

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM**
4 **AND HUNGARY SPRING ROADS, ON THURSDAY DECEMBER 15, 2016 AT**
5 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
6 **DISPATCH NOVEMBER 28, 2016, AND DECEMBER 5, 2016.**

7
8
Members Present: Dennis J. Berman, Chairman
William M. Mackey, Jr., Vice Chairman
Gentry Bell
Helen E. Harris
James W. Reid

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

9
10 Mr. Berman - Welcome to the December 15, 2016 meeting of the
11 Henrico County Board of Zoning Appeals. I ask you all to please stand and join
12 us in the Pledge of Allegiance.

13
14 Please be seated. Our Board secretary, Mr. Blankinship, will now read our rules.

15
16 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
17 ladies and gentlemen, the rules for this meeting are as follows: Acting as
18 secretary, I'll announce each case. And as I'm speaking, the applicant is
19 welcome to come down to the area of the podium. We will then ask everyone
20 who intends to speak to that case to stand and be sworn in. Then a member of
21 staff will give a brief introduction to the case. Then the applicant will present their
22 case. And then anyone else who wishes to speak will be given the opportunity.
23 After everyone has had a chance to speak, the applicant, and only the applicant,
24 will have an opportunity for rebuttal. The Board will then close that public hearing
25 and open the public hearing on the next case. They'll make all of their decisions
26 at the end of the meeting. So if you wish to hear their decision on a specific case,
27 you can either stay until the end of the meeting, or you can check the Planning
28 Department website—we usually get it updated within an hour of the end of the
29 meeting—or you can call the Planning Department this afternoon.

30
31 This meeting is being recorded, so we'll ask everyone who speaks to speak
32 directly into the microphone on the podium, state your name, and please spell
33 your last name to make sure we get it correctly in the record.
34

35 I believe that's everything. There are no requests for withdrawals or deferrals that
36 I'm aware of. I think we're ready to call the first case.

37
38 Mr. Berman - Thank you, Mr. Blankinship.

39
40 **CUP2016-00029 DOUGLAS SEAY** requests a conditional use permit
41 pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the side
42 yard at 1094 Sholey Road (Parcel 800-694-9166) zoned Agricultural District (A-1)
43 (Varina).

44
45 Mr. Blankinship - Would everyone who intends to speak to this case
46 please stand and be sworn in. Would you raise your right hands, please? Do you
47 swear the testimony you're about to give is the truth, the whole truth, and nothing
48 but the truth so help you God?

49
50 Mr. Seay - I do.

51
52 Mr. Blankinship - Thank you. Mr. Madrigal, you may begin.

53
54 Mr. Madrigal - Thank you. Mr. Secretary, Mr. Chair, members of the
55 Board, good morning.

56
57 Before you is a request to allow an in-ground swimming pool in the side yard of a
58 one-family dwelling. The subject property is located in the eastern end of the
59 County on a one-acre lot. The property is improved with a one-story, 2,179
60 square-foot residence with open parking that was constructed in 1966.
61 Additionally, there are two accessory structures located at the rear of the
62 property. The lot is enclosed by a four-foot-tall chain link fence, and there is a
63 row of tightly spaced evergreen trees running along the side of their property
64 lines, both on and off the applicant's property. There are also various deciduous
65 trees in the front yard that partially screen the home from public view. The
66 property is served by well and a septic system.

67
68 The applicant acquired the property in 1994 and appears to have made some
69 improvements to it without the benefit of building permits, as evidenced by the
70 County's tax records and aerial photography. These improvements consist of a
71 screened-in porch added to the rear of the home and doubling the size of one of
72 the accessory structures in the rear.

73
74 On October 11, 2016, the applicant requested a building permit to construct a 16-
75 by-32-foot in-ground swimming pool. Due to the proposed location in the side
76 yard, the applicant was notified that a conditional use permit would be required
77 prior to the approval of the building permit. The applicant subsequently filed his
78 request on November 11th. The property is zoned A-1, and is designated as
79 Suburban Mixed Use on the 2026 Future Land Use Map. The existing dwelling is

80 a permitted use in the A-1 district and is consistent with the intent of the
81 Comprehensive Plan designation.

82
83 Swimming pools are allowed as an accessory use to a one-family dwelling when
84 located in the rear yard. If they are proposed in the front or side yard, then a
85 conditional use permit is required. The applicant wishes to place his proposed
86 pool in the side yard due to the location of his existing well and septic system in
87 the rear yard. He also wants to maintain access to his existing garage, carport,
88 and shed to facilitate the storage of his boat, tractor, and lawnmower.

