

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, AUGUST 22, 2013 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH AUGUST**
6 **6, 2013, AND AUGUST 12, 2013.**
7

Members Present: R. A. Wright, Chairman
James W. Nunnally, Vice Chairman
Greg Baka
Gentry Bell
Helen E. Harris

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

8
9 Mr. Wright - Good morning, ladies and gentlemen. Welcome to
10 the August meeting of the Henrico County Board of Zoning Appeals. Would you
11 please stand and join me in pledging allegiance to the flag of our country.
12

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

14 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
15 ladies and gentlemen. The rules for this meeting are as follows. Acting as
16 secretary, I'll call each case. And as I'm speaking, the applicant should come
17 down to the podium. We'll then ask everyone who intends to speak to that case
18 to stand and be sworn in. Then the applicant will speak. Then anyone else who
19 wishes to speak to that case will be given the opportunity. And then the
20 applicant, and only the applicant, will have an opportunity for rebuttal. After the
21 Board has heard all the evidence and asked any questions they may have, they
22 will proceed to the next case. They will render all of their decisions at the end of
23 the meeting. So if you wish to hear their decision on a specific case you can
24 either stay until the end of the meeting or you can check the Planning
25 Department website—we usually update it within about an hour of the end of the
26 meeting—or you can call the Planning Department this afternoon.

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

30 And finally, out in the foyer there is a binder containing the staff report for each
31 case, including the conditions that have been recommended by the staff. It is
32 particularly important that the applicants be familiar with those conditions.

33 Mr. Wright - Are there any deferrals or withdrawals?

34 Mr. Blankinship - No sir.

35 Mr. Wright - All right, then please call the first case.

36 **VAR2013-00005** **9700 LLC** requests a variance from Section 24-
37 95(e)(1) of the County Code to build a one-family dwelling at 10109 Highview
38 Avenue (GREENWOOD HEIGHTS) (Parcel 780-766-7174), zoned R-4, One-
39 Family Residence District (Fairfield). The total lot area requirement is not met.
40 The applicant proposes 14,400 square feet total lot area, where the Code
41 requires 15,000 square feet total lot area. The applicant requests a variance of
42 600 square feet total lot area.

43 Mr. Wright - Will the applicant please come to the podium? Would
44 all those who wish to speak with reference to this case, whether for or against,
45 please stand and be sworn.

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

49 Ms. Moss - Yes.

50 Mr. Wright - All right, ma'am. Please state your name.

51 Ms. Moss - My name is Shawn Moss with 9700 LLC.

52 Mr. Wright - All right, please state your case.

53 Ms. Moss - We have a lot in Henrico County. We have tried to
54 sell the property for a single-family home. The square footage requirement is not
55 met. We have been unable. We've had it under contract for a year. We have
56 been unable to get an easement from Virginia Power in front of the lot to be able
57 to bring the utilities over to it. And there's also another house that fronts Francis
58 Road, which is now bank-owned, so we're unable to get any kind of easement
59 from them. So we are requesting that we get the square footage that we need to
60 build the residence with a well and septic on that property.

61 Mr. Wright - What's the size of this lot, please?

62 Ms. Moss - It's 14,418 square feet, and the requirement is
63 15,000.

64 Mr. Wright - And how much frontage does it have on that road.

65 Ms. Moss - I'm sorry?

66 Mr. Wright - How much frontage does it have on the road, the
67 street? That would be Homeview, I believe.

- 68 Ms. Moss - One hundred and thirty feet.
- 69 Mr. Wright - Is that street actually paved?
- 70 Ms. Moss - No.
- 71 Mr. Wright - It's not. How would—
- 72 Mr. Blankinship - It is down to the house to the north, 10121.
- 73 Mr. Wright - Okay. And how would you access the road?
- 74 Ms. Moss - We would do a non-maintenance road agreement
75 and then access it from right there where that road stops. And then access the
76 house there.
- 77 Mr. Wright - Mr. Blankinship, since it is on a public road, that
78 presents no problem with the 50-foot road requirement.
- 79 Mr. Blankinship - That's correct. The road frontage is not an issue.
- 80 Mr. Wright - Any questions from members of the Board?
- 81 Ms. Harris - Yes. Ms. Moss, I noted in the report it said that the
82 adjacent owners to the south, you've not been able to negotiate purchasing that
83 lot. But what about an easement on that lot? Have you spoken with them?
- 84 Ms. Moss - We have not tried to get an easement from that lot
85 owner. The person that had it under contract had been out there to see the lot. I
86 know that they have a tool shed on that property right there. Oh, the one on
87 Francis? The bank-owned property? I'm sorry. Are you talking about the 1808?
- 88 Ms. Harris - Yes, that parcel.
- 89 Ms. Moss - Yes ma'am. That house is owned by a bank. We've
90 gone by there. We did try to make contact with them with no—there hasn't been
91 anyone that has called us back to help us with that. Now if you look in the tax
92 records, it's still under the individuals' names, but we've been by there. There are
93 notes on the house that the Chase Home Finance is to be notified in case of
94 emergencies. We have had no luck in getting in touch with anybody there to try
95 to get any easement from them.
- 96 Ms. Harris - How long have been trying to get in contact with
97 them?
- 98 Ms. Moss - Oh, it's been at least every bit of six months.
- 99 Ms. Harris - Okay.

100 Ms. Moss - This property was under contract since February of
101 2012. We did end up letting them out of the contract because he wasn't able to
102 get a building permit. He's tried everything that he could do with no success.

103 Mr. Blankinship - So you actually represent the owner not the contract
104 purchaser.

105 Ms. Moss - I am the owner.

106 Mr. Blankinship - I was thinking you were the contract purchaser. Okay.

107 Mr. Wright - You are the owner.

108 Ms. Moss - Yes sir.

109 Ms. Harris - Another question that I have. I noticed that our
110 records said that in the recent records we received no indication of an easement
111 or covenant. But there are old records. Have you been to the Real Estate Office
112 to examine some of the old records?

113 Ms. Moss - No, we haven't. I mean, we've done title searches.
114 Like I said, we've—no, we have not. We have not looked at any of the old
115 records.

116 Ms. Harris - Okay. Do you have building plans which show the
117 proposed structure you want constructed and its placement on the property?

118 Mr. Ray - [Speaking off microphone.] There is plan that would
119 be placed there.

120 Mr. Wright - Would you please identify yourself and speak into the
121 microphone.

122 Mr. Ray - John Ray—R-a-y. We do have a plan to go on that
123 property, but we have not revised the actual plan, the survey plan to reflect that.
124 What we do have is what the last person under contract, what they had
125 submitted for it was a permit showing a septic field, showing a reserve. The only
126 thing it did not show was a well. And that would be a requirement we'd need to
127 meet with the Health Department.

128 Mr. Blankinship - So they have shown a septic system and a reserve
129 field on this lot.

130 Mr. Ray - Yes. I have the engineer's report here if you'd like to
131 have a copy.

132 Mr. Baka - Yes.

133 Mr. Blankinship - I'd like to have a copy of that.

134 Mr. Ray - That was what was submitted.

135 Mr. Baka - The question that was submitted to the Health
136 Department but was also approved by the Health Department?

137 Mr. Ray - It didn't get that far in the approval process.

138 Mr. Baka - Is there a 100-foot separation between the well and
139 the septic tank?

140 Mr. Ray - There will be, yes sir. In talking to the engineer who
141 designed this, we can actually shift this around. He does have the square
142 footage to be allowed for the house and the distance for a well. It is a specialized
143 system. It's not a standard septic.

144 Ms. Harris - Mr. Ray, where would the garage be constructed?

145 Mr. Ray - There would not be a garage on this particular house
146 plan. The driveway would still go to the right-hand side. The model that would go
147 on there is approximately a 1,458-square-foot rancher.

148 Ms. Harris - That's it.

149 Mr. Wright - Have you read the conditions that have been
150 proposed for this case?

151 Mr. Ray - Yes sir.

152 Mr. Wright - Are you in accord with the conditions?

153 Mr. Ray - Yes.

154 Mr. Wright - Do you realize you must—I understand that public
155 water and sewer are not available for this lot.

156 Mr. Ray - Correct.

157 Mr. Wright - You would have to have a septic tank approved by
158 the Health Department, etc. You are in accord with all of that.

159 Mr. Ray - Yes.

160 Mr. Wright - All right. Any further questions by members of the
161 Board? Is anyone here in opposition to this request? All right, sir. If you all will
162 have a seat, we can hear from this gentleman. Please state your name.

163 Mr. Robinson - My name is Wayne Robinson—R-o-b-i-n-s-o-n. I'm
164 opposed to changing the code out there. I own the property on the back of it and
165 the side of it.

166 Mr. Wright - Let me make sure I have where you are.

167 Mr. Baka - What is your street address?

168 Mr. Robinson - I'm the property north of this lot that they have.

169 Mr. Blankinship - 10121 Highview?

170 Mr. Robinson - Yes. I own that. I own the one with the house on it
171 and the two lots beside that.

172 Mr. Baka - Do you own the lot with the shed, directly north?

173 Mr. Robinson - That's right.

174 Mr. Baka - The lot with the shed, why is there a shed on that
175 property without another primary use on that parcel?

176 Mr. Robinson - I just got stuff stored in it.

177 Mr. Wright - What is your opposition, sir? You're just opposed for
178 any reason or?

179 Mr. Robinson - Well, are you all going to change the restrictions on
180 all the lots right in there or just this one?

181 Mr. Wright - No. Each case we take under consideration. Each
182 case stands on its own. If we approve this case that would not mean another
183 case that would come in would be automatically approved. This is a request for a
184 variance which applies only to this lot.

185 Mr. Robinson - All right. What about the septic fields and all that? Are
186 they going to seep over onto me because of the size of the lot?

187 Mr. Wright - No sir. They would have to be approved by the Health
188 Department and have to satisfy all the County requirements. I don't think the
189 Health Department would approve anything that would not be acceptable or that
190 would not perform properly.

191 Mr. Robinson - It's not going to bother my property if I decide to put
192 something there?

193 Mr. Wright - I wouldn't think so. No sir.

194 Mr. Blankinship - May I ask, Mr. Robinson, where is your septic
195 system?

196 Mr. Robinson - It's on the south side of the house there.

197 Mr. Blankinship - Okay.

198 Mr. Wright - If the property perks—and they would have to check
199 that all out, and the Health Department will have to check it. I wouldn't think the
200 County would approve it if it would not perform properly.

201 Mr. Robinson - Well, I own that big lot behind this one they're talking
202 about. There is water standing in there all the time. It's like a swamp there. It's
203 real swampy ground.

204 Mr. Wright - All right, sir. Anything further you would like to state?

205 Mr. Robinson - No sir.

206 Mr. Wright - All right, thank you very much for appearing. Is
207 anyone else in opposition to this request? All right. You have an opportunity to
208 rebut, if you desire. Do you have anything further you would like to state? All
209 right, sir, that concludes the case. Thank you very much for appearing.

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

213 Mr. Wright - Do I hear a motion?

214 Ms. Harris - I'm going to move that we approve this variance. We
215 know that the Cochran case probably would not apply because we have no
216 dwelling on the lot. Without this variance it's unbuildable. It seems that the
217 homeowners have done their part in trying to purchase more land that seems to
218 be owned by or managed by a bank. So I feel that we do need to grant this
219 variance.

220 Mr. Wright - All right, motion is made that we approve this
221 application. Is there a second?

222 Mr. Baka - Second.

223 Mr. Wright - Is there any discussion? Hearing none, all in favor
224 say aye. All opposed say no. The ayes have it; the motion passes.

225 After an advertised public hearing and on a motion by Ms. Harris, seconded by
226 Mr. Baka, the Board **approved** application **VAR2013-00005**, **9700 LLC's** request
227 for a variance from Section 24-95(e)(1) of the County Code to build a one-family

228 dwelling at 10109 Highview Avenue (GREENWOOD HEIGHTS) (Parcel 780-
229 766-7174), zoned R-4, One-Family Residence District (Fairfield). The total lot
230 area requirement is not met. The Board approved this variance subject to the
231 following conditions:

232 1. This variance applies only to the total lot area requirement for one dwelling
233 only. All other applicable regulations of the County Code shall remain in force.
234

235 2. Approval of this request does not imply that a building permit will be issued.
236 Building permit approval is contingent on Health Department requirements,
237 including, but not limited to, soil evaluation for a septic drainfield and reserve
238 area, and approval of a well location.
239

240 3. At the time of building permit application, the applicant shall submit the
241 necessary information to the Department of Public Works to ensure compliance
242 with the requirements of the Chesapeake Bay Preservation Act and the code
243 requirements for water quality standards.
244

245 4. The applicant shall obtain a driveway permit from the Department of Public
246 Works, and shall satisfy any requirements of that department for constructing a
247 driveway in the public right-of-way of Highview Avenue.
248

249
250 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
251 Negative: 0
252 Absent: 0
253

254
255 **[At this point, the transcript continues with the public hearing on the next**
256 **case.]**
257

258 **CUP2013-00020 ELKE IVIC** requests a conditional use permit
259 pursuant to Section 24-95(i)(4) of the County Code to allow an accessory
260 structure in the front yard at 222 Robin Avenue (ROBIN PARK) (Parcel 818-729-
261 4833), zoned R-3, One-Family Residence District (Varina).

262 Mr. Wright - Would all persons who desire to speak with reference
263 to this case, whether for or against, please stand and be sworn. And raise your
264 right hand, please.

265 Mr. Blankinship - Do you swear the testimony you're about to give is
266 the truth, the whole truth and nothing but the truth so help you God?

267 Mr. Wright - All right. Please state your name.

268 Ms. James - My name is Morgan James—J-a-m-e-s.

269 Mr. Wright - All right, please present your case.
270 Ms. James - We have a garage that we recently erected in our
271 front yard after acquiring a rather nice Corvette. I spent months going back and
272 forth with the Planning Department and Zoning Department trying to find a way
273 to put it in the rear of the yard. With the way that our house was constructed on
274 the lot and the space available on the left, and the fact that the septic tank is so
275 close to that, and the fact that there was so much standing water on the right
276 side, the only place available for such a building was in the front of the house. I
277 was told by the Planning Department to basically go ahead and do it and see if
278 there would be a complaint. They told me that it was unlikely.

279 I spoke to three people on the east and the west, and they said that there wasn't
280 really anywhere I could put it. I spoke to the neighbor on the left and the right
281 side of my house, and they both agreed that there would be no problem, and
282 they were okay with it. They actually acted like it was strange that I would ask
283 them, but they really had no problem whatsoever. And so I didn't ask anybody
284 else because it seemed like it really wasn't a problem. There are other properties
285 on the block that have similar structures in the front yard.

286 Mr. Wright - How far back is this from the road?

287 Ms. James - A hundred and fifty feet.

288 Mr. Wright - You say it's about 150 feet from the road?

289 Ms. James - Yes. It's a very, very long lot. Very narrow.

290 Mr. Wright - Is there any screening on the side of the garage away
291 from the house?

292 Ms. James - The entire lot is quite wooded. We're actually trying to
293 build up the woods in front of the house a little. You can see it if you're standing
294 at the driveway. We tried to move it as far to the left behind the woods as we
295 could. But like I said, there's very little space over there. We basically set it five
296 feet from the property line, which was the minimum.

297 Mr. Wright - Now I understand, Mr. Blankinship, no building permit
298 was required for this construction because of the size.

299 Mr. Blankinship - That's correct. An accessory structure under 200
300 square feet does not require a building permit. That used to be 150 square feet;
301 it was changed just in the past few years.

302 Ms. James - We made as small and as un-obstructive as we
303 possibly could. We tried to match the house in color. And, like I said, it's as small
304 as I could make it and fit the car inside.

305 Mr. Wright - This is just a one-car garage.

306 Ms. James - Yes sir.

307 Mr. Nunnally - It says on this thing here that you talked to both your
308 neighbors about this before you built it.

309 Ms. James - Yes, both sides.

310 Mr. Wright - Have you read the conditions that have been
311 proposed?

312 Ms. James - No sir, I did not.

313 Mr. Blankinship - There are two of them in this case.

314 Mr. Wright - If this case is approved, it would be subject to these
315 conditions, and I wanted you to be able to read them to ensure that you are in
316 accord with these conditions. Or if you have any questions about these
317 conditions you should so state.

