- There was one word that added something about the stand in  
3661 the Chairman's comments. There was a word added, that was seemingly left out, but just  
3662 minor grammatical suggestions.  
3663  
3664 Mr. Johnson- Okay.  
3665  
3666 Mr. Blankinship- Motion to approve the minutes.  
3667  
3668 Mr. Green- So moved.  
3669  
3670 Mr. Johnson- Okay. There's a motion on the minutes. So moved ...  
3671  
3672 Mr. Broadway- Second. Mr. Broadway as second.  
3673  
3674 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
3675  
3676 Mr. Board- Aye.  
3677  
3678 Mr. Johnson- All opposed? None. Motion passed.  
3679  
3680 On a motion by Mr. Green, seconded by Mr. Broadway, the Board **approved the minutes**  
3681 **of the March 28, 2024 meeting of the Board of Zoning Appeals.**  
3682  
3683  
3684 **Affirmative: Broadway, Green, Johnson, Lawrence 4**  
3685 **Negative: 0**  
3686 **Absent: Pollard 1**  
3687  
3688  
3689 Mr. Green- Is your ability to read these minutes a part of your old job?  
3690 That you were that detailed?  
3691  
3692 Mr. Lawrence- Probably, yeah.  
3693  
3694 Mr. Johnson- Yeah.  
3695  
3696 Mr. Green- Because you're real...  
3697

3698 Mr. Lawrence- Ben was thrilled because the first couple meetings I really  
3699 wasn't reading the minutes. Then, all of a sudden, I thought maybe I ought to be reading  
3700 these a little more carefully.  
3701

3702 Mr. Green- That just goes to your old job, when you paid attention to a lot  
3703 of detail because you...  
3704

3705 Mr. Lawrence- I worked for Mr. Hazelett.  
3706

3707 Mr. Blankinship- There you go. Say no more.  
3708

3709 Mr. Johnson- Alrighty.  
3710

3711 Mr. Blankinship- Let me just ask, when did Mr. Pollard leave? Did he vote on  
3712 the second-floor deck?  
3713

3714 Mr. Green- No. He left before. He left before that.  
3715

3716 Mr. Blankinship- He did not vote on the second-floor deck. Okay.  
3717

3718 Mr. Green- He voted. He took care of his zone...  
3719

3720 Mr. Blankinship- I knew he was leaving, and I made a note that he did not vote  
3721 on the last case or on the minutes. But I wasn't sure...  
3722

3723 Mr. Green- He didn't vote on the second-floor deck or the last case.  
3724

3725 Mr. Blankinship- Alright, well. Sorry about the two deferrals, but we only have  
3726 six for next month.  
3727

3728 Mr. Lawrence- Wow.  
3729

3730 Mr. Blankinship- So, at least we're getting back closer to normal.  
3731

3732 Mr. Lawrence- Any for Brookland?  
3733

3734 Mr. Blankinship- I believe there are.  
3735

3736 Mr. Johnson- Alrighty.  
3737

3738 Mr. Blankinship- As a matter of fact, the mine is in Brookland.  
3739

3740 Mr. Lawrence- The what?  
3741

3742 Mr. Blankinship- The mine. The granite mine. Granite, is that what they do up  
3743 there? The one between the interstate and the old landfill. On the north side of the  
3744 interstate. 295 up there next to the old landfill.  
3745  
3746 Mr. Lawrence- Okay.  
3747  
3748 Mr. Blankinship- That's the one we do every five years, rather than every two.  
3749  
3750 Mr. Lawrence- Is that Brookland or Three Chopt?  
3751  
3752 Mr. Blankinship- I'm pretty sure it's in Brookland.  
3753  
3754 Mr. Lawrence- I think it is...  
3755  
3756 Mr. Blankinship- I think the line runs between the mine and the landfill.  
3757  
3758 Mr. Lawrence- Okay. Is that going to be a two-hour hearing.  
3759  
3760 Mr. Blankinship- No, it shouldn't be. It shouldn't be.  
3761  
3762 Mr. Johnson- Alright. That's it.  
3763  
3764 Mr. Blankinship- Thank you everybody.  
3765  
3766 \*end of recording  
3767  
3768  
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Walter L. Johnson, Jr., Chair  
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3784 

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Mr. Benjamin W. Blankinship, Secretary