89
90 Approval of the applicant's request should not result in any substantial
91 detrimental impacts on adjacent or nearby property. The area is transitioning
92 from semi-rural to suburban in nature, and there are still large tracts of land near
93 the site that are undeveloped. The subject lot provides more than enough space
94 for the proposed pool. The affected side yard is 75 feet wide and ample setbacks
95 will be provided for the pool. The pool will also be effectively screened from view
96 by the existing tree line surrounding the property. The closest residence is over
97 100 feet away to the east of the proposed pool, and that property also has an in-
98 ground pool.

99
100 In conclusion, the proposed pool is consistent with the intent of the zoning
101 ordinance and the comprehensive plan and is not expected to have any
102 detrimental impacts on nearby property. Ample setbacks and privacy screening
103 will be provided. No detrimental impacts are anticipated, and specific conditions
104 of approval have been prepared to mitigate any significant impacts associated
105 with the proposed pool. Based on these facts, staff recommends approval
106 subject to conditions.

107
108 This concludes my presentation, and I'll be happy to answer any questions.

109
110 Mr. Berman - Any questions?

111
112 Mr. Mackey - Yes, I have a question.

113
114 Mr. Berman - Yes, Mr. Mackey.

115
116 Mr. Mackey - The first half of where he enlarged the garage, was
117 there a building permit for the first half?

118
119 Mr. Madrigal - I believe those showed up in tax records, yes.

120
121 Mr. Mackey - Okay, thank you.

122
123 Mr. Berman - Any further questions?

124

125 Ms. Harris - The question was asked on his application is this use
126 generally compatible with the surrounding area, and he answered that. But the
127 question on how other property in the area is used and how will the proposed use
128 fit in—no, I think it was question one. I'm sorry. It was about it being visible from
129 the neighboring property.

130

131 Mr. Madrigal - The pool shouldn't be visible. The area at the
132 perimeter of the property, there's a row of evergreen trees and a few deciduous
133 trees that basically block all view onto the property. And then in the front, there
134 are a few deciduous trees that block the street view. The only clear view into the
135 lot is from the driveway.

136

137 Ms. Harris - And he mentioned in the report that other neighbors
138 also have in-ground pools. Did you discover that?

139

140 Mr. Madrigal - Yes. This lot to the east over here, you can see the in-
141 ground pool right in here. And there's one further down to the west, down here I
142 guess. That's a little bit further away.

143

144 Ms. Harris - Did they construct these pools in the side yard?

145

146 Mr. Madrigal - The one to the east is in the rear yard as well as the
147 one to the west on the south side of the street.

148

149 Ms. Harris - Did he mention fencing? I can ask this of the applicant
150 about the fencing. I know the setback requirement and the screening and all, but
151 I'm wondering about fencing to protect the area around the pool.

152

153 Mr. Madrigal - My understanding is he's going to put on a powered
154 pool cover to deal with that aspect of code, but the property is fenced by a four-
155 foot-tall chain link fence.

156

157 Ms. Harris - Maybe I'm missing something.

158

159 Mr. Madrigal - There's a four-foot-tall chain link fence around the
160 entire property along with the trees that form a significant barrier. And then for
161 the pool, instead of building a fence around the pool, he's going to put a powered
162 cover to meet code.

163

164 Ms. Harris - I just didn't see the fence on the pictures.

165

166 Mr. Madrigal - Would you like to see photos of the property, further
167 photos?

168

169 Ms. Harris - If it will show the fencing, yes.

170

171 Mr. Madrigal - Here you can see the east side property line and the
172 trees there. You can see a fence in front. Here on the west side you can see the
173 fence and again the trees. And then this is along the rear. Again, more trees and
174 then the fence. And the pool is going to go right over here where the cursor is
175 located.
176
177 Mr. Blankinship - Go back to the screening on the west, please. Thank
178 you.
179
180 Ms. Harris - Thank you.
181
182 Mr. Berman - Any other questions?
183
184 Mr. Mackey - No sir.
185
186 Mr. Berman - Let's hear from the applicant please. If you could step
187 forward, speak into the mic, and spell your name for us, please.
188
189 Mr. Seay - Good morning. My name is Douglas Seay. Last name
190 is S-e-a-y. I'm here this morning seeking a conditional use permit for a pool. I
191 think he reviewed the case pretty extensively.
192
193 Mr. Berman - Have you spoken with your neighbors regarding
194 establishing the pool in the side yard?
195
196 Mr. Seay - I've spoken with my neighbor next door and then
197 diagonally across the street. They did not seem to have any issues with the pool
198 coming in.
199
200 Mr. Berman - Does the Board have any questions for Mr. Seay?
201
202 Mr. Mackey - I do.
203
204 Mr. Berman - Yes, Mr. Mackey.
205
206 Mr. Mackey - Have you seen the conditions if we were to approve
207 it?
208
209 Mr. Seay - Yes sir.
210
211 Mr. Mackey - And you're well aware that you'd have to obtain the
212 building permits for the improvements that you made?
213
214 Mr. Seay - I am.
215
216 Mr. Mackey - Okay.