318 Ms. James - This basically says that if it remains we're not allowed
319 to change it? Is that right? That's no problem. I just want to protect my car.

320 Mr. Wright - In other words, if this is approved, if you were going to
321 make any changes you'd have to come back before the Board. You couldn't
322 enlarge or do anything else with it.

323 Ms. James - That's no problem. Honestly, it's so small that very
324 few cars can fit inside. If I no longer own the car, I would take it down.

325 Mr. Wright - All right. Any questions from members of the Board?

326 Ms. Harris - Yes, I have one. You know that the County received
327 complaints. This is why we were alerted to what was going on. So evidently you
328 didn't talk to the people who complained.

329 Ms. James - Obviously. And we were surprised. We were very
330 surprised that there had been complaints. Nobody came to us with a problem.
331 Nobody spoke to us at all. I work from home; I'm there all the time. We're not
332 hard to find.

333 Ms. Harris - Can you see any type of negative impact on the
334 neighborhood?

335 Ms. James - No, we really can't. We tried to match, like I said, the
336 house as best we could. Yesterday, we spoke to the neighbor on the left (as you

337 look at the house). They seemed surprised also. She said why would there be a
338 problem; it looks like your house.

339 Ms. Harris - Is there a neighbor behind this house?

340 Ms. James - I'm sorry?

341 Ms. Harris - Do you have neighbors in the rear of the house?

342 Ms. James - No, no, no. Those are woods.

343 Ms. Harris - Those are woods?

344 Ms. James - Deep woods.

345 Mr. Wright - What are those pictures you just put on the screen?

346 Mr. Blankinship - There are two other houses not far from this one on
347 the same side of the street that have carports in the front yard.

348 Mr. Wright - So that violates the ordinance.

349 Mr. Blankinship - Yes sir. As far as I know, they were not issued use
350 permits or anything.

351 Mr. Wright - Not approved.

352 Ms. James - I was actually advised that by the Planning
353 Department when I was trying to figure out what to do here.

354 Mr. Wright - All right. Any further questions from members of the
355 Board? All right. Is there anyone here in opposition? I think we had some people
356 in opposition. Would you come forth, please, and state your opposition? Please
357 state your name for the record.

358 Ms. Karnes - Carla Karnes—K-a-r-n-e-s.

359 Mr. Wright - Yes ma'am.

360 Ms. Karnes - Good morning. We are opposed to the conditional
361 use permit for the—

362 Mr. Blankinship - Excuse me. Could you pull that microphone down just
363 a little bit?

364 Mr. Wright - Thank you.

365 Ms. Karnes - We are opposed to the conditional use permit for the
366 metal garage, their accessory structure, in the front yard because we feel that it

367 essentially will decrease property values in the area because it creates a visual
368 obstruction in the front of the property and potentially fall into a state of disrepair
369 like at least one other metal structure currently located on the property in the
370 rear.

371 We fell that the County code is clear, and our ZIP code should not dictate
372 whether the code is applied or not just because we're in Eastern Henrico. We
373 value our home and responsible homeownership, and we are proud and are
374 trying to maintain our values.

375 Mr. Wright - Please state your name.

376 Mr. Karnes - Kenneth W. Karnes—K-a-r-n-e-s.

377 Mr. Wright - Yes sir. Thank you.

378 Mr. Karnes - We have different photos that show a little bit different
379 layout than the pictures you have.

380 Mr. Wright - If you want to present those, you may present them to
381 us and we'll take a look.

382 Ms. Karnes - We're across the street from them, so it is clearly
383 visible.

384 Mr. Wright - Where do you live in reference?

385 Mr. Karnes - We live in front across the street.

386 Mr. Baka - 213?

387 Ms. Karnes - Yes.

388 Mr. Karnes - All the garages in that neighborhood, building, are
389 behind. The one carport that you showed that was in front of the house was built
390 before the new codes.

391 Mr. Wright - You said it was built before? What do mean built
392 before the new codes?

393 Mr. Karnes - They did it before the new code came out. We tried to
394 stop it and they couldn't stop it. It's further up on Robin Avenue.

395 Mr. Wright - Would you address that, Mr. Blankinship? I don't
396 understand that.

397 Mr. Blankinship - That requirement has been in code since 1960.

398 Mr. Karnes - They approved it. It's a carport.

399 Mr. Blankinship - We have to do some research.

400 Mr. Karnes - There's another picture of the neighbor's house
401 across the street. He went through all this with his property.

402 Mr. Wright - Would you please state your name, sir.

403 Mr. Hendrick - My name is Michael Hendrick. I live at 230 Robin
404 Avenue, which is two houses down from this house.

405 Mr. Wright - Yes sir.

406 Mr. Hendrick - I proposed to build a shed in my backyard at one
407 time. According to them, they wouldn't let me do it because they told me
408 because I was going to have an overhead steel door that was capable of a car
409 driving in it, I have to have a concrete pad. And they denied it. So as you can
410 see, I ended up building over a \$40,000 garage because of it. And my carport is
411 even with the front of my house. When I come out of the front of my house and
412 stand on my porch, I'm looking at the shed—or garage; excuse me—that's in
413 front of the house. My question is, is this going to be the first metal garage in a
414 front yard of a house in Henrico County?

415 Mr. Wright - Again, as I stated before, we consider each case on
416 its own merits, and everyone can apply to do whatever they desire to do. We just
417 have to consider the circumstances.

418 Mr. Hendrick - I mean, there are a few trees. But when there is no
419 foliage on the trees—or even the trees now. When I walk out on my front porch
420 and I look to the right, I'm looking at this metal building.

421 Mr. Wright - The County Code permits construction of a garage or
422 whatever, carport, in the front yard if this Board approves it as a use. That's why
423 we're listing to all the evidence. We have to take all of this into consideration.

424 Mr. Hendrick - I understand.

425 Mr. Wright - Yes sir.

426 Mr. Hendrick - But I was also told by my next door neighbor that he
427 was under the understanding that this was going to be a carport. Not a full metal
428 building, just a carport, just like I own. And I have no objections to that. To me, a
429 carport is not an eyesore. But this is an eyesore. My carport is even with the front
430 of my house like it's supposed to be.

431 Mr. Wright - I assume you had to get a building permit.

432 Mr. Blankinship - The code requires it to be in the rear of the house.
433 The side yard also requires this same approval.

434 Mr. Hendrick - I was told at the time as long as it was even with the
435 front of the house that I was fine.

436 Mr. Wright - That's not the code. Did you get a building permit
437 when you built your carport?

438 Mr. Hendrick - I'm not sure. I couldn't tell you. It's been so long ago I
439 couldn't tell you.

440 Mr. Baka - You mentioned that it was an eyesore. I'm just trying
441 to understand your concern. The carport you have, you can see the car, you can
442 see through, you can see whatever's in it. And when you have the enclosure on
443 the subject property, 222, help me understand what makes that an eyesore.

444 Mr. Hendrick - Well, for one thing, it's sitting out in front of the house,
445 and it's a garage in front of a house. There's not a garage in our neighborhood
446 sitting in front of a house. All garages are behind the house.

447 Mr. Baka - And if this were a carport you said—

448 Mr. Hendrick - If it was a decent carport and there was a car parked
449 under it, I don't have no problem with that because I can see through that and it
450 doesn't bother me. This bothers me.

451 Mr. Baka - Because you can't see through it.

452 Mr. Hendrick - Well, number one, like I said, it has an overhead
453 door, it has a car parked in it. And they wouldn't even let me build a shed in my
454 backyard because they said I could park a car in it and I needed a concrete
455 foundation. It was going to be a shed. And just because I had an overhead steel
456 door like that, they told me that I had to have a concrete foundation. And I was
457 denied.

458 Mr. Baka - You keep saying *they*. I'm just trying to understand
459 your objection.

460 Mr. Hendrick - I went to get a building permit because I bought this
461 building from Lowe's. And it was a big shed. That's all it was. It was a shed, a big
462 shed. And when I went to get the building permit, they denied my building permit
463 because they said I was capable of being able to park a car in it because I had
464 an overhead steel door like that. And they denied it and told me I had to have a
465 concrete pad poured before they would allow me to do it. That has an overhead
466 steel door. It's sitting in the driveway; there's no concrete pad there. I mean, I
467 was denied and they just put that up and it's okay?

468 Female - [Speaking off microphone.] It just appears that it was
469 just randomly set in place.

470 Mr. Wright - It depends on the size, as Mr. Blankinship has said. If
471 it's under certain size it doesn't require a building permit. Yours evidently, was
472 large enough to require a building permit and that's why you got into all of that.

473 Mr. Hendrick - I understand that. But, you know, I wasn't going to
474 park a car in it, and I tried to explain that to them.

475 Mr. Wright - I understand.

476 Mr. Hendrick - It was just for lawn equipment only. That's all it was
477 for was to store lawn equipment in. They denied it, and I had to go back to
478 Lowe's and get my money back. The building was already paid for, the whole
479 nine yards. Whatever. It is what it is.

480 Male - [Speaking off microphone.] It's a metal building. You
481 look at the space. That can be moved back like a regular garage. It could be
482 behind the house. They would still have enough room to build a driveway to get
483 into it.

484 Ms. Karnes - [Speaking off microphone.] [Inaudible.]

485 Mr. Wright - Would you please come up—

486 Ms. Karnes - It just seems like it could be relocated easily behind
487 the home. Because of the driveway they could just, you know, drive back with no
488 problem.

489 Mr. Hendrick - Put gravel down and extend the driveway.

490 Ms. Harris - Excuse me. Ms. Karnes, wouldn't you still see it,
491 though?

492 Ms. Karnes - Not if it was behind the home.

493 Mr. Hendrick - Behind the house it wouldn't be a problem. It would
494 be like a normal garage.

495 Ms. Karnes - Not sitting in the front of the yard.

496 Ms. Harris - Okay. The two of you live at 213 and 217? Is that
497 correct?

498 Mr. Hendrick - Yes.

499 Ms. Karnes - No. We're at 213. Mr. Hendrick is at—

500 Mr. Hendrick - I'm at 230. The addresses there are kind of messed
501 up.

502 Ms. Harris - Okay.

503 Mr. Hendrick - They're not exactly in order.

504 Ms. Harris - So you're two doors down from it.

505 Mr. Hendrick - I live two doors down.

506 Ms. Karnes - There are no other properties in the area that have a
507 solid building, metal or any other type of material, in the front of the property.

508 Ms. Harris - What about 234?

509 Mr. Blankinship - That's a carport.

510 Ms. Harris - Okay.

511 Mr. Baka - So if this were a larger carport you wouldn't have an
512 objection to it? If it were a 500-square-foot carport.

513 Mr. Hendrick - No, a carport wouldn't be a problem. But being a
514 closed garage—it's a garage. Everybody else has obeyed code and built their
515 garages behind their property or even with their property.

516 Mr. Wright - Even with the property doesn't cut it.

517 Mr. Hendrick - Well, the County approved it.

518 Mr. Karnes - Mine's behind the property.

519 Mr. Wright - If it's in the side yard or the front yard, you would
520 have to come before this Board to get a use permit.

521 Mr. Karnes - Both of our garages are actually behind our houses.
522 All the sheds that are on our street are actually behind the houses.

523 Mr. Nunnally - Are there any more houses down there with garages
524 in front of the house or attached to the house? I'm talking about the whole street
525 there.

526 Mr. Karnes - No sir. There are none that are attached.

527 Mr. Hendrick - No sir. Going up the street, the only other thing we
528 have is there is another carport. As far as a structural building in front of the
529 house, no sir. I don't know that there's one anywhere in the whole neighborhood.
530 I've ridden around the whole neighborhood looking, and I haven't seen a building
531 in the front yard yet. We're not the only ones opposed to it; they're just not here.
532 We have a community watch. And pretty much everybody we've talked to,
533 they're opposed to having this in the neighborhood due to property values. And

534 actually a Henrico policeman is the one that started this for us, which is our
535 neighborhood watch policeman. Hey, it is what it is.

536 Ms. Karnes - And we have been there—

537 Mr. Karnes - We've been there twenty years, and he's been there
538 longer than that in the neighborhood.

539 Ms. Karnes - And it is a nice quiet wooded almost park-like setting.
540 We just want to maintain aesthetically that view, that sense that you get on our
541 street. It is quiet. It's wooded. There are animals. You want to maintain that and
542 not have structures.

543 Mr. Hendrick - I don't understand why the garage wasn't build beside
544 or behind.

545 Mr. Wright - I was going to ask you that question. Would you have
546 any objection if this were moved to the side of the house?

547 Mr. Hendrick - No. There would be no problem.

548 Mr. Karnes - No sir.

549 Mr. Wright - In the side yard.

550 Mr. Hendrick - It would be no problem. You would just extend the
551 driveway and go right into it like a normal garage. There would be no problem
552 with that.

553 Mr. Wright - All right.

554 Mr. Hendrick - Would you want that in your front yard, get up first
555 thing in the morning and see that thing sitting out there? That's fifteen or twenty
556 feet in front of where the house is.

557 Ms. Karnes - [Speaking off microphone.] And we have one other
558 photo that shows the difference in the amount of space between the building and
559 the home. And right now there's lots of shrubbery and trees kind of blocking it.
560 But leaves will be falling soon. There is a lot of room there.

561 Mr. Wright - All right, sir. Is there anything further you wish to
562 state? I understand what you're saying and we have it in the record.

563 Mr. Hendrick - This is the idea we want to maintain the
564 neighborhood. The neighborhood is going down as it is now. If we continue, it's
565 going to be a bad situation.

566 Ms. Karnes - We're just concerned that if one exception is made, it
567 will continue. And then next there will be another structure or a play set or some
568 other type of large object not suitable to be in the front of a property.

569 Mr. Wright - All right.

570 Ms. Harris - Mr. Wright, before they move. In this evaluation for
571 the staff report, it says there are examples of accessory structures located in the
572 front and side yards of neighboring lots. Do you know what they were—?

573 Mr. Blankinship - That would be the carports.

574 Ms. Harris - The carports they're talking about.

575 Mr. Blankinship - There's one at 234 and one at 230. The one at 234 is
576 in the front yard; the one at 230 is in the side yard.

577 Ms. Harris - And they are carports.

578 Mr. Blankinship - Yes ma'am.

579 Ms. Harris - Okay.

580 Mr. Hendrick - Now this one that you have up there now, that's his
581 house. That's beside the house. That's not ahead of the house.

582 Mr. Wright - All right. Anything further you wise to state?

583 Mr. Hendrick - No sir.

584 Ms. Karnes - No sir.

585 Mr. Wright - Thank you very much for appearing. All right, ma'am,
586 you have an opportunity to rebut.

587 Ms. James - I'd just like to point out that I did state at the beginning
588 that the only place we could have put it was in the front because the side has got
589 ten feet before the property line. And in that ten feet is the septic drain field,
590 basically, right behind there. In one of the images I supplied it actually shows the
591 air conditioning unit beside the house and the septic tank, which is right there
592 also, right behind that end.

593 Mr. Wright - Which side is the septic tank on?

594 Ms. James - On the left right behind the L there. So the drain
595 field—no, no, no. Much closer to the house. There were extensions built onto the
596 house after the septic—.

597 Mr. Wright - Could you put this on the side of the house?

598 Ms. James - There is only ten feet there.

599 Mr. Wright - How about the other side?

600 Ms. James - That's like swampland. There is a lot of standing
601 water constantly. You can't even walk there without being in rubber boots. I did
602 discuss all of this with the Planning Department ahead of time to try and find out
603 if there was something we could do. With regards to the metal shed that's in
604 disrepair in the back of the yard already, that was there when we moved in. We
605 moved in three years ago, and we have actually been trying to fix that up,
606 basically.

607 Mr. Wright - All right. Is there anything further you wish to state?

608 Ms. James - We're not trying to make an eyesore; I just want to
609 protect my car.

610 Mr. Wright - All right. Thank you very much for appearing. That
611 concludes the case. We will decide it at the end of the docket.

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

615 Mr. Wright - Do I hear a motion on this case?

616 Mr. Nunnally - Mr. Chairman, I move we approve this conditional use
617 permit as it will not make a negative impact on the neighborhood or the
618 community, and there are quite a few structures out there on both sides of the
619 street in the neighborhood with a similar condition.

620 Mr. Wright - Motion has been made we approve it. Is there a
621 second?

622 Mr. Baka - I'll second it, and I also have a comment. I second the
623 motion made by Mr. Nunnally because I understand there are constraints on the
624 west side of the house from only being ten feet from the property line. And there
625 was also discussion from the applicant about poor drainage on the eastern side.
626 Therefore, I would second that motion.

627 Mr. Wright - Okay, motion seconded. Is there any discussion?

628 Ms. Harris - This would be easier for me to vote on if the owners
629 of the property would consider tearing down the accessory structure that is in
630 need of repair and building this. And I'm concerned, too, about the neighbors.

631 Mr. Wright - Well we could make that a condition, if you wanted to.

632 Mr. Baka - If the applicant agrees to it, you can make that a
633 condition, correct?

634 Mr. Blankinship - Yes. We would have to get the applicant to agree.

635 Ms. James- [Inaudible.] The structure in the rear that was
636 discussed as being in disrepair is actually where we park our riding mower. So if
637 we remove it entirely, we wouldn't have anywhere to put that because, like I said,
638 the structure in the front is just the right size for the car. Would we be able to
639 repair it or replace it?

640 Mr. Wright - What is your concern, Ms. Harris?

641 Ms. Harris - I was hoping that you would have a structure that
642 would accommodate the lawnmower and the car.

643 Ms. James - That would be lovely. We're kind of stuck between a
644 rock and a hard place here.

645 Ms. Harris - And you would have happy neighbors, too, who would
646 think that you were trying to upgrade the neighborhood.

647 Ms. James - Would we be able to—we can repair it or replace it
648 with something in the rear, but we can't get a car back there.

649 Ms. Harris - Okay. Why can't you get a car back there? You can
650 drive a riding mower back there, but you can't get a car back there.

651 Ms. James - It's a Corvette that's three inches off the ground. We
652 actually brought a car around the right side of the property a few months ago and
653 had to get a tow truck out to remove it because it sunk.

654 Ms. Harris - So the building that's in need of repair is on the right
655 side?

656 Ms. James - In the rear, yes. Way in the rear in the woods.

657 Mr. Wright - We could put in a condition that it be repaired, if you
658 want.

659 Ms. Harris - Okay.

660 Ms. James - We were planning to repair and paint it. We weren't
661 happy with it when we moved in. We've been kind of trying to decide what to do
662 with it.

663 Ms. Harris - Would you be amenable to our adding a condition
664 that you would repair that—

665 Ms. James - Yes, of course.

666 Ms. Harris - —that accessory structure that's in disrepair.

667 Ms. James - No problem. Yes.

668 Ms. Harris - Okay.

669 Mr. Wright - All right.

670 Mr. Baka - May I ask a related question to the applicant at this
671 time?

672 Mr. Wright - Does it have to do with this?

673 Mr. Baka - It has to do with the garage. We didn't discuss any—
674 there was no discussion about any screening or landscaping next to the garage,
675 correct? There was not? Okay, thanks.

676 Ms. James - I would be happy to put up a screen or trees or—.

677 Mr. Blankinship - It may be in your best interest.

678 Mr. Wright - All right. Any further discussion? I understand the
679 motion would now include, Mr. Nunnally, that they would repair that shed. Do you
680 agree to put that within your motion to add a condition that the shed would have
681 to be repaired? Is that acceptable?

682 Mr. Nunnally - Repaired or replaced.

683 Mr. Wright - All right. All in favor say aye. All opposed say no. The
684 ayes have it; the motion passes.

685 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
686 Mr. Baka, the Board **approved** application **CUP2013-00020, Elke Ivic's** request
687 for a conditional use permit pursuant to Section 24-95(i)(4) of the County Code
688 to allow an accessory structure in the front yard at 222 Robin Avenue (ROBIN
689 PARK) (Parcel 818-729-4833), zoned R-3, One-Family Residence District
690 (Varina). The Board approved this conditional use permit subject to the following
691 conditions:
692
693

- 694 1. This conditional use permit applies only to the placement of a one-car garage,
695 not exceeding 200 square feet in size, on the southern side of the front yard. All
696 other applicable regulations of the County Code shall remain in force.
697
- 698 2. Only the improvements shown on the plot plan filed with the application may
699 be constructed pursuant to this approval. Any additional improvements shall

700 comply with the applicable regulations of the County Code. Any substantial
701 changes or additions to the design or location of the improvements shall require
702 a new conditional use permit.

703
704 3. [Added] The metal storage building in the rear yard shall be repaired or
705 replaced within 60 days.

706
707
708 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
709 Negative: 0
710 Absent: 0

711
712
713 **[At this point, the transcript continues with the public hearing on the next**
714 **case.]**

715
716 **VAR2013-00006 S & L CREATIVE VISIONS, LLC** requests a variance
717 from Section 24-94 of the County Code to replace the existing building at 837
718 Azalea Avenue (Parcel 788-744-0451), zoned B-2, Business District (Fairfield).
719 The front yard setback is not met. The applicant proposes 5 feet front yard
720 setback, where the Code requires 15 feet front yard setback. The applicant
721 requests a variance of 10 feet front yard setback.

722
723 Mr. Wright - Anyone desiring to speak on this case, whether for or
724 against, please stand and be sworn. Please raise your right hand and be sworn.

725 Mr. Blankinship - Do you swear the testimony you're about to give is
726 the truth, the whole truth and nothing but the truth so help you God?

727 Mr. Townes - I do.

728 Mr. Wright - Please state your name for the record.

729 Mr. Townes - My name is Sampson L. Townes. I am the owner of
730 that piece of property, 837 Azalea Avenue.

731 Mr. Wright - All right, sir, please state your case.

732 Mr. Townes - That particular property, the building that exists there
733 we would like to renovate. It's an old building, been there quite a while. It doesn't
734 meet the guidelines. It's set to the close to the sidewalk. There's only a five-foot
735 setback from the sidewalk. There is actually a requirement that I meet the
736 guidelines that it needs to be further back off the sidewalk. There is a building
737 there I would like to renovate. I bought that piece of property back in 2006 and
738 am trying to improve the area. I own the building next door. I improved that

739 particular building, and I would like to do the same for this particular building so I
740 could put it to use. It's been sitting vacant since I purchased that property.

741 Mr. Wright - Do you propose to tear that building down entirely or
742 what do you propose?

743 Mr. Townes - Well, I would like to renovate the building the way it
744 exists. But if you notice, on the front side there, before I bought the property it
745 had some damage on the front side. Termites had actually destroyed that front
746 side there. To bring that up to code, I'll have to go in there and do some
747 renovation on that front side. And also, that particular building doesn't have a
748 foundation. It seems like when they built that building they just laid cinderblocks
749 and they built the building.

750 Mr. Blankinship - That's what they did.

751 Mr. Townes - And the floor is not level. I need to actually do some
752 work there to bring that up to code so the property can be used.

753 Mr. Blankinship - But is any of the building able to be saved?

754 Mr. Wright - Please state your name for the record.

755 Mr. Manson - Andre Manson—M-a-n-s-o-n. I am the designer for
756 Mr. Townes. Looking at the building through my evaluation there is very little, if
757 any at all, that can be salvaged.

758 Mr. Blankinship - Why don't you just rebuild the building back in
759 conformance with the setbacks? Just build a new building fifteen feet from the
760 prior building.

761 Mr. Manson - I don't think that would be a problem. I think the only
762 concern I would have is making sure that we meet the setbacks off the rear of
763 the property. I want to say it's about maybe forty feet, but it backs up to a park.
764 So I just need to have some clarification whether we can go ahead and make the
765 building possibly the same size but not encroach on the rear of the setbacks.

766 Mr. Wright - Mr. Blankinship, I believe in your report that you state
767 that they could build this size building back so it would conform to the
768 requirements and it would not need a variance.

769 Mr. Blankinship - Yes sir. There is a rear yard setback, but the code
770 states that as long as you're not abutting residences, the rear yard setback can
771 be met in the side yard instead. And you also own the lot to the east, 835.

772 Mr. Townes - Yes sir. Actually, I own both of those lots. I own 835
773 and 833.

774 Mr. Blankinship - And 833 is zoned residential, so there you'd start to
775 run into issues. Given that you could combine this with 835, there's quite a bit of
776 room there to meet the setback.

777 Mr. Wright - Sounds like you will have to remove this old building,
778 tear it down, and replace it with a new building. It's that what you're testifying?

779 Mr. Townes - Yes sir, that's what we would like to do.

780 Mr. Wright - So when you rebuild it, why couldn't you set it back so
781 it would conform to the code?

782 Mr. Townes - We could do that, yes. I think at first we were just
783 trying to salvage the property. We thought it might be a little cheaper until we
784 actually investigated it a little bit more and realized that it was in the condition it
785 was.

786 Mr. Wright - So since you'll be required to remove this existing
787 building, you can build a new one and it would conform to the requirements of
788 the code. Is that correct?

789 Mr. Townes - That's correct, sir.

790 Mr. Wright - So then you don't need this variance.

791 Mr. Manson - [Speaking off microphone.] I guess not.

792 Mr. Townes - That's correct.

793 Mr. Wright - Okay. All right. Any further questions from members
794 of the board?

795 Ms. Harris - Mr. Townes, since you've owned the property, have
796 you noticed any accidents at that little peak there? I often wonder why that sticks
797 out. The retail business and then this.

798 Mr. Townes - Since I've own that piece of property, I haven't had
799 any problems with accidents there. There's enough parking area there where
800 you can pull in and you can see down on the—to the right and also to the left. It
801 does stay close to the road, but I'm working based on what I have.

802 Ms. Harris - The County's line stops where?

803 Mr. Townes - Actually where you see it highlighted there. That
804 yellow line.

805 Mr. Blankinship - Go to the site map; it might show it. The green there
806 is the county-city boundary, and the red is their property.

807 Ms. Harris - Are you thinking about tearing down the retailing
808 establishment and rebuilding that one too.

809 Mr. Townes - I just renovated that.

810 Ms. Harris - Okay. So the answer is no.

811 Mr. Townes - When I first bought that piece of property it ran as a
812 convenience store. I'm a police officer. And since I bought that piece of property,
813 the city of Richmond, the park, I actually went over and talked with the staff over
814 there. They are happy because I took it from a convenience store with alcohol,
815 the lottery, and all that stuff, and changed it to a regular retail store. And I just
816 sell mattresses and furniture, new and used. And it actually improved their
817 neighborhood. There was all kinds of stuff going on in that area before I took it
818 over. So the people in that neighborhood, they're happy. I've had no complaints
819 from anybody in that neighborhood from anything going on over there.

820 Mr. Wright - Any further questions from members of the Board?
821 Anything further you wish to state?

822 Mr. Townes - No.

823 Mr. Wright - Thank you very much for appearing. Is there anyone
824 here in opposition to this request? That concludes the case.

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

828 Ms. Harris - We said they do not need a variance.

829 Mr. Wright - This is the one that they agreed that they could move
830 it back so that it would not be necessary.

831 Ms. Harris - So do we need to deny this?

832 Mr. Blankinship - Yes.

833 Ms. Harris - I move that we deny the case because they do not
834 need a variance to rebuild this structure.

835 Mr. Bell - Second.

836 Mr. Wright - All right. Any further discussion? All in favor say aye.
837 All opposed say no. The ayes have it; the motion passes. That is denied
838 because they don't need it.

839 After an advertised public hearing and on a motion by Ms. Harris, seconded by
840 Mr. Bell, the Board **denied** application **VAR2013-00006, S & L Creative**
841 **Visions, LLC's** request for a variance from Section 24-94 of the County Code to
842 replace the existing building at 837 Azalea Avenue (Parcel 788-744-0451),
843 zoned B-2, Business District (Fairfield). The front yard setback is not met.
844

845
846 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
847 Negative: 0
848 Absent: 0
849

850
851 **[At this point, the transcript continues with the public hearing on the next**
852 **case.]**
853

854 **CUP2013-00021 EASTERN HENRICO RURITAN CLUB** requests a
855 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
856 allow a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768), zoned A-1,
857 Agricultural District (Varina).

858 Mr. Fifer - My name is Tom Fifer—F-i-f-e-r.

859 Mr. Wright - All right. Hold on just a second. Anyone desiring to
860 speak with reference to this case, either for or against, please stand and be
861 sworn.

862 Mr. Blankinship - Would you raise your right hand, please? Do you
863 swear the testimony you're about to give is the truth, the whole truth and nothing
864 but the truth so help you God?

865 Mr. Fifer - I do.

866 Mr. Wright - All right, sir, please state your case.

867 Mr. Fifer - Every year we have a turkey shoot at the Eastern
868 Henrico Ruritan Club as a fundraiser for our club, which is a totally charitable
869 organization. We put quite a bit of money back into the community. All of this
870 money does go to charity that we raise off of this turkey shoot. The only objection
871 I can see to having it—we've had it for years. I've been a member for ten years,
872 and they've had it all ten years, and they've had it many years prior to my joining.
873 There have never been any problems that I'm aware of. The only objection that I
874 can tell is the neighboring residents that are off from the Dabbs House property,
875 on Friday night when you start shooting shotguns, they get a little upset and will
876 call the police. We generally make it a point to call the police prior to shooting to
877 let them know that we are commencing our turkey shoot and they are going to
878 get some telephone calls so they can calm the people down when they start

879 calling. But it's a Friday night event, and it's pretty much every Friday from
880 October to December.

881 Mr. Blankinship - Have you ever tired notifying the neighbors in
882 advance?

883 Mr. Fifer - Well, there are a lot of neighbors. I don't know how
884 we'd notify them all unless we go door to door. But no, we never had tried that.
885 We do notify the police, though, that we're commencing our turkey shoot. And
886 they're aware of it, so if people call, they calm them down and let them know that
887 it's an organized event and everything seems to be all right.

888 Mr. Blankinship - Well, they were notified of this hearing. We sent them
889 a notice.

890 Mr. Fifer - Well thank you.

891 Mr. Wright - Have you read the proposed conditions to this case,
892 sir?

893 Mr. Fifer - I think so, yes sir. The ones that are on this paper I
894 have?

895 Mr. Wright - It should be.

896 Mr. Fifer - Yes sir.

897 Mr. Wright - I just want to ensure that you're in accord with these
898 conditions.

899 Mr. Fifer - Yes sir. I have and we are.

900 Mr. Wright - You are. Okay.

901 Mr. Blankinship - In fact, they've already provided the insurance
902 certificate.

903 Mr. Wright - Anything further you wish to state?

904 Mr. Fifer - No, unless you have some questions.

905 Mr. Wright - All right. Any questions from members of the Board?

906 Ms. Harris - Yes. What's the range of the shotguns?

907 Mr. Fifer - What's the range?

908 Ms. Harris - Yes.

909 Mr. Fifer - I'm not quite sure. I understand a shotgun has a
910 killing range of 50 yards, and we're over 300 feet from the adjoining property line
911 that we're shooting toward. And that property line happens to be another
912 property owned by Henrico County. They have an equipment storage area back
913 there. And they've never had any complaints in all these years of shotgun shells
914 reaching—pellets reaching their property. We do use low-powered shells. That's
915 specified in the conditions he was just speaking about. We have to go purchase
916 those, but I've been holding off waiting to see if we got a permit to do so.

917 Ms. Harris - I need you to look at the area photo. Is this the area
918 photo that we're seeing now?

919 Mr. Fifer - Yes ma'am.

920 Ms. Harris - Okay. I know that we said that the firing line position
921 is at third base, and the target position is at first and second. Show us, please,
922 where that is.

923 Mr. Fifer - Right there where you are drawing your line. That's
924 between home plate and third base. And that's where our firing line is set up. We
925 have sixteen positions set up there. And then if you go on back on the diamond
926 to first base, right about there, from first base to second base is where we have
927 our targets set up. And then on back beyond that you have all the outfield and
928 that fenced area. And then there's the Henrico County area where they have
929 some equipment storage back there or something. We've never had any
930 problems with any damage or any structural problems of any kind back there.