217
218 Ms. Harris - I do have a question, Mr. Berman. Mr. Seay, why did
219 you select this side? The other side of the house seems to have more room. I
220 was just wondering. Both of them would be in the side yard and you would need
221 the variance.
222
223 Mr. Seay - The other side of the yard is where the septic lines
224 and tank are. I don't see where there would be enough space to put a pool on
225 that side.
226
227 Ms. Harris - I thought the septic tanks were in the backyard.
228
229 Mr. Seay - The well is in the backyard.
230
231 Ms. Harris - But it's not.
232
233 Mr. Seay - I'm sorry?
234
235 Ms. Harris - The septic tanks are not in the rear yard?
236
237 Mr. Seay - If you look where the pool is facing the property, on
238 the right-hand side is the well in the backyard. And then on the left-hand side, the
239 tank actually is on the side, but the lines run towards the back out towards the left
240 and to the back corner of the property.
241
242 Ms. Harris - So the wells are in the back yard—in the rear yard.
243
244 Mr. Seay - Yes.
245
246 Ms. Harris - Okay. Thank you.
247
248 Mr. Berman - Any other questions? Thank you very much.
249
250 Mr. Seay - Thank you.
251
252 Mr. Berman - Is anybody here today to speak for or against this
253 application? Okay. Hearing none, we will make a motion, as Mr. Blankinship
254 explained, after the other two cases are heard. For now we're going to move on
255 to our next application.
256
257 **[After the conclusion of the public hearings, the Board discussed the case**
258 **and made its decision. This portion of the transcript is included here for**
259 **convenience of reference.]**
260
261 Mr. Berman - What is the pleasure of the Board?
262

263 Mr. Mackey - Mr. Chair, I'd like to make a motion to approve
264 CUP2016-00029, Douglas Seay, including the four conditions that were given to
265 us by the staff.

266
267 Mr. Berman - Mr. Mackey has made a motion. Do I hear a second?

268
269 Mr. Reid - Second.

270
271 Mr. Berman - A second from Mr. Reid. Is there any discussion?

272
273 Ms. Harris - Yes. I think for the record we need to state why we
274 are going to approve this conditional use permit for this pool when the County
275 says it should not be in the side yard. I think after talking with Mr. Seay, we found
276 out that he has no options except to use this side yard. I think that's one of the
277 reasons why I would vote for it.

278
279 Mr. Berman - Very good. Any further discussion? Hearing none, all
280 in favor say aye. All opposed say no. None opposed. The motion carries 5 to 0.

281
282 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
283 Mr. Reid, the Board **approved** application **CUP2016-00029, DOUGLAS SEAY's**
284 requests for a conditional use permit pursuant to Section 24-95(i)(4) of the
285 County Code to allow a pool in the side yard at 1094 Sholey Road (Parcel 800-
286 694-9166) zoned Agricultural District (A-1) (Varina). The Board approved the
287 conditional use permit subject to the following conditions:

288
289 1. This conditional use permit applies only to the installation of an in-ground
290 swimming pool in the side yard. All other applicable regulations of the County
291 Code shall remain in force.

292
293 2. Only the improvements shown on the plot plan filed with the application may
294 be constructed pursuant to this approval. Any additional improvements shall
295 comply with the applicable regulations of the County Code. Any substantial
296 changes or additions to the design or location of the improvements shall require
297 a new conditional use permit.

298
299 3. If land disturbance will affect over 2,500 square feet of land area, before
300 beginning any grading, or other land disturbing activity, the applicant shall submit
301 an environmental compliance plan to the Department of Public Works.

302
303 4. Within 30 days of the approval of this permit, the applicant shall submit to the
304 Director of Planning a copy of the building permits for the addition to the rear of
305 the home and expanding the rear accessory building or obtain building permits
306 for those expansions.