931 Ms. Harris - We don't want to have any damage before we make
932 changes, though.

933 Mr. Fifer - Oh no.

934 Ms. Harris - That's not good. You said there's a fenced area here?

935 Mr. Fifer - Yes ma'am. Going straight up the first base line,
936 that's a fence line there. No. That's a line there, but there is no fence there. The
937 fence ends at first base, right about there. Come on back to home plate a little
938 bit. Right where the dirt ends. Right in there is first base, and you come straight
939 across to the left. It'll be second base, and then third base coming around the
940 diamond.

941 Ms. Harris - What is the construction of the fencing?

942 Mr. Fifer - I'm sorry?

943 Ms. Harris - What is the construction of the fencing?

944 Mr. Fifer - Chain link.

945 Ms. Harris - Okay. So it wouldn't stop a pellet.

946 Mr. Fifer - Oh, no ma'am. No ma'am. It wouldn't stop pellets.
 947 That's our firing line between—I mean not our firing line. Our target is between
 948 first base and second base, and we have sixteen targets set up. And on the firing
 949 line between home plate and third base there are sixteen firing positions that we
 950 shoot from. We only issue two shells at a time. The first shell is to the shooter,
 951 and the second shell is to the man that's going to shoot next. The person that's
 952 going to shoot second is instructed—and watched—not to insert that shell until
 953 it's his turn to shoot. He won't insert it into his shotgun until it's his turn to shoot.
 954 He will step to the firing line, insert his shell, and fire. And then the third and right
 955 on down to the sixteenth shooter.

956 Ms. Harris - Okay. Mr Fifer, why do you keep using this property?
 957 Have you all ever explored using something more rural?

958 Mr. Fifer - Well our clubhouse is just to the right, as we're
 959 looking at it here, the ball diamond. And we have a building erected on it where
 960 we sign the shooters up for their shooting. That building right there is our
 961 clubhouse. And just to the left of it—it's not in that picture; that's an older
 962 picture—there is a smaller building that we've erected. It's on skids so if we need
 963 to we can move it; it's not a permanent structure. And we sign our shooters up at
 964 that building. And when they pull the targets, they come into it and judge them
 965 also in that little shed type of structure. And that's why we hold it there. That's
 966 where we do all of our business, and that's our clubhouse. And the County has
 967 always been gracious enough to let us use that property. We erect the targets
 968 and the firing line, and we take them down prior to baseball season. This year we
 969 had a problem getting it down. It rained so much we couldn't get out there to get
 970 it down. And someone from the County Maintenance Department came by, and
 971 hooked a tractor to it, and pulled it all up for us. We were very appreciative of
 972 that. We never had an opportunity to take it down because of the rain this
 973 season.

974 Mr. Nunnally - Mr. Fifer, isn't that the same layout you had there for
 975 the last thirty years?

976 Mr. Fifer - Yes sir, yes sir. It's been quite a while they've been
 977 doing this in the same situation.

978 Mr. Wright - When was that subdivision constructed,
 979 Mr. Blankinship?

980 Mr. Baka - Do you have an idea when those homes were built,
 981 sir?

982 Mr. Fifer - No sir. They've been there for a long time, though.
 983 Right down to the left are more fields and some woods, and the there's a
 984 subdivision.

985 Mr. Wright - I'm just curious as to how long those houses have
986 been there. I don't think we've ever had anybody come to the Board in opposition
987 to this request over the years.

988 Mr. Fifer - Not to my knowledge. Mr. Courtney has been doing
989 this for us for years, obtaining this permit. This is my first time. I wasn't quite sure
990 what I needed to bring with me.

991 Mr. Blankinship - Some of them were as recent as 2006, and some
992 them are as old as 1913, so I guess it's a mixture. I'll just read along the abutting
993 property line: 1932, 1937, 1924, 1913, 2006, 1961, 2006, 2007, 1939. It's a mix
994 of old and new.

995 Mr. Wright - What's the one that's been built the latest, what year?

996 Mr. Blankinship - I see a 2006 and 2007.

997 Mr. Wright - That's seven and six years.

998 Mr. Blankinship - Yes sir.

999 Mr. Fifer - We've had that same picture there of 2006 that will
1000 have our little building that we sign up on. It's been built for seven years now.

1001 Mr. Wright - All right. Anything further you wish to—

1002 Mr. Bell - They've been doing this since the early '70s because
1003 I was a police officer out there where we had our headquarters. We were getting
1004 complaints from neighbors. But once again, it was sparse. We did not have a
1005 subdivision, per se; just had houses. But they were starting to put in the
1006 subdivisions somewhere in the mid '70s.

1007 Mr. Wright - Well, when you received the complaint, what was the
1008 result when you told them what it was?

1009 Mr. Bell - Most of them understood. Some of them didn't like it.

1010 Mr. Fifer - That's the only complaint I've ever heard of is the
1011 neighbors complaining about firearms going off in the neighborhood.

1012 Mr. Blankinship - Just because they didn't know what it was.

1013 Mr. Fifer - They didn't know. The East End of Henrico has some
1014 shooting going on occasionally, and people do get excited. I can't blame them.

1015 Mr. Wright - All right. Anything further? Any other questions?

1016 Mr. Baka - I have a question. When the projectiles are fired out
1017 towards first and second bases, every spring is there a need to pick up or clean
1018 up the area in right field there in order to play baseball?

1019 Mr. Fifer - Yes sir.

1020 Mr. Baka - Do people go out and clean up the shells?

1021 Mr. Fifer - The shells? The shells are generally ejected close to
1022 the firing line. And we do police them every evening, put them in a big box, and
1023 bring them in.

1024 Mr. Baka - Okay.

1025 Mr. Blankinship - Do you mean the shells or the shot?

1026 Mr. Baka - I guess both. I guess talk about the shells and then
1027 the shot.

1028 Mr. Fifer - Well, we can't police the shot. I mean the shot is just
1029 scattered all through the grass and the grounds.

1030 Mr. Baka - So it just sinks into the soil, that's why it's non-lead
1031 based. Another question would be if someone shows up—there's a condition #3
1032 about a 12-gauge shotgun. What's your proper procedure if someone shows up
1033 with a gun more powerful than that, and they say they want to use it?

1034 Mr. Fifer - We don't let them shoot that gun.

1035 Mr. Baka - All right.

1036 Mr. Fifer - We have a house gun. If they want to go ahead and
1037 shoot, we'll let them shoot a house gun, which is a 12-gauge gun.

1038 Mr. Baka - That's good.

1039 Mr. Fifer - But if they have something, a 10-gauge or larger
1040 gauge, we will not let them shoot that gun.

1041 Mr. Baka - Very good.

1042 Mr. Blankinship - Does anyone bring their own ammunition?

1043 Mr. Fifer - No, no. That's one of our rules. They have to use our
1044 ammunition. Everybody uses the same shells so we know that you haven't
1045 home-packed something extra and extra powder. So we use low-grade field
1046 shot, and everybody uses the same shell.

1047 Mr. Wright - All right, sir. Anything further? Any questions from
1048 members of the Board? Again, is anyone here in opposition to this request?
1049 Hearing none, that concludes the case. Thank you very much for coming.

1050 Mr. Fifer - Thank you.

1051 **[After the conclusion of the public hearings, the Board discussed the case**
1052 **and made its decision. This portion of the transcript is included here for**
1053 **convenience of reference.]**

1054 Mr. Nunnally - Mr. Chairman, I move we approve this conditional use
1055 permit. This event has been going on for quite a long time. I don't believe I've
1056 ever heard of any complaints about it since I've been on this Board. So I move
1057 we approve it.

1058 Mr. Wright - Is there a second?

1059 Mr. Bell - I second.

1060 Mr. Wright - Motion is made and seconded. Any discussion?
1061 Hearing no discussion, all in favor say aye. All opposed say no. The ayes have it;
1062 the motion passes.

1063 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1064 Mr. Bell, the Board **approved** application **CUP2013-00021, Eastern Henrico**
1065 **Ruritan Club's** request for a conditional use permit pursuant to Section 24-
1066 116(c)(1) of the County Code to allow a turkey shoot at 3808 Nine Mile Road
1067 (Parcel 806-723-4768), zoned A-1, Agricultural District (Varina). The Board
1068 approved this temporary conditional use permit subject to the following
1069 conditions:

1070
1071 1. Hours of operation shall be limited to 6:00 pm to 10:00 pm on Fridays,
1072 October through December, and on the Wednesday before Thanksgiving Day,
1073 2013 and 2014. This permit shall expire on December 31, 2014.

1074
1075 2. No firearm shall be discharged within 300 feet of any lot occupied by a
1076 dwelling, or across any road or street, or within 300 feet of any building other
1077 than buildings on the same parcel.

1078
1079 3. The turkey shoot shall only involve the use of shotguns no larger than 12
1080 gauge and low powered (2-3/4") shells containing shot approved by the
1081 Department of General Services.

1082
1083 4. The land shall be clearly posted to show where shooting will occur.

1084
1085 5. Sufficient off-street parking shall be provided for all cars visiting the premises.

1086

1087 6. No alcoholic beverages may be consumed on the site during the turkey shoot.
1088 A sign to this effect must be conspicuously posted in the immediate vicinity of the
1089 shooting area. No person under the influence of alcohol, as defined in Section
1090 18.2-266 of the Code of Virginia, may be permitted in the shooting area.

1091 7. Restrooms shall be provided.

1092
1093
1094 8. This use permit shall not be effective until the applicant and the County enter
1095 into a license agreement or memorandum of understanding, which shall include
1096 an indemnification and hold harmless in favor of the County, its elected officials,
1097 employees, agents and volunteers.

1098
1099 9. The applicant shall provide general liability insurance in the minimum amount
1100 of \$1 million per occurrence, \$2 million aggregate, naming the County of Henrico
1101 as an additional insured. This coverage shall be primary to the additional
1102 insured and to any self-insurance or insurance afforded to the County of Henrico.

1103
1104
1105 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1106 Negative: 0
1107 Absent: 0

1108
1109
1110 **[At this point, the transcript continues with the public hearing on the next**
1111 **case.]**

1112
1113 **CUP2013-00022 GLENDA SCHROEDER** requests a conditional use
1114 permit pursuant to Section 24-12(e) of the County Code to allow a private
1115 noncommercial kennel at 10724 Pruett Lane (MAGNOLIA RIDGE) (Parcel 781-
1116 770-4663), zoned R-2AC, One-Family Residence District (Conditional) (Fairfield).

1117 Mr. Wright - Would anyone interested in this case, either for or
1118 against, please stand and be sworn.

1119 Mr. Blankinship - Raise your right hands, please. Do you swear the
1120 testimony you're about to give is the truth, the whole truth and nothing but the
1121 truth so help you God?

1122 Ms. Schroeder - Yes.

1123 Mr. Wright - All right, thank you very much. Please state your
1124 name for the record.

1125 Ms. Schroeder - Glenda Schroeder—S-c-h-r-o-e-d-e-r.

1126 Mr. Wright - All right, Ms. Schroeder, please present your case.

1127 Ms. Schroeder - Yes. I'd like to request a conditional use permit for a
1128 noncommercial kennel at my residence. I have seven Cavalier King Charles
1129 spaniel dogs that are show dogs and therapy dogs. And yes, I do breed them as
1130 well. That's in the packet as well. I'd like to do the request for the permit to allow
1131 for the noncommercial kennel.

1132 Mr. Wright - You have how many dogs at this moment on your
1133 property?

1134 Ms. Schroeder - I have seven.

1135 Mr. Wright - Seven. And what are the ages of these dogs?

1136 Ms. Schroeder - From ten years of age to ten months of age.

1137 Mr. Wright - How many are in the range of ten years?

1138 Ms. Schroeder - I have one that's ten, one that's nine, two that are
1139 seven, one that's three, one that's two, and then the ten months.

1140 Mr. Wright - So those you propose to keep. Do you have any
1141 puppies at this point?

1142 Ms. Schroeder - I have one puppy that is not going to be kept.

1143 Mr. Wright - And how long will you have that puppy?

1144 Ms. Schroeder - About another—she's five weeks old, so.

1145 Mr. Wright - So the idea is that puppy would be sold to someone.

1146 Ms. Schroeder - Yes. Well actually it's going to be placed with a friend
1147 of mine who's a breeder.

1148 Mr. Wright - Okay. So right now you have seven including the
1149 puppy.

1150 Ms. Schroeder - Seven plus the puppy. Seven adult dogs over four
1151 months of age.

1152 Mr. Wright - The puppy is in addition.

1153 Mr. Blankinship - She's not counting the puppy.

1154 Mr. Wright - You're not counting the puppy.

1155 Ms. Schroeder - Correct.

1156 Mr. Wright - Okay.

1157 Ms. Schroeder - Because it's under the four months.

1158 Mr. Wright - What is our rule with respect to puppies,
1159 Mr. Blankinship?

1160 Mr. Blankinship - Four months. Any animal over four months counts
1161 toward the total.

1162 Mr. Wright - Okay. All right. Now, are these dogs kept inside all
1163 the time or most of the time?

1164 Ms. Schroeder - They're kept inside when we're not home. They're
1165 crated in the house when we're not home. And then they have access to the yard
1166 through a doggie door when we are home. And at night there are four that are
1167 crated and three that are left out. The three older ones.

1168 Mr. Wright - So three are left out all night?

1169 Ms. Schroeder - Yes. And they sleep in our bedroom. And they have
1170 access to go outside. I have two that are in congestive heart failure. The two
1171 older ones are on heart meds, they are on a diuretic and have to have access to
1172 go outside to relieve themselves frequently.

1173 Mr. Wright - Now there's something in our report about the
1174 breeding of dogs. Would you address that?

1175 Ms. Schroeder - Yes. But I'm not certain what you want me to address
1176 on that.

1177 Mr. Wright - Well, do you breed dogs?

1178 Ms. Schroeder - I do. We've lived in the house, on the property for ten
1179 years. And in ten years I've had five litters, a total of twenty puppies, eight that
1180 have been sold for monetary purposes. The rest have been placed with the sire,
1181 which is the father of the litter for breeding fee type thing. And I've kept four. And
1182 then five puppy [unintelligible] to people.

1183 Mr. Wright - There seems to be information on the Internet—we've
1184 been supplied with it—that you do breed. Do you breed every year?

1185 Ms. Schroeder - No. I've lived there ten years, and I've had five litters.

1186 Mr. Wright - So in ten years—

1187 Ms. Schroeder - I mean I would try to do every year. We've had some
1188 family health issues. In '09 my dad died of cancer, and so I was out in Arizona a
1189 lot with him. And then I had one that aborted a litter, breedings that didn't take.

1190 Mr. Wright - Mr. Blankinship, would you address the breeding
1191 issue?

1192 Mr. Blankinship - Well, it's one of those issues that's not very clear-cut
1193 the way it's written in our code. The permitted use that your hearing this morning
1194 is noncommercial kennels for the keeping of animals by the occupant of the
1195 property. So at what point does breeding become a commercial activity is the
1196 question. A commercial kennel or a breeding kennel would be allowed in an
1197 agricultural district or in some of the business districts. A boarding kennel, for
1198 example, would be a use in a business district. A noncommercial kennel is not
1199 intended to be those things. People who have dogs have litters of puppies.
1200 Sometimes they give the puppies away and sometimes they sell them. At what
1201 point does that become a commercial venture is the question. And that's not
1202 clearly defined in our code; it's just something that the Board needs to hear the
1203 evidence and determine case by case whether what is being proposed here is a
1204 noncommercial kennel for the keeping of animals by the occupant of the
1205 property. The standard condition that we recommend on cases like this is a little
1206 bit more blunt than that. It states the approval is not for the boarding or breeding
1207 of dogs at any time. But again, the question is what exactly is *breeding of dogs*.
1208 The mere owning of dogs that have puppies is not necessarily breeding.

1209 Mr. Wright - Commercially.

1210 Mr. Blankinship - This case makes me a little uncomfortable because it
1211 seems to come closer to that line than many of the cases that we've brought
1212 before you in the time I've been here.

1213 Mr. Wright - Have you read the conditions?

1214 Ms. Schroeder - Yes.

1215 Mr. Wright - Are you in accord with these conditions?

1216 Ms. Schroeder - Yes.

1217 Mr. Blankinship - So you don't consider your activity to be breeding.

1218 Ms. Schroeder - No. I mean, I don't do it as a monetarily way to do it. It
1219 do it for the breed. These dogs are a part of our family. And we show them, and
1220 we do it for the betterment of the breed. I don't do it just to—trust me, I don't
1221 make money at it. If I did, I would have a commercial state license. But I don't. I
1222 work full time as well, so I don't do it for a monetarily gratifying reason. There's
1223 no profit in it at all.

1224 Mr. Wright - Going forward what would be your intent with respect
1225 to breeding?

1226 Ms. Schroeder - I generally have one litter about every two years,
1227 about every other year.

1228 Mr. Wright - You say you're not doing this for business purposes?

1229 Ms. Schroeder - No, no.

1230 Mr. Wright - —the purposes of earning money.

1231 Ms. Schroeder - No. I make no money at it at all.

1232 Mr. Blankinship - But you do sell the puppies.

1233 Ms. Schroeder - Yes. I mean I want them in the right home. And yes,
1234 the ones that aren't kept or aren't given to other breeder friends, that are pet
1235 quality, I do place those for sale.

1236 Mr. Wright - But you do not sell them all. Is that right?

1237 Ms. Schroeder - No.

1238 Mr. Wright - You try to place them first and sell what—

1239 Ms. Schroeder - I sell the ones that are not to our breed standard or
1240 would not make—I have homes that I will give dogs to that are therapy-dog
1241 quality on temperament testing. We temperament test all the puppies.

1242 Mr. Wright - Would you please describe your dogs for the record?

1243 Ms. Schroeder - They are a small toy breed. They are in the toy breed
1244 classification under AKC. They are thirteen to eighteen pounds on average and
1245 twelve inches at the shoulder. They're a companion dog, that's why they make
1246 great therapy dogs.

1247 Mr. Wright - I understand. I've seen some information—

1248 Ms. Schroeder - You can see from the photos they're not large.

1249 Mr. Wright - You do place them to help with therapy on occasion.

1250 Ms. Schroeder - We visit a local nursing home and assisted living
1251 facility every Saturday and Sunday with the dogs.

1252 Mr. Blankinship - There are some photographs in the packet, but not in
1253 the presentation.

1254 Mr. Wright - All right. Anything else you wish to state?

1255 Ms. Schroeder - I just want to say we've lived there for ten years and
1256 have never had a complaint from the neighbors around us at all. Never had an
1257 animal control or a police report or anything.

1258 Mr. Wright - Do you know Mrs. Cassandra Willis?

1259 Ms. Schroeder - No. Well, I know she's my neighbor, but no, I do not
1260 personally know her.

1261 Mr. Wright - Do we know where she lives?

1262 Ms. Harris - Next door.

1263 Ms. Schroeder - Next door.

1264 Mr. Wright - Next door.

1265 Ms. Schroeder - The gray house on the right.

1266 Mr. Wright - Can we make this letter available? Have you seen the
1267 letter?

1268 Mr. Blankinship - It's in the packet.

1269 Ms. Schroeder - Yes.

1270 Mr. Wright - You've seen the letter.

1271 Ms. Schroeder - Yes.

1272 Mr. Wright - How would you address what she says or the
1273 objections she has?

1274 Ms. Schroeder - I would have to object to the—let me just reread it
1275 here real quick. The incessant barking. I mean, they're not outside except for
1276 when we're home. They may bark, just like any dog would, if somebody comes
1277 up and they can visually see you. Generally, though, in the evening if I hear them
1278 barking I bring them in the house if they're outside. They do not bark all night. If
1279 that was the case, I think I would have had the police knocking on my door.

1280 Mr. Wright - She says they also "bark at night when we're trying to
1281 sleep."

1282 Ms. Schroeder - There are three that are left out. And if they bark it's
1283 because they've seen something outside. I mean, they don't bark. If they bark,
1284 it's not all night long; I can guarantee that. This past Saturday I was out with the
1285 dogs for about forty-five minutes. The gentleman next door was out for probably
1286 a good thirty minutes out on his deck, and they didn't once bark at him.

1287 Mr. Wright - Does your neighbor have a dog?

1288 Ms. Schroeder - No. Not that I'm aware of.

1289 Mr. Wright - Okay. Has she ever complained to you about the
1290 barking?

1291 Ms. Schroeder - No sir.

1292 Mr. Wright - She never has?

1293 Ms. Schroeder - No sir.

1294 Mr. Wright - All right. Anything further you desire to offer?

1295 Ms. Schroeder - No, that's it.

1296 Mr. Wright - All right. Any questions?

1297 Mr. Bell - Yes, I have some questions. You have a litter about
1298 every two years? What is the average size of a litter for that sized puppy?

1299 Ms. Schroeder - The average for the breed is four.

1300 Mr. Bell - Four?

1301 Ms. Schroeder - Four. And most of mine are two. I had the one little of
1302 nine and a litter of five.

1303 Mr. Bell - How long do you normally keep them before you give
1304 them away or sell them?

1305 Ms. Schroeder - Between twelve and sixteen weeks.

1306 Mr. Bell - Okay. So then at any given time you can wind up
1307 having eleven.

1308 Ms. Schroeder - Yes sir. For like four months.

1309 Mr. Bell - What's the chance of having the four puppies still with
1310 you at age sixteen weeks?

1311 Ms. Schroeder - Rarely. I usually place them around twelve weeks.

1312 Mr. Bell - Outside. At any given time are they all out there?

1313 Ms. Schroeder - At times, yes. There are dogs that are house dogs,
1314 and they don't tolerate temperature changes a lot. So when it's extremely hot like

1315 this, they generally go out, relieve themselves—the younger ones might stay out
1316 a little bit longer, but my older ones generally come right back in.

1317 Mr. Bell - How about odor problems?

1318 Ms. Schroeder - Pardon?

1319 Mr. Bell - Have there ever been any complaints about odor
1320 problems?

1321 Ms. Schroeder - No sir.

1322 Mr. Bell - I believe you said there have been no complaints
1323 about any of it.

1324 Ms. Schroeder - No, no complaints at all. In fact, I have a disc of a
1325 video that I have. There's a shepherd that lives behind my property two doors
1326 down that barks. And my dogs visually see them from the deck, and they're not
1327 even reacting at all. And it's probably a 90-pound-plus German shepherd. They
1328 don't even react to him at all.

1329 Mr. Bell - Of the dogs that you have now, how many do you
1330 breed—I mean females

1331 Ms. Schroeder - There are two intact female and intact males. The
1332 rest are all neutered or spayed.

1333 Mr. Bell - And how old are they?

1334 Ms. Schroeder - The youngest one is a ten-month-old male who is
1335 intact. And then the female, the oldest female is a three-year-old female. And my
1336 oldest male that's intact is seven.

1337 Mr. Bell - And I understand you also show the dogs.

1338 Ms. Schroeder - Yes sir. They're AKC champion dogs.

1339 Mr. Bell - Thank you.

1340 Mr. Wright - Any further questions?

1341 Ms. Harris - Yes. You have information on the Internet about
1342 these dogs, about your show dogs, do you not?

1343 Ms. Schroeder - Yes.

1344 Ms. Harris - Do you offer them for sale on the Internet?

1345 Ms. Schroeder - The puppies, yes.

1346 Ms. Harris - Okay. So you don't think you're operating as a
1347 commercial kennel by doing that?

1348 Ms. Schroeder - It depends on your definition of *commercial*. If
1349 *commercial* is any transaction that you take money, then yes, it is commercial.

1350 Ms. Harris - Okay. And you say you have no problem with
1351 Condition 1 that says this approval is not for the boarding or breeding of dogs at
1352 any time?

1353 Ms. Schroeder - Correct. If that's what the Committee decides, yes.

1354 Ms. Harris - What are you going to do about your breeding if this
1355 were approved?

1356 Ms. Schroeder - We would probably move out of the County, actually,
1357 if that was the case. You know, down the road.

1358 Ms. Harris - So at any one time how many dogs might you have?

1359 Ms. Schroeder - Seven adults.

1360 Ms. Harris - How many?

1361 Ms. Schroeder - Seven adult dogs.

1362 Ms. Harris - After the breeding, after the puppies?

1363 Ms. Schroeder - Yes.

1364 Ms. Harris - While you're trying to sell them in that twelve to
1365 sixteen-week period, how many might you have?

1366 Ms. Schroeder - Including the puppies or not including the puppies?
1367 I'm not clear on your question, I guess.

1368 Ms. Harris - Including the new litter, yes.

1369 Ms. Schroeder - On average probably ten. With puppies under four
1370 months of age. The puppies are in the house until they're like six to eight weeks
1371 of age.

1372 Ms. Harris - Okay. If the Willis's had spoken to you about the
1373 disturbing barking, what could you have done?

1374 Ms. Schroeder - I could keep those dogs in at night, as well as when
1375 they're outside not—you know, control the dogs. The challenge we have is our
1376 deck is parallel to their deck. We have a six-foot fence around our property, and
1377 it's actually probably at the height of the six-foot fence. When they come out on

1378 their deck, which is right over to the left here, the dogs can see them and will go
1379 down to the end of the deck.

1380 Ms. Harris - We've had other cases like this before us.

1381 Ms. Schroeder - Yes ma'am.

1382 Ms. Harris - And I think one dog owner said that if the dogs are
1383 content there would be no barking. Do you agree with that?

1384 Ms. Schroeder - No ma'am. Dogs do a warning bark. Any kind of a
1385 pack animal will do a warning bark for anything that changes within their
1386 environment. I don't know if any of you have dogs, but if somebody comes and
1387 rings your doorbell, they probably all bark. Any kind of a noise or a visual
1388 stimulation, they will bark. And my dogs go to work with me. I'm actually the
1389 general manager for Holiday Barn Pet Resort, so I take one to two dogs a day to
1390 work with me as well.

1391 Ms. Harris - Okay, those were my questions.

1392 Mr. Bell - You have read the suggested conditions?

1393 Ms. Schroeder - Yes sir.

1394 Mr. Bell - Can you adhere to them?

1395 Ms. Schroeder - Yes sir.

1396 Mr. Wright - You understand Condition 2 that as your older dogs
1397 die off you cannot replace them?

1398 Ms. Schroeder - Yes sir.

1399 Mr. Wright - And so that's satisfactory? You don't—

1400 Ms. Schroeder - I mean I don't like it, but I can agree to that, yes.

1401 Mr. Wright - But you don't intend to replace them to continue to
1402 breed.

1403 Ms. Schroeder - No. No, not within these conditions in the property
1404 that we're at now.

1405 Mr. Wright - Okay. All right. Any further questions from members
1406 of the Board? Do you have anything further to offer?

1407 Ms. Schroeder - No sir.

1408 Mr. Baka - I have one brief question. Excuse me. Thank you,
1409 Mr. Chairman. You mentioned about one litter every other year and say you're
1410 not a breeder. Typically, about how often would a breeder have litters?

1411 Ms. Schroeder - They would have litters three to ten times a year, like
1412 a regular breeder.

1413 Mr. Baka - Thank you.

1414 Mr. Wright - Is anyone here in opposition to this request? Yes,
1415 please come forward.

1416 Ms. Willis - Good morning. I am Cassandra Willis. I live at the
1417 property adjacent to the property in question. I, of course, do not agree with what
1418 was stated about barking or I would not be here. They bark a lot. They don't bark
1419 all night long. But we have noticed that since this issue has come across there is
1420 not as much barking as there was. She spoke about my husband coming out on
1421 the deck. We do not use our deck in our backyard as much because of the
1422 barking. I have two small children who we have to allow to play in the front yard
1423 instead of the back yard because of the barking. She may be more accustomed
1424 to that because that's her passion, dogs. But seven dogs bark. I mean, you can
1425 imagine that seven dogs bark. Although the law or the regulations are not
1426 counting the dogs under a certain age, there are puppies. While she — have
1427 them there in the past, there can be the adult dogs and all the puppies at one
1428 time. So when we come out on our deck or if we turn on the side light or the one
1429 in the backyard, they bark. My husband was out there one day, and they went
1430 crazy over a bee. They do calm down much more when they are outside. But
1431 even at night with the tree dogs coming out, we can hear them. I mean, we can
1432 hear them. And so it is a nuisance. I have a letter from our homeowners
1433 association—which I think was submitted already, but I do have copies—saying
1434 that they voted on Tuesday night to unanimously support my petition to deny the
1435 kennel application, as noted that the regs—somebody mentioned that it limits
1436 breeding and what do we define as breeding. I also have our general restrictions
1437 from our homeowners association that talks about businesses that can't be
1438 detectible by sight or sound. And it also talks about dogs, as well as anything
1439 that's a nuisance to neighboring lots. We are opposed.

1440 Mr. Blankinship - We have not seen the letter from the homeowners
1441 association. If you want to submit any of the other—

1442 Mr. Gidley - [Speaking off microphone.] I suggested that she pass
1443 it out at the meeting.

1444 Ms. Willis - I have copies.

1445 Mr. Blankinship - Oh, it's in an e-mail? Okay.

1446 Ms. Willis - Right. They just met.

1447 Mr. Gidley - [Speaking off microphone.] Actually I think it's on the
1448 other side of the paper.

1449 Mr. Blankinship - Well let me just read this into the record:

1450 Ms. Willis, the Magnolia Ridge Board of Directors met last night to discuss
1451 this issue. While the association governing documents do not limit the
1452 number of household pets, the board of directors unanimously supports
1453 your petition to Henrico County to deny the owner's application for a
1454 kennel. The kennel would be a potential nuisance, which is prohibited by
1455 the association.

1456 And that's addressed by Dave Hering (H-e-r-i-n-g) and dated Wednesday,
1457 August 21st.

1458 Mr. Wright - Ms. Willis, one thing I wanted to point out. The
1459 applicant can have three dogs. So if they got rid of all the other dogs—you say
1460 there are three out at nighttime that bark. That would perfectly legitimate under
1461 our County Ordinance.

1462 Ms. Willis - Right. We've tolerated it.

1463 Mr. Wright - If they kept those three dogs and were able to
1464 dispose of all the rest of them, those three dogs are evidently the ones that
1465 would be out and could bark. That's permitted by the County ordinance that you
1466 can have three dogs. You can have three dogs or three animals. Any
1467 homeowner can have three. That always presents a problem because dogs bark.
1468 If people have three of them, there's nothing in particular that you can do about
1469 that. I just wanted to point that out. If the three that are outside are the ones
1470 barking, they would be permitted to have these by removing the rest of them that
1471 are in the house, that would not curb the barking.

1472 Mr. Willis - I'm Larry Willis—W-i-l-l-i-s. The only thing I'd like to
1473 add—she spoke earlier. We did not approach our neighbors about the barking.
1474 We have a three-year-old. When we moved in two years ago, he was one year
1475 old. It was very difficult. I'll be honest, I don't know how to approach a neighbor
1476 about a barking issue related to the dogs. They are beautiful dogs. My kids love
1477 the dogs. The challenge is how do you have that conversation with a neighbor
1478 when you know that it is a passion. Secondly, as far as having three dogs, the
1479 neighbors behind us have two dogs, and they will bark if they see me. But they
1480 stop after a while. The neighbor with the German shepherd, that dog is a bit
1481 more aggressive, but it's a single dog. And after a while, just because of the tree
1482 line, he can't see you. My concern is that I have a cigar every night. I adjust my
1483 behavior according to their dogs. And so that's how we've kind of dealt with it.
1484 The request for the kennel license kind of elevates the apprehension with what is
1485 allowed by the license.

1486 So we understand that there is barking and there will be barking. It is three dogs
1487 versus ten dogs barking at one time.

1488 Mr. Wright - Have you observed more than three dogs out in the
1489 yard barking for any extended period of time?

1490 Mr. Willis - Yes. I actually made one recording just for posterity
1491 sake. It was five minutes consecutive.

1492 Mr. Wright - And how many dogs were involved in that episode?

1493 Mr. Willis - I couldn't tell you.

1494 Mr. Wright - But there were more than three.

1495 Mr. Willis - It was more than one. And again, we've adjusted our
1496 behavior. The side of our house, if you open our blind on the side, I have my
1497 easy chair there and I'm watching television. If they're on the deck and we have
1498 the blinds open and the lights on, well they can see in the Florida room and in
1499 our living room. So we shut all our blinds. So we are making the
1500 accommodations to prevent the barking.