307
308

309 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
310 Negative: 0
311 Absent: 0

312
313

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

316

317 **CUP2016-00030** **LYTTLE UTILITIES INC** requests a conditional use
318 permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary
319 storage yard at 1647 Old Williamsburg Road (Parcels 835-715-5020 and 835-
320 715-7117) zoned Business District (B-3) (Varina).

321

322 Mr. Blankinship - Would everyone who intends to speak to this case
323 please stand and be sworn in. Raise your right hands, please. Do you swear the
324 testimony you're about to give is the truth, the whole truth, and nothing but the
325 truth so help you God? Thank you. Mr. Gidley, you may begin.

326

327 Mr. Gidley - Thank you, Mr. Secretary. Good morning,
328 Mr. Chairman, members of the Board. Henrico County has contracted with Lyttle
329 Utilities to replace the sanitary sewer system in the Seven Pines Villa
330 subdivision, which is located near the intersection of US 60 and Beulah Road in
331 Sandston. It's kind of over here on the very edge of your map, to the west of the
332 site.

333

334 To assist with its work, the applicant would like to use part of a vacant parcel,
335 located off Old Williamsburg Road, for a storage yard. That would be right here.
336 Site preparation for the storage yard would include bringing in some fill in order to
337 create a level storage area that would be just under one acre in size. It would be
338 used to store manholes and pipes and gravel and other items like that for the
339 work that they're doing in Sandston. It would be surrounded by a six-foot-tall
340 fence topped with barbed wire in order to secure the site.

341

342 As you can see here, the parcel is predominantly vacant, but the surrounding
343 area is heavily wooded to the west, the north, and the east. The only exception to
344 this is an office warehouse that is located to the northeast here at 1690 Old
345 Williamsburg Road.

346

347 The storage yard would be operational from January until the end of November.
348 Again, it would be used for pipes and manholes and equipment used on the job
349 over in Sandston. Once all the work is completed, all equipment would be
350 removed from the site and it would be re-graded and grass seed would be
351 planted and established on the former storage site.

352

353 Is the request consistent with the Comprehensive Plan and the Zoning
354 Ordinance? The site is zoned B-3 Business District and is designated as Office

355 on the 2026 Land Use Plan. A contractor's equipment storage yard is first
356 permitted in the M-2 district; however, one may be permitted on a temporary
357 basis with the issuance of a conditional use permit.

358
359 Would the request pose a substantial detrimental impact to nearby property? The
360 proposed storage yard would introduce on a temporary basis more of an
361 industrial-style use into this area. However, as I noted, the surrounding land is
362 generally wooded. Because of this, staff does not believe that for a temporary
363 use such as this that it would rise to the occasion of being a substantial
364 detrimental impact to nearby property. In fact, staff has actually received two
365 letters of support from nearby property owners. One of these is from the owner of
366 a business just to the east here. The other is from the owner of the closest
367 residential property to this site, which is the old Whiteside or Eight-Mile Tavern
368 located right here. This is approximately 300 feet away from the site.

369
370 This is Old Williamsburg Road here. The proposed laydown yard would go over
371 to the right here. This is looking eastbound. To the west going back the other
372 direction, there are a number of homes along Old Williamsburg Road. In addition,
373 as you can see here, this is a one-lane street, Old Williamsburg Road. Because
374 of that, staff recommends that traffic leaving the site on Old Williamsburg Road
375 make a right turn and go right down to the intersection here which is Dry Bridge
376 Road. With the site being here, you can see there's going to be a temptation to
377 leave and make a left turn and go down to Whiteside and take that to 60 and on
378 to the site of the utility work. The disadvantage of that is, again, there are a
379 number of residences down towards this intersection here, whereas down this
380 way there are really only a couple of residences right down on Williamsburg
381 Road. In addition, whereas Old Williamsburg is just a single-lane road, Dry
382 Bridge Road is a two-lane highway that comes down here. So it's a better road to
383 use. If you're going to have all that truck traffic introduced into the neighborhood,
384 obviously that would be the preferred route.

385
386 In conclusion, the proposed use would last 11 months, from January on to
387 November of 2017. Given that the surrounding area is generally wooded, its
388 impact should be minimized on nearby property. Again, there were a couple of
389 letters of support from nearby property owners. With the adoption of the
390 conditions found in the staff report, staff believes this would be an appropriate
391 use of the site on a temporary basis and can recommend approval.

392
393 This concludes my presentation. I'll be happy to answer any questions you may
394 have.

395
396 Mr. Berman - Thank you, Mr. Gidley. Anybody have questions of
397 Mr. Gidley?