1501 Mr. Wright - All right. Any other questions?

1502 Ms. Harris - Mr. Willis, I noticed that the Magnolia Ridge Board of
1503 Directors is addressing this issue, but not for three dogs; they're addressing the
1504 issue of a kennel. That's what we're here to address.

1505 Mr. Gidley - [Speaking off microphone] Ms. Harris, on the second
1506 page she defines what's being discussed by the Board.

1507 Ms. Harris - Right, okay. I just wanted to clear that up. If they had
1508 three dogs they would not be here? Is that correct? But for the application for a
1509 kennel you are here, and we're trying to deal with this the best way we can. You
1510 may have to come back to me for my next question because I've forgotten.

1511 Mr. Wright - Well, there's one thing in addressing this before a
1512 board made to understand all the implications. The word *kennel* always strikes a
1513 fear in the hearts of all homeowners when we put this out. This is the only way
1514 the County has found to address this issue when you want to have more than
1515 three. It doesn't mean you're supposed to breed them or you're supposed to
1516 have a business. It does sometimes cause a lot of confusion, so we have to deal
1517 with that.

1518 Ms. Harris - I thought of my question. What does the association
1519 do if they consider its homeowners in violation or if they make a specific request
1520 and it is not adhered to?

1521 Ms. Willis - There are all kinds of summons and fines and fees,
1522 and it could potentially lead to legal action.

1523 Ms. Harris - Okay. I think those were my questions.

1524 Mr. Wright - It doesn't appear from this memo we have that the
1525 association has anything to deal with this type of thing.

1526 Ms. Willis - We have some guidelines in reference to nuisance.
1527 And there are some guidelines in terms of pets being under the control of their
1528 owner in our homeowners association documents.

1529 Mr. Bell - But nothing directly to deal with the kennel.

1530 Ms. Willis - Correct.

1531 Mr. Blankinship - The number of pets.

1532 Ms. Willis - Correct. Which he states, I think, in the opening
1533 sentence. So you have to kind of interpret all the documents.

1534 Mr. Wright - Very difficult.

1535 Ms. Willis - It is. For both parties.

1536 Mr. Baka - And to clarify, the applicant may not be in any zoning
1537 violation, but it may be a question of whether there is a private covenant
1538 restriction.

1539 Ms. Willis - Yes and whether it's commercial versus
1540 noncommercial.

1541 Mr. Wright - I think Ms. Schroeder said that by agreeing to when
1542 the older dogs pass on they're not going to increase—they can't add any more
1543 dogs. So what that means, that condition means, is that they will eventually be
1544 down to three dogs because they can't replace any dog they have with another
1545 dog.

1546 Ms. Willis - But she did state that she would possibly be breeding
1547 again, so.

1548 Mr. Wright - Well I think she said about every two years she was
1549 breeding.

1550 Ms. Harris - She would be in violation of this Condition 1 if she
1551 breeds because Condition 1 says what? Approval is not for the boarding or
1552 breeding of dogs at any time. Now—

1553 Mr. Bell - She's agreed not to board and not to breed at that
1554 location.

1555 Mr. Wright - So she's agreed to that.

1556 Mr. Willis - But they would still be allowed to keep the seven
1557 dogs that they have now.

1558 Mr. Wright - Until they, by attrition, are gone.

1559 Mr. Bell - Pass on or sold or whatever.

1560 Mr. Willis - I guess I'm a little confused. I understand what you're
1561 saying, but the reason of having a kennel license is that you will be able to have
1562 more than three adult dogs.

1563 Mr. Wright - No.
1564

1565 Mr. Willis - No?

1566 Mr. Blankinship - Yes.

1567 Mr. Wright - Well, you have them at this moment. The Board is
1568 given the authority to put conditions when we grant these things. This condition
1569 says they can keep the seven dogs they have now, but they can't replenish as
1570 the dogs, which they will, pass on until they get down to three. And then they
1571 would only be permitted to have three. They cannot replace any dog that through
1572 some mishap or whatever is not there. Do you understand what I'm saying?

1573 Ms. Willis - So no breeding, no additional dogs.

1574 Ms. Harris - Would that make a difference in your objection?

1575 Ms. Willis - It would, if that was the condition.

1576 Mr. Wright - That is the condition.

1577 Ms. Willis - I mean if that actually happens.

1578 Mr. Wright - I'd like for you to read this condition. When we put
1579 this condition on, it will be enforced.

1580 Ms. Willis - So Condition 3, how does that happen? "The
1581 applicant shall maintain the property so that the noise and odors are controlled."
1582 How does that work?

1583 Mr. Wright - It means they try to do their best to eliminate the
1584 noise.

1585 Mr. Blankinship - In the worst case, if there were persistent complaints
1586 about that, we would have another public hearing before this Board called a
1587 show-cause hearing where any complainants would have an opportunity to
1588 express their complaints to the Board. The applicant would have an opportunity
1589 to respond to those complains. And then the Board could revoke the use permit
1590 at that hearing.

1591 Mr. Wright - Usually when we handle these, if somebody wants to
1592 have four dogs, five dogs, or whatever number of dogs they have over three,
1593 what the Board is trying to do is permit them to do that but not to permit them to
1594 replace a dog once a dog is gone so that they eventually will be down to three.

1595 Ms. Willis - So that she can have the seven now.

1596 Mr. Wright - But not replace any of these dogs once something
1597 happens to the dog, it's gone, until they get down to three. That would be the
1598 idea of this permit if we grant it.

1599 Ms. Willis - We don't like it, so you're not going to get us to say
1600 okay, we agree. We do not like it but—

1601 Mr. Wright - Well, this is sort of a compromise.

1602 Ms. Willis - Yes, it is.

1603 Mr. Wright - We're trying to do the best we can to accommodate
1604 homeowners and at the same time to protect the neighbors. This is the best way
1605 we've come up with, unless there's really a violent objection from many people.
1606 The Board would have to consider all of this. We haven't approved it, obviously,
1607 until we vote. I would just like to know how you feel about these conditions. It
1608 certainly improves the situation.

1609 Ms. Willis - It improves it moving forward, but it doesn't help the
1610 situation now.

1611 Mr. Wright - Except that they're asked to maintain the property so
1612 that noise and odors are controlled.

1613 Ms. Willis - And like I said, since she applied for the kennel
1614 permit, we have noticed a noticeable difference in the barking. We certainly have
1615 been appreciative of that. It has been considerably less than it was prior to that.

1616 Mr. Wright - Well, it sounds like she's trying to do all she can to
1617 accommodate you within what she's faced with with dogs that are naturally going

1618 to bark. But I would consider she would probably—when they go outside, just
1619 keep them there a short time to permit them to do what they need to do.

1620 Ms. Willis - And she has been, she has been.

1621 Mr. Wright - And once they're in the house, the barking shouldn't
1622 bother you too much. It's the ones that are outside. So there are things you can
1623 do to control it or limit it, I would say. Do you see what I'm saying? Anything else
1624 you wish to state? Thank you very much for appearing. Thank you. Do you want
1625 to say anything in rebuttal? Okay. That concludes the case. Thank you very
1626 much for appearing.

1627 **[After the conclusion of the public hearings, the Board discussed the case**
1628 **and made its decision. This portion of the transcript is included here for**
1629 **convenience of reference.]**

1630 Ms. Harris - I move that we approve this conditional use permit.
1631 The homeowners did agree to the condition where they would not breed dogs,
1632 which was one of the concerns of the Board. And also we have said—as we
1633 have said in previous cases—that eventually as the seven dogs age, when they
1634 get to three dogs, they would be in compliance with the County ordinance.

1635 Mr. Wright - All right, the motion's made. Is there a second?

1636 Mr. Baka - Second.

1637 Mr. Wright - Any discussion? Hearing none, all in favor say aye.
1638 All opposed say no. The ayes have it; the motion passes.

1639 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1640 Mr. Baka, the Board **approved** application **CUP2013-00022, Glenda**
1641 **Schroeder's** request for a conditional use permit pursuant to Section 24-12(e) of
1642 the County Code to allow a private noncommercial kennel at 10724 Pruett Lane
1643 (MAGNOLIA RIDGE) (Parcel 781-770-4663), zoned R-2AC, One-Family
1644 Residence District (Conditional) (Fairfield). The Board approved this conditional
1645 use permit subject to the following conditions:

- 1646
- 1647 1. This approval is only for the seven Cavalier King Charles spaniels owned
1648 by the property owners. The approval is not for the boarding or breeding of dogs
1649 at any time.
1650
 - 1651 2. No new or replacement animals may be added, so that the number of
1652 animals will be reduced by natural means to three, as allowed in a residential
1653 district, at which time this permit shall expire.
1654
 - 1655 3. The applicant shall maintain the property so that noise and odors are
1656 controlled.

1657
 1658
 1659 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
 1660 Negative: 0
 1661 Absent: 0

1662
 1663

1664 **[At this point, the transcript continues with the public hearing on the next**
 1665 **case.]**

1666

1667 **VAR2013-00007 CHARLOTTE VIA ALLRED** requests a variance from
 1668 Section 24-95(b)(5) of the County Code to build a one-family dwelling at 8002
 1669 Patterson Avenue (BEVERLY HILLS) (Parcel 758-741-2623), zoned R-3, One-
 1670 Family Residence District (Tuckahoe). The lot width requirement and total lot
 1671 area requirement are not met. The applicant proposes 6,200 square feet total lot
 1672 area and 60 feet lot width, where the Code requires 8,000 square feet total lot
 1673 area and 65 feet lot width. The applicant requests a variance of 1,800 square
 1674 feet total lot area and 5 feet lot width.

1675

1676 Mr. Wright - Is there anyone here in opposition to this request?
 1677 Please stand and raise your right hand.

1678

1679 Mr. Blankinship - Do you swear or affirm that the evidence you're about
 1680 to present is the truth, the whole truth and nothing but the truth so help you God?

1681 Ms. Allred - I do.

1682 Mr. Wright - All right, ma'am. Please state your name and then
 1683 state your case.

1684 Ms. Allred - All right. I'm Charlotte Via Allred—A-I-I-r-e-d. We have
 1685 always known this lot as a buildable lot. It's been in our family since 1936. We
 1686 just always knew it as a lot that you could put a house on. I'm going to let
 1687 Mr. Walker speak to the questions you have. He has the specifics on the house
 1688 that's proposed. And we're requesting the variance so that we can do this.

1689 Mr. Wright - Let me ask you a question. This exact lot has been in
 1690 its present existence since 1936?

1691 Ms. Allred - Yes. And here's the original flier for selling the lot.

1692 Mr. Wright - Could we look at that?

1693 Ms. Allred - Beverly Hills subdivision. My mom bought it.

1694 Mr. Wright - All right. Is there anything further you wish to state?

1695 Ms. Allred - I don't hear so well, so please speak for me. I'm sorry.

1696 Mr. Wright - So in other words, you have a lot that's been in
1697 existence since 1936, prior to the code.

1698 Ms. Allred - Say it again.

1699 Mr. Wright - I say it's been in existence prior to the time the
1700 ordinance was adopted by the County, which was 1960. So this lot was there,
1701 you say, since 1936. Is that correct?

1702 Ms. Allred - Yes. It's been in our family since 1936.

1703 Mr. Wright - Thank you.

1704 Mr. Baka - One question. Were there any plans in the past to
1705 ever build on the lot prior to today?

1706 Ms. Allred - We always thought that we could. And I know when I
1707 moved to Richmond that was one of the things that we talked about was whether
1708 I would buy the lot and put a house on it. It was just always in the back of my
1709 mind that that was there if any of us wanted it.

1710 Mr. Wright - All right, sir.

1711 Mr. Walker - Good morning. My name is Eric Walker—W-a-l-k-e-r.
1712 I am the builder that would potentially build the house on this lot. Again, just to
1713 restate, this lot is a lot that was recorded—or purchased back in 1936. Over the
1714 years, the Virginia Department of Transportation has purchased a right of way,
1715 which you can see on the plat on the screen, that impacted, obviously, the total
1716 lot area of this lot.

1717 Mr. Wright - All right. Any questions?

1718 Ms. Harris - Mr. Walker, could you address the wetland/water
1719 problem? How do you plan to solve that?

1720 Mr. Walker - That's a great question. I proactively met with Robin
1721 Wilder. She is an employee with Public Works. We met on site. And when she—
1722 basically, you meet with her prior to building to establish if there are any wetlands
1723 on your property. And she indicated that because of the way the Department of
1724 Transportation built the drainage and the pipe coming through it, it created a
1725 manmade wetland. And she indicated that we could go in and impact it in terms
1726 of putting in a culvert to cross over the easement or the drainage and access the
1727 property.

1728 Ms. Harris - What impact would that have on the neighboring
1729 properties?

1730 Mr. Walker - None. The majority if not all of the lots in the
1731 subdivisions have roadside ditches out front. And everybody, depending on the
1732 topography of the ditch, would have a culvert.

1733 Ms. Harris - Do you plan on using any fill?

1734 Mr. Walker - No ma'am. In fact, I was very surprised when I saw
1735 the comments. I took some pictures of the property. Just to speak to that
1736 comment, the ditch—if you're standing in Patterson Avenue and you look to the
1737 lot, there is a substantial drop off. That's the ditch. And then as you go further
1738 into the lot, the lot grade goes up. So basically what you would have is a
1739 situation where you would put a culvert there, you would create a driveway
1740 situation across the ditch. And then where the house is going to sit, the
1741 topography is substantially higher. And if you look at the picture that I presented.
1742 I took a picture from the fire station side. And the lot is basically the same topo—
1743 where the house would be is basically the same elevation as where the fire
1744 station is.

1745 Ms. Harris - Have you done this type of work before?

1746 Mr. Walker - In terms of building?

1747 Ms. Harris - When you build, having to deal with this type of
1748 topography.

1749 Mr. Walker - Yes ma'am, yes ma'am. Throughout the County. In
1750 fact, Mr. Blankinship probably can attest to this. I've been a builder in Henrico
1751 County since 1998, and my specialty is building in infill lots, existing lots that
1752 usually families have owned for many years, and there are usually some type of
1753 topography or drainage issues that you have to overcome. And I've been very
1754 successful for many years.

1755 Mr. Wright - Mr. Walker, have you read these conditions?

1756 Mr. Walker - I have.

1757 Mr. Wright - Can the applicant comply with all these conditions?

1758 Mr. Walker - Say again?

1759 Mr. Wright - Can the applicant comply will all these conditions if
1760 this is approved?

1761 Mr. Walker - The two conditions that I have some concern with are
1762 #3 when it speaks to brick. We're not opposed to using some brick, maybe a
1763 brick front. But there are houses in the Beverly Hills subdivision that are all vinyl
1764 siding or HardiPlank siding and not brick. But if that is a requirement of the

1765 Board, what I would suggest is that it be amended to say maybe brick front as
1766 opposed to all brick.

1767 Mr. Wright - So you would like to have that amended to brick front.

1768 Mr. Walker - Brick front. I'm in agreement with that. And then the
1769 second requirement, which is #10, speaks to curb and gutter. I would say that—
1770 again, every lot in Beverly Hills is roadside ditch. The issues that are presented
1771 on this lot today were made in part by what VDOT did on the road widening.
1772 They built the headwall and the ditch. And that really is what caused the
1773 problem. So I would ask that the curb and gutter be stricken as a requirement.

1774 Mr. Blankinship - Well the condition just says if required by VDOT or
1775 Public Works. If it's required, it's going to be required anyway.

1776 Mr. Walker - In a normal lot that didn't have these challenges, they
1777 wouldn't require it.

1778 Mr. Blankinship - Okay.

1779 Mr. Walker - Because it would be an existing subdivision with
1780 roadside ditch. So what I'm saying is if for some reason VDOT says it would be
1781 better for curb and gutter, that would be an impact on this lot that I don't think is
1782 fair.

1783 Mr. Blankinship - Well if they don't require it, this condition doesn't
1784 require it.

1785 Mr. Walker - But I'm open or exposed to Public Works or VDOT
1786 saying curb and gutter would be better for this one lot. And I think that would
1787 be—

1788 Mr. Baka - You're open to that with or without this condition.
1789 They're not going to look at this and make a decision based on what's in this
1790 text. They're going to make a decision based on the field conditions.

1791 Mr. Walker - Right. Which wouldn't normally be a consideration for
1792 a lot, an existing lot. That's the difference. This is an existing lot in an existing
1793 subdivision. I'm applying for a building permit to build a house. VDOT nor Public
1794 Works at that point would impact the lot and say now we want you to do curb
1795 and gutter. You follow me?

1796 Mr. Baka - I do, but—

1797 Mr. Wright - Is there any other curb and gutter along Patterson
1798 Avenue at that location?

1799 Mr. Walker - No.

1800 Mr. Baka - Not that I saw. I don't believe so.

1801 Mr. Wright - If there's no other curb and gutter—

1802 Mr. Baka - The fire station? Can you zoom in on that?

1803 Ms. Harris - Except the fire station.

1804 Mr. Walker - Right. But there are no other residences on—

1805 Mr. Baka - No other residences that I saw. So I guess what
1806 they're doing is they're saying if VDOT or Public Works says that curb and gutter
1807 should be extended—since this property is unique, it's next to the fire station, if
1808 there's a reason it needs to be extended for drainage then it should be done.
1809 That's all the condition is saying. Like Mr. Blankinship said, if they don't require it,
1810 then the condition doesn't require it. I guess I don't see the condition as being
1811 impactful, adversely impacting you.

1812 Mr. Walker - Well again, I'm not opposed to addressing any
1813 drainage issues. I want to be clear. What I am opposed to is taking the existing
1814 lot and now requiring it to extend curb and gutter. It's an existing lot. We're not
1815 going through subdivision approval, design approval. It's an existing lot that was
1816 impacted by VDOT widening the road, bringing culverts in and headwalls. What
1817 I'm proposing to do is to put in a culvert, create a driveway, and build a house on
1818 a lot that's similar to the adjacent properties.

1819 Mr. Wright - If this lot were built on in 1936, would curb and gutter
1820 been required?

1821 Mr. Walker - No.

1822 Mr. Blankinship - And Patterson Avenue would have been a lot farther
1823 away.

1824 Mr. Walker - True, true. But there's no other curb and gutter in this
1825 stretch of Patterson Avenue for a residence.

1826 Mr. Wright - All right. Any other questions?

1827 Ms. Harris - Yes. Do you have any problem with Condition 8 or 9,
1828 the driveway issue and the public water and sewer issue?

1829 Mr. Walker - No ma'am. Public water and sewer is available to the
1830 property on Patterson Avenue. And a permit or an approval from VDOT to
1831 establish a driveway would be a normal requirement.

1832 Mr. Wright - Any other questions?

1833 Mr. Baka - I have one. There is a property that fronts on Ocala
1834 Road that I saw when I drove by. It fronts on Ocala, but it also has lot width and
1835 lot frontage along Patterson, right there with the fence. Have you or the owner
1836 talked to the owner of that property on Ocala Road to ask for simply a lot line
1837 adjustment so this variance would not be needed?

1838 Mr. Walker - That's a great question. The answer is yes. I met with
1839 the owner and her nephew several times. She's lived there for a number of
1840 years. And two things to that. One, she didn't want to impact her vacant lot
1841 because that would be of value to her to sell at some point. So that was basically
1842 their issue with doing a lot line adjustment. Her 8004 Patterson Avenue lot would
1843 then definitely not be a buildable lot.

1844 Mr. Baka - I don't know if it's a buildable lot right now.

1845 Mr. Walker - Well, I think you would probably—

1846 Mr. Blankinship - It's the same situation as this one. They would have
1847 to apply for a variance, which has a strong case.

1848 Mr. Walker - Correct.

1849 Mr. Baka - So now we're looking at precedent? Okay.

1850 Mr. Walker - I'm sorry?

1851 Mr. Baka - I'm just curious if we're looking at a precedent here.
1852 The other question I have deals with the plat itself, the picture of the plat with the
1853 proposed sketch of the house on it. You mentioned earlier sir that VDOT or
1854 perhaps the County had come by at an earlier date and—right there in the front
1855 where it says headwall, had acquired some of the lot area.

1856 Mr. Walker - Correct.

1857 Mr. Baka - That appears to be recessed from those other two
1858 property lines. If you had that lot area now, do you know for sure whether or not
1859 that would have been enough land to put you over 15,000 square feet?

1860 Mr. Walker - It wouldn't have met the current or the exception
1861 standards.

1862 Mr. Baka - Okay.

1863 Mr. Walker - So I would have to apply for a permit. So, for
1864 example, the house that's on the corner, if they built the house today, that house
1865 would probably require a variance as well. This is a subdivision that was platted
1866 years and years and years ago. So they no longer meet the exception or the

1867 current standards. So any lot in the subdivision, if it was vacant, would probably
1868 have to file for a variance.

1869 Mr. Baka - Okay. And this was a legally recorded lot in 1936.
1870 And that's important to note.

1871 Mr. Wright - Any other questions?

1872 Mr. Blankinship - I have one other question for Ms. Allred. Did I
1873 understand you to say this—how long has this property been in your family?

1874 Ms. Allred - 1936. It was recorded in 1937.

1875 Mr. Blankinship - And it's been in your family since that time. I didn't
1876 realize that.

1877 Mr. Wright - That's unique.

1878 Ms. Allred - Unusual in this day and time, I guess.

1879 Mr. Wright - Anything further, Ms. Allred, that you want to state?

1880 Ms. Allred - I'm just so happy with what Mr. Walker is doing.

1881 Mr. Baka - Ms. Allred's article, did she get that back? Thank you.

1882 Mr. Wright - I know she wants to hang onto that. That's of
1883 historical significance. Is anyone here in opposition to this request? Hearing no
1884 opposition, that concludes the case. Thank you very much for attending.

1885 **[After the conclusion of the public hearings, the Board discussed the case**
1886 **and made its decision. This portion of the transcript is included here for**
1887 **convenience of reference.]**

1888 Mr. Baka - I'll make a motion to approve this variance request. I
1889 have a couple of comments to add. First, the lot was recorded in 1936, and I
1890 believe that when you look at the criteria for a variance the testimony presented
1891 allows us to approve this variance in favor of it. I do have a comment regarding
1892 Mr. Walker's request to amend Condition #3 to specify that it is a brick front. I'd
1893 include that in my motion rather than to just say brick. For Condition #10, I would
1894 include in my motion to retain the language that says curb and gutter would be
1895 required if VDOT and if Public Works deems that's necessary. I realize for many
1896 years prior maybe that lot could have built without curb and gutter, but drainage
1897 is a key concern on this property, and the variance process allows us to place
1898 reasonable conditions on this. So I would retain that language in Condition #10.

1899 Mr. Wright - The motion is that we amend #3. How would that
1900 read, Mr. Blankinship?

1901 Ms. Harris - Exterior front, I think.

1902 Mr. Wright - It just would take the 50 percent requirement out and
1903 say it would be a brick front.

1904 Mr. Blankinship - Yes. Instead of the exterior portion—well, the exterior
1905 portion of the building's foundation shall be constructed of brick. And then the
1906 front elevation shall be constructed of brick, I guess. Or did you mean 50 percent
1907 of the front?

1908 Mr. Gidley - [Speaking off microphone.] I meant fifty percent of the
1909 home.

1910 Mr. Blankinship - I'm asking Mr. Baka.

1911 Mr. Gidley - [Speaking off microphone.] Oh, I'm sorry.

1912 Mr. Blankinship - Would you want to change that to 50 percent of the
1913 front or the front has to be brick but the sides don't have to be 50 percent?

1914 Mr. Baka - The second item that you mentioned Ben. I thought I
1915 heard the applicant say that he was amenable to a brick front, but was looking at
1916 the idea of no requirements on the other three walls. If they wanted to add brick
1917 to some of those three walls they could.

1918 Mr. Blankinship - Well, let's go this way. "The exterior portion of the
1919 building's foundation, comma, and the front of the dwelling facing Patterson
1920 Avenue, comma, shall be constructed of brick."

1921 Mr. Baka - Is that in line with the comments you had earlier, sir?

1922 Mr. Wright - Okay. I just wanted to ensure that we knew what we
1923 were saying.

1924 Mr. Baka - Thank you for clarifying.

1925 Mr. Wright - And your motion is that #10 be included as it is.

1926 Mr. Baka - Yes. That would be my motion.

1927 Mr. Wright - Okay. That's a motion. Is there a second?

1928 Mr. Bell - Second.

1929 Mr. Wright - Motion was seconded. Is there any discussion or any
1930 further discussion? Hearing none, all in favor say aye. All opposed say no. The
1931 ayes have it; the motion passes.

1932 After an advertised public hearing and on a motion by Mr. Baka, seconded by
1933 Mr. Bell, the Board **approved** application **VAR2013-00007, Charlotte Via**
1934 **Allred's** request for a variance from Section 24-95(b)(5) of the County Code to
1935 build a one-family dwelling at 8002 Patterson Avenue (BEVERLY HILLS) (Parcel
1936 758-741-2623), zoned R-3, One-Family Residence District (Tuckahoe). The
1937 Board approved this variance subject to the following conditions:
1938

1939
1940 1. This variance applies only to the lot area and lot width requirement for one
1941 dwelling only. All other applicable regulations of the County Code shall remain in
1942 force.
1943

1944 2. Only the improvements shown on the plot plan and building design filed with
1945 the application may be constructed pursuant to this approval (subject to the
1946 requirements of condition #3). Any additional improvements shall comply with the
1947 applicable regulations of the County Code.
1948

1949 3. [AMENDED] The exterior portion of the building's foundation, and the front of
1950 the building facing Patterson Avenue, shall be constructed of brick.
1951

1952 4. Any substantial changes or additions to the design or location of the
1953 improvements will require a new variance.
1954

1955 5. At the time of building permit application, the applicant shall submit the
1956 necessary information to the Department of Public Works to ensure compliance
1957 with the requirements of the Chesapeake Bay Preservation Act and the code
1958 requirements for water quality standards.
1959

1960 6. At the time of building permit application, the applicant shall demonstrate that
1961 any necessary permits from the U.S. Army Corps of Engineers and/or the
1962 Virginia Department of Environmental Quality have been obtained.
1963

1964 7. At the time of building permit application, the applicant shall submit a
1965 complete grading, drainage, and erosion control plan prepared by a Professional
1966 Engineer certified in the state of Virginia to the Department of Public Works for
1967 approval. This plan must include the necessary floodplain information if
1968 applicable.
1969

1970 8. At the time of building permit application, the applicant shall submit proof that
1971 a driveway permit from the Virginia Department of Transportation (VDOT) has
1972 been obtained.
1973

1974 9. Any dwelling on the property shall be served by public water and sewer.
1975

1976 10. If required by VDOT or the Department of Public Works, curb and gutter and
1977 necessary storm drainage shall be constructed along Patterson Avenue.

1978
 1979
 1980 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
 1981 Negative: 0
 1982 Absent: 0

1983
 1984

1985 **[At this point, the transcript continues with the public hearing on the next**
 1986 **case.]**

1987

1988 Mr. Blankinship - Mr. Chairman, if you don't mind, I'm going to call
 1989 these together; they're companion cases.

1990 Mr. Wright - Sure.

1991 **CUP2013-00023 KROGER COMPANY** requests a conditional use
 1992 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special
 1993 event at 4816 S Laburnum Avenue (LABURNUM SQUARE) (Parcel 815-714-
 1994 7661), zoned B-2, Business District and B-3, Business District (Varina).

1995 **CUP2013-00024 KROGER COMPANY** requests a conditional use
 1996 permit pursuant to Section 24-116(c)(1) of the County Code to hold a special
 1997 event at 9480 W Broad Street (Parcel 756-758-4127), zoned B-2, Business
 1998 District (Brookland).

1999 Mr. Wright - Anyone desiring to speak with reference to these
 2000 cases, whether for or against, please stand, raise your hand, and be sworn.

2001 Mr. Blankinship - Do you swear the testimony you're about to give is
 2002 the truth and nothing but the truth so help you God?

2003 Mr. Rich - I do.

2004 Mr. Wright - Please state your name for the record.

2005 Mr. Rich - Dave Rich—R-i-c-h.

2006 Mr. Wright - All right, sir, please present your case.

2007 Mr. Rich - This is a repeat case from last year. Basically we
 2008 have two NASCAR events that our marketing agency puts on for Kroger grocery
 2009 stores. It happens a couple times a year. These two events happen to be in
 2010 Henrico County. They are both one-day events, and they'll be five-hour events,
 2011 but the total hours we'll be on site are from about 10 a.m. to around 7 or 8 p.m.
 2012 It's a community event. Basically what happens is we will show up, set up a
 2013 bunch of NASCAR-related items, assets. We give away free samples, free
 2014 tickets to the race on the weekends. It's purely promotional. There are no sales.
 2015 There is no alcohol. We're pretty self-sufficient. We take care of all the trash.

2016 Last year I think we even had to purchase some port-a-johns, male, female, and
2017 handicap. So we'd certainly be able to take care of that.

2018 We work in accordance with the Kroger Division and the store managers on
2019 these events, so they are fully aware. And their participation is pretty involved.
2020 They bring out local charities, food banks, any kind of donation foundations they
2021 will bring out. So it's a really great event for the community. We promote it on
2022 local radio stations. Pretty much try and make Kroger the number one stop for all
2023 your NASCAR needs.

2024 Mr. Wright - Are these the same events that were done last year?

2025 Mr. Blankinship - Yes sir. There were three last year, and we were
2026 concerned about one of the locations being a little bit more constrained than the
2027 other two. And they didn't go back to that one this year, so we appreciate that.
2028 They have increased the area of the—the footprint, if you will, of the event at
2029 each site, but not dramatically.

2030 Mr. Wright - Have there been any objections or any concerns
2031 expressed to the staff about these events?

2032 Mr. Blankinship - No sir. Not last year.

2033 Mr. Wright - Have you read your conditions proposed for each one
2034 of these cases?

2035 Mr. Rich - Yes sir.

2036 Mr. Wright - And you're in accord with the conditions.

2037 Mr. Rich - Yes sir.

2038 Mr. Blankinship - And you've also read the memorandum from fire and
2039 police.

2040 Mr. Rich - I have, yes. And we've been in touch with those
2041 departments. We will have a local police officer on site to act as security for the
2042 day to manage any traffic control. And we will also have the fire department on
2043 site for any emergencies that are needed.

2044 Mr. Wright - All right. Any questions from members of the Board?

2045 Mr. Bell - What's the anticipated attendance for first the Varina
2046 one and then second the one in Brookland?

2047 Mr. Rich - It varies. Our events go from Wednesday through
2048 Saturday. And it typically depends on the time of year. When it's during the
2049 summer and school's out, we get anywhere between 1,500 and 2,000 throughout

2050 the day, throughout the five-hour events. Now that school's back in session, it's a
2051 little bit slower. So we would anticipate anywhere between 500 and 1,500
2052 throughout the five hours.

2053 Mr. Wright - That's during the whole period of time.

2054 Mr. Rich - Correct.

2055 Ms. Harris - If you would examine the area photos for both
2056 locations. I'm a Kroger shopper, so I'm very familiar with these locations. When I
2057 go to Laburnum, parking is already a problem sometimes, even during the week.
2058 And you're going to use sixty to eighty parking spaces for this exhibit.

2059 Mr. Rich - Yes. The way this works is it's able to be scaled down
2060 and we do so per the store. When we go to a smaller scale store like this one,
2061 we can go down to five parking spots. And we typically go towards the far back
2062 end of any parking lot to leave the front area open for customers, and keep all
2063 the handicapped spaces accessible, and the fire lanes clear. So for this store in
2064 particular we will not be taking sixty to eighty spots by any means. We'll be taking
2065 around fifty.

2066 Ms. Harris - So that's about fifty percent of their parking.

2067 Mr. Rich - Correct. And again, I know that's tough. It's
2068 something we have to change from time to time. Last year we did all of these
2069 events, and the store manager agreed to allow us to use their personal property
2070 for that reason, because the division encouraged their participation. It's a really
2071 good community for the NASCAR events. I understand it is taking up quite a bit.
2072 But as long as you're okay with it, the store has agreed to host the event.

2073 Ms. Harris - Because the other store doesn't have that type of
2074 problem, I noticed.

2075 Mr. Rich - Right. It's quite larger.

2076 Ms. Harris - Yes. Okay.

2077 Mr. Wright - When you say fifty, they're not going to be all used at
2078 one time, would they? Or would they be reserved?