398
399 Ms. Harris - On the application, I noticed the beginning date
400 (January 2017), and the ending date says April 2018.

401
402 Mr. Gidley - Yes ma'am, that's a good point. The applicant has
403 since come back—and I'm sure they can speak to this, but they have since come
404 back and said that they will be done by the end of November of next year.
405
406 Ms. Harris - Do we know what this property was used for prior to
407 this application? The terrain seems to be very clear. I'm just curious.
408
409 Mr. Gidley - There was an indication in real estate records that at
410 one time it was used as a golf driving range. So they would have cleared it for
411 that. And there is like a small building up there on the property that was evidently
412 associated with that. I actually checked some aerials and didn't see it, so it must
413 have been there quite some time ago.
414
415 Ms. Harris - Okay, thank you.
416
417 Mr. Bell - In the past, we've had problems with off-road, all-
418 terrain vehicles going in there and riding. Have there ever been any problems
419 with this lot?
420
421 Mr. Gidley - On this lot, personally I'm not aware of it. Given the
422 value of the pipes and manholes and everything there, it is going to be fenced.
423 With the fencing there, I think it would be difficult for motorcycles to actually get in
424 there. The area outside of the fencing should predominantly remain in its natural
425 state, so I don't think anything would change from what's out there today.
426
427 Mr. Bell - Are there any "no trespassing" signs on the property?
428
429 Mr. Gidley - I didn't see any right offhand, but if you'd like to add
430 that as a condition, I'm sure the applicant wouldn't mind that.
431
432 Mr. Bell - Thank you.
433
434 Mr. Mackey - Mr. Gidley, could you go back to that other slide
435 where you were showing us the lot itself? I think it was two slides ago.
436
437 Mr. Gidley - Is this the one?
438
439 Mr. Mackey - No, the one right before that or maybe earlier. Yes.
440 The area that's in the solid line, that's the only area that's going to be used for
441 the temporary site or is it the entire lot?
442
443 Mr. Gidley - Actually, Mr. Mackey, what the lines are showing here
444 is there are two parcels that are being used. So the solid line is designating the
445 smaller parcel and then the larger one is over here. The actual site, you can see

446 the whole thing here. It's going to be maybe just west of center. So on the aerial
447 it would be roughly this area in through here.

448
449 Mr. Mackey - Do you know if that old, decrepit looking building will
450 have to come down?

451
452 Mr. Gidley - They've indicated both buildings will come down. I
453 think there are a couple in there.

454
455 Mr. Mackey - All right. And they have no historical significance that
456 you're aware of?

457
458 Mr. Gidley - No sir. As I stated, according to real estate records,
459 they were associated with an old golf driving range. So unless somebody famous
460 golfed there...

461
462 Mr. Mackey - Exactly. All right, thank you. No more questions.

463
464 Mr. Gidley - Yes sir.

465
466 Mr. Berman - Thank you, Mr. Gidley.

467
468 Mr. Blankinship - I just have one, if you don't mind, Mr. Chairman. Paul,
469 in the lower left-hand corner there, not the farthest house to the lower left-hand
470 corner, but the second. Right there, yes. That is apparently the property of Pam
471 and Robert Stump. Have you by any chance heard from them during the
472 process?

473
474 Mr. Gidley - Mrs. Stump contacted me by phone and, like a lot of
475 people, inquired as to what the sign was for out front and what was going on.
476 She didn't seem to have a lot of concern so long as the site is restored
477 appropriately. She did make the suggestion that traffic not utilize Old
478 Williamsburg Road to get to the site in Sandston and said she preferred Dry
479 Bridge Road. I thought that was an appropriate suggestion, and upon looking at it
480 further, decided to go with that. So that's a condition in the staff report today.

481
482 Mr. Blankinship - I was handed a note a moment ago, Mr. Chairman,
483 that says "Pam and Robert Stump can't make it to meeting, but want to be on
484 record against project."

485
486 Mr. Gidley - Well that's new.

487
488 Mr. Blankinship - That's the full contents of the note, so.

489
490 Mr. Berman - Duly noted. Mr. Gidley, who bears the expense of the
491 proposed conditional signage? Is it the County or the applicant?