2079 Mr. Rich - They will. We meet with the stores at the beginning of
2080 the week. And we will drop off approximately twenty-five to thirty cones and
2081 caution tape. And the store will actually rope off the event the night before. So
2082 once all cars are cleared from the parking lot after business hours, they'll rope it
2083 off. And then the next morning it will be roped off and empty for all of our
2084 equipment the next day.

2085 Mr. Wright - So grocery shoppers would not be able to use these.

2086 Mr. Rich - Correct. For that day.

2087 Mr. Blankinship - And in the Laburnum Square case that's a
2088 Wednesday.

2089 Mr. Rich - Yes.

2090 Ms. Harris - It doesn't matter because it's always full.

2091 Mr. Rich - I know.

2092 Mr. Bell - What he's saying is different than what's written. He
2093 says he'd use sixty to eighty spaces then he'd reduce it down to fifty. But in the
2094 write-up it talks about sixty to eighty.

2095 Mr. Rich - I believe that's just a general—sorry. I believe that's
2096 just a general document that we typically hand out whenever we try to acquire
2097 permits. But as I said, it is scalable. We can size it down according to the size,
2098 which we do.

2099 Mr. Blankinship - We could make that a condition then, Mr. Bell.

2100 Mr. Bell - It was that that prompted my question about
2101 attendance, because using the figures that you had right here, you only had 120,
2102 60 to 80 places, two to a car. That would 120 to 160 people. And you have 500
2103 people come in there, it's bound to take a lot of the 696 parking spaces that are
2104 in that whole shopping center.

2105 Mr. Rich - And it is throughout the day. It's not all at one time.

2106 Ms. Harris - But your exhibits are permanent for that day.

2107 Mr. Rich - Correct.

2108 Ms. Harris - So they would not move. You'd still have to allow for
2109 the shoppers who come in.

2110 Mr. Rich - Yes ma'am.

2111 Mr. Wright - So are we saying on the Laburnum one we would
2112 reduce it to fifty?

2113 Ms. Harris - Yes. That's what he said.

2114 Mr. Wright - Is that what we're saying?

2115 Ms. Harris - You sure that you agree with that?

2116 Mr. Rich - Yes, I agree with that. Absolutely.

2117 Mr. Wright - Are you in accord with that, on the Laburnum one
2118 reduce it to fifty.

2119 Mr. Rich - Yes sir.

2120 Mr. Wright - Okay. All right. Anything further you wish to state?

2121 Mr. Rich - No sir.

2122 Mr. Wright - Any further questions from members of the Board?
2123 Anyone here in opposition to this request? Hearing none, that concludes the
2124 case. Thank you very much for appearing.

2125 Mr. Rich - Thank you very much.

2126 **[After the conclusion of the public hearings, the Board discussed the case**
2127 **and made its decision. This portion of the transcript is included here for**
2128 **convenience of reference.]**

2129 Mr. Wright - We'll take these separately since we're voting on
2130 them. CUP2013-00023, the Laburnum Avenue location. The condition would be
2131 amended to limit it to fifty spaces in the parking lot. Is that correct?

2132 Ms. Harris - Yes.

2133 Mr. Wright - Okay. With that amendment, do I hear a motion?

2134 Mr. Nunnally - I move that we approve this request for a conditional
2135 use permit as it will not affect the health, welfare, or safety of persons working or
2136 living around there. And we are going to change that to fifty spaces in the parking
2137 lot.

2138 Mr. Wright - All right, that's the motion. Is there a second?

2139 Ms. Harris - Second.

2140 Mr. Wright - It's seconded. Is there any discussion? Hearing none,
2141 all in favor say aye. All opposed say no. The ayes have it; the motion passes.

2142 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
2143 Ms. Harris, the Board **approved** application **CUP2013-00023, Kroger**
2144 **Company's** request for a conditional use permit pursuant to Section 24-
2145 116(c)(1) of the County Code to hold a special event at 4816 S Laburnum
2146 Avenue (LABURNUM SQUARE) (Parcel 815-714-7661), zoned B-2, Business
2147 District and B-3, Business District (Varina). The Board approved this temporary
2148 conditional use permit subject to the following conditions:
2149

- 2150 1. This conditional use permit is for the approval of a one-day temporary outdoor
2151 event to be held on Wednesday, September 4, 2013.
2152
- 2153 2. The outdoor event shall be limited to the following time: 10:00 am to 8:00 pm
2154 and incorporates set-up, event, and breakdown periods within this time frame.
2155
- 2156 3. [AMENDED] The event footprint shall occupy the eastern portion of Kroger's
2157 parking lot, closest to S. Laburnum Avenue in order to maintain traffic flow in the
2158 two western traffic aisles of Kroger's parking lot. No more than 50 parking
2159 spaces shall be occupied or blocked by the event.
2160
- 2161 4. Only the temporary improvements shown on the layout plan filed with the
2162 application may be erected pursuant to this approval. Any additional
2163 improvements shall comply with the applicable regulations of the County Code or
2164 as specified in the conditions of approval.
2165
- 2166 5. The applicant shall clearly delineate the perimeter (footprint) of the event area
2167 with traffic cones and shall install traffic barriers at affected parking drive aisle
2168 entrances to block vehicular traffic from entering the event area. Main traffic drive
2169 aisles (providing general internal traffic circulation) leading in or out of the
2170 shopping center shall be kept free and clear of equipment, vehicles, and
2171 obstacles associated with the event. Fire lanes shall be maintained in
2172 accordance with the Fire Prevention Code. Access to on-site fire hydrants and
2173 fire department connections shall not be impaired.
2174
- 2175 6. Temporary tents shall maintain a 10 foot setback from property lines and
2176 buildings. Temporary tents shall not be enclosed (with tarps or fabric) and
2177 generators shall not be placed underneath tents.
2178
- 2179 7. The applicant shall obtain all necessary building permits for items including
2180 but not limited to tents (in excess of 900 square feet), elevated stages,
2181 mechanical amusement devices, electrical generators and electrical connections
2182 to be used during the event.
2183
- 2184 8. The applicant shall request building permits not later than two weeks prior to
2185 the event and shall schedule required inspections no later than 10:00 am on the
2186 day of the event.
2187
- 2188 9. The applicant shall provide adequate restroom facilities and hand wash
2189 stations as required by the Building Inspections Department or Department of
2190 Health.
2191
- 2192 10. Emergency preparedness procedures shall be developed in accordance with
2193 the written requirements of the Division of Fire (see attached memo).
2194

2195 11. On-site landscaping planters shall be kept free and clear of equipment and
2196 displays. All approved landscaping shall be maintained in a healthy condition at
2197 all times. Dead plant materials shall be removed within a reasonable time and
2198 replaced during the normal planting season.

2199
2200 12. The applicant shall maintain the property so that debris is controlled during
2201 the event. Adequate trash receptacles shall be provided throughout the event.
2202

2203 13. The sale of alcoholic beverages shall be prohibited at the event.
2204

2205 14. The applicant shall prohibit loitering on the property.
2206

2207 15. On-site security measures shall satisfy the Division of Police written
2208 requirements (see attached memo).
2209

2210 16. Tractor trailers associated with the promotional event shall be parked at the
2211 northwest corner of the shopping center behind existing stores.
2212

2213 17. Speakers for amplified sound and music shall be directed toward the main
2214 event in order to limit its impact on adjoining businesses and/or residential
2215 neighborhoods and shall not exceed 65 db at the property line.
2216

2217
2218 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
2219 Negative: 0
2220 Absent: 0
2221
2222

2223 Mr. Wright - It's approved, changing the condition to fifty spaces.
2224 Now, CUP2013-00024, Kroger. Do I hear a motion?

2225 Mr. Bell - Yes. I make a motion that we approve this. It's a
2226 repeat with all the safety qualifications that have been built in from last year, plus
2227 I don't see any health or welfare considerations that would harm the community.
2228 Therefore, I make the motion.

2229 Mr. Wright - The motion's made. Is there a second?

2230 Ms. Harris - Second.

2231 Mr. Wright - Seconded. Is there any discussion? Hearing none, all
2232 in favor say aye. All opposed say no. The ayes have it; the motion passes.

2233 After an advertised public hearing and on a motion by Mr. Bell, seconded by
2234 Ms. Harris, the Board **approved** application **CUP2013-00024, Kroger**
2235 **Company's** request for a conditional use permit pursuant to Section 24-
2236 116(c)(1) of the County Code to hold a special event at 9480 W Broad Street

2237 (Parcel 756-758-4127), zoned B-2, Business District (Brookland). The Board
2238 approved this temporary conditional use permit subject to the following
2239 conditions:

2240

2241 1. This conditional use permit is for the approval of a one-day temporary outdoor
2242 event to be held on Friday, September 6, 2013.

2243

2244 2. The outdoor event shall be limited to the following time: 10:00 am to 8:00 pm
2245 and incorporates set-up, event, and breakdown periods within this time frame.

2246

2247 3. The event footprint shall occupy the southwestern portion of Kroger's parking
2248 lot.

2249

2250 4. Only the temporary improvements shown on the layout plan filed with the
2251 application may be erected pursuant to this approval. Any additional
2252 improvements shall comply with the applicable regulations of the County Code or
2253 as specified in the conditions of approval.

2254

2255 5. The applicant shall clearly delineate the perimeter (footprint) of the event area
2256 with traffic cones and shall install traffic barriers at affected parking drive aisle
2257 entrances to block vehicular traffic from entering the event area. Main traffic drive
2258 aisles (providing general internal traffic circulation) leading in or out of the
2259 shopping center shall be kept free and clear of equipment, vehicles, and
2260 obstacles associated with the event. Fire lanes shall be maintained in
2261 accordance with the Fire Prevention Code. Access to on-site fire hydrants and
2262 fire department connections shall not be impaired.

2263

2264 6. Temporary tents shall maintain a 10 foot setback from property lines and
2265 buildings. Temporary tents shall not be enclosed (with tarps or fabric) and
2266 generators shall not be placed underneath tents.

2267

2268 7. The applicant shall obtain all necessary building permits for items including
2269 but not limited to tents (in excess of 900 square feet), elevated stages,
2270 mechanical amusement devices, electrical generators and electrical connections
2271 to be used during the event.

2272

2273 8. The applicant shall request building permits not later than two weeks prior to
2274 the event and shall schedule required inspections no later than 10:00 am on the
2275 day of the event.

2276

2277 9. The applicant shall provide adequate restroom facilities and hand wash
2278 stations as required by the Building Inspections Department or Department of
2279 Health.

2280

2281 10. Emergency preparedness procedures shall be developed in accordance with
2282 the written requirements of the Division of Fire (see attached memo).

2283

2284 11. On-site landscaping planters shall be kept free and clear of equipment and
2285 displays. All approved landscaping shall be maintained in a healthy condition at
2286 all times. Dead plant materials shall be removed within a reasonable time and
2287 replaced during the normal planting season.

2288

2289 12. The applicant shall maintain the property so that debris is controlled during
2290 the event. Adequate trash receptacles shall be provided throughout the site
2291 during the event.

2292

2293 13. The sale of alcoholic beverages shall be prohibited at the event.

2294

2295 14. The applicant shall prohibit loitering on the property.

2296

2297 15. On-site security measures shall satisfy the Division of Police written
2298 requirements (see attached memo).

2299

2300 16. Tractor trailers associated with the promotional event shall be parked at the
2301 rear of the grocery store.

2302

2303 17. Speakers for amplified sound and music shall be directed toward the main
2304 event in order to limit its impact on adjoining businesses and/or residential
2305 neighborhoods and shall not exceed 65 db at the property line.

2306

2307

2308 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

2309 Negative: 0

2310 Absent: 0

2311

2312

2313 Mr. Wright - The minutes. Do I hear a motion on the minutes?

2314

2315 Mr. Bell - I have a correction.

2316

2317 Mr. Wright - A correction on the minutes.

2318

2319 Mr. Bell - It's page 33, line number 1486. In essence, I second
2320 the motion. And Mr. Wright's name should be here. It's got it all under me where
2321 it says any discussion, hearing none, all in favor say aye, all opposed say no, the
2322 ayes have it, the motion passes. I believe that was probably what Mr. Wright said
2323 and not me.

2324

2325 Mr. Wright - Yes, I think you're correct. All right. That correction
2326 was on line 1486, page 33. Any other corrections? Do I hear a motion that we
2327 approve the minutes?

2328

2328 Mr. Bell - I make a motion that we approve the minutes.

2329 Mr. Baka - Second.

2330 Mr. Wright - It's seconded. Any discussion? Hearing none, all in
 2331 favor say aye. All opposed say no. The minutes are approved as amended.

2332 On a motion by Mr. Bell, seconded by Mr. Baka, the Board **approved as**
 2333 **corrected the Minutes of the July 25, 2013**, Henrico County Board of Zoning
 2334 Appeals meeting.

2335

2336	Affirmative:	Baka, Bell, Harris, Nunnally, Wright	5
2337	Negative:		0
2338	Absent:		0

2339

2340

2341 Mr. Wright - Now, I will vacate the chair and turn it over to
 2342 Mr. Blankinship for the election of officers for the term 2013-2014.
 2343

2344 Mr. Blankinship - Thank you, Mr. Chairman. The floor is open for
 2345 nominations for the office of chairman.

2346 Ms. Harris - I move that Attorney Wright would be our chairperson
 2347 again.

2348 Mr. Blankinship - Ms. Harris has nominated Mr. Wright. Are there any
 2349 further nominations? If not, a motion to close the floor to nominations would be in
 2350 order.

2351 Mr. Bell - I move that we close the floor.

2352 Mr. Blankinship - Is there a second?

2353 Mr. Baka - Second.

2354 Mr. Blankinship - All right moved by Mr. Bell, seconded by Mr. Baka to
 2355 close the floor to nominations. All in favor say aye. All opposed say no.
 2356
 2357

2358	Affirmative:	Baka, Bell, Harris, Nunnally	4
2359	Negative:		0
2360	Absent:		0
2361	Abstain:	Wright	1

2362
 2363

2364 All right, Mr. Wright, since you're the only candidate who was nominated, you've
 2365 been elected chairman by acclamation. Congratulations.

2366 Mr. Wright - I appreciate the confidence of the Board.

2367 Mr. Blankinship - The floor is open for nominations for the office of vice
2368 chairman.

2369 Ms. Harris - I move Mr. Nunnally for vice chairman.

2370 Mr. Blankinship - Mr. Wright has nominated Mr. Nunnally.

2371 Mr. Bell - Second.

2372 Mr. Wright - He's the vice chairman the past year.

2373 Mr. Blankinship - Are there any further nominations? In that case, is
2374 there a motion to close the floor to nominations?

2375 Mr. Baka - Move to close the nominations.

2376 Mr. Blankinship - Is there a second?

2377 Mr. Wright - Second.

2378 Mr. Blankinship - All right. Mr. Baka has moved, and Mr. Wright has
2379 seconded to close the floor to nominations. All in favor say aye. All opposed say
2380 no.

2381

2382

2383 Affirmative: Baka, Bell, Harris, Wright 4

2384 Negative: 0

2385 Absent: 0

2386 Abstain: Nunnally 1

2387

2388

2389 All right. Mr. Nunnally, you are the only candidate nominated, so you are also
2390 elected by acclamation. Congratulations

2391 Mr. Chairman, I will return the gavel to you.

2392 Mr. Wright - Okay. Any further business to come before this body?
2393 Hearing none, do I hear a motion that we adjourn?

2394 Ms. Harris - I so move.

2395 Mr. Wright - Is there a second?

2396 Mr. Baka - Second.

2397 Mr. Wright - All right. All in favor say aye. All opposed say no.

2398

2399

2400

2401 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
2402 Negative: 0
2403 Absent: 0

2404

2405

2406 Mr. Wright -

We are adjourned.

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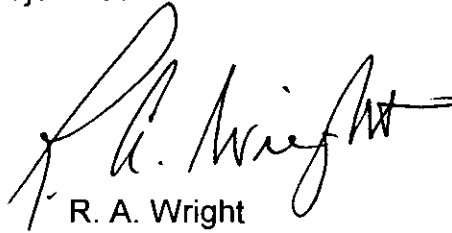
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R. A. Wright
Chairman



Benjamin Blankinship, AICP
Secretary