492
493 Mr. Gidley - The applicant would be responsible for complying with
494 the conditions.
495
496 Mr. Berman - Thank you. Any further questions from the Board?
497 Thank you, Mr. Gidley.
498
499 Mr. Gidley - Thank you, Mr. Chair.
500
501 Mr. Berman - At this time we'd like to hear from the applicant. If you
502 could please approach, speak into the mic, and spell your name, please.
503
504 Mr. Lyttle - My name is Coleman Lyttle—L-y-t-t-l-e—with Stamie
505 Lyttle and Lyttle Utilities. I met with the property owners—I didn't meet with the
506 Stumps, but the folks that live right next door in the historical house. They
507 basically wanted to know whether we were going to clean up the property. And
508 our deal with the property owner is yes we will. We'll knock down the little
509 cinderblock shed. The property owner said it's where they used to hand out the
510 golf balls years ago. And then there are some old petitions that are left standing.
511 The property is kind of an eyesore. So their comment was, "Well we think it's
512 going to look better when you're done."
513
514 The misunderstanding—and I've mentioned this to Mr. Blankinship—between
515 myself and my engineer, Mr. Hulcher, and this is my fault—was we meant to put
516 silt fence around the entire site not six-foot chain link. The reason for that is—this
517 is just my opinion. I think the chain link fence would look like more of an eyesore
518 and more industrial than it's worth. We're not concerned about people—I mean
519 you're talking about manholes that take a crane to lift up, and gravel, and pipe for
520 the sewer project. Maybe one piece of equipment, and that's it, to kind of keep it
521 graded out.
522
523 I did tell the property owner, Mr. Campbell, that as a tradeoff we would go in and
524 grade the entire site, which is all kind of grown over and there's rubble and trash
525 and stuff, just clean the whole place up. With those comments, the neighbors
526 directly to the right as you're facing the project were in favor. They said as long
527 as you do what you say you're going to do, we're not going to fight it; we'll
528 support it. And then I spoke with Kenny Evans at Evans Construction, who has
529 the site cattycornered up there at the intersection, which is a commercial site.
530 They're a contractor.
531
532 Basically, I have no problem with any of the conditions, but I would like to
533 suggest two things, that we are able to waive the chain link. I mean if you all
534 come back and say we have to do it, then we'll do it. But I think it would be more
535 of an eyesore. We don't need it as far as protecting our material. It's not stuff that
536 people are going to walk off with. And I am willing to help the property owner out.
537 He's in poor health right now, Mr. Campbell, and post "No Trespassing" and stuff

538 like that, "Construction Entrance," all the normal things that we have to do as a
539 contractor.

540
541 Number two, I'd ask for instead of 10 months maybe 12 months. The sewer
542 project that we're doing in Sandston has a 10-month substantial time limit. But
543 the reason I'm saying we might want to go to 12 months is because we're going
544 into the winter, number one. Number two, it's going to take us at least a month of
545 cleanup and prep before we do anything, before we put the silt fence up and the
546 materials and get it graded out and things of this nature.

547
548 My thought is to waive the chain link because I think it would be more of an
549 eyesore than it's worth. If you come back and say no, you have to do it or at least
550 do the front or something—to one of the questions about ATVs and motorbikes
551 and stuff like that, when we walked the property, we didn't see any beaten paths.
552 I'm not saying that kids don't go in there and do it, but I didn't see any indication
553 of where they've been in there doing that sort of thing.

554
555 Basically that's it in a nutshell. So we would like to request—and again, I
556 apologize for miscommunication between myself and Mr. Hulcher—that we waive
557 the chain link, go with the silt fence, which will be part of the EC plan anywhere
558 around the perimeter. The laydown area—just so you all know—is only going to
559 be about one acre. The other four acres, we'll grade and smooth out and seed
560 when we're done. That was an agreement I had with the property owner. He
561 said, "Well what else can you do for me," kind of a negotiation type of thing.

562
563 And then number two, we would like to request a 12-month period starting this
564 January and ending at the end of December of '17. That will give us time to
565 adequately prepare the site and then clean it up when we're done. Basically,
566 that's it.

567
568 Another thing that dawned on me is the Stumps—a little side note—he is my
569 sister-in-law's ex-husband. So I know them rather well, and I'll be glad to call him
570 and allay their concerns. Anyway, that's all I've got. Anybody have any
571 questions?

572
573 Mr. Berman - Thank you, sir. Any questions?

574
575 Mr. Mackey - Yes sir, Mr. Chairman. In your plans, I believe you
576 had the six-foot chain link fence along with several strands of barbed wire?

577
578 Mr. Lyttle - Well again, that's my fault. That's not what I said. I
579 didn't even want chain link, much less barbed wire. I was just planning on putting
580 silt fence up around the entire site rather than chain link because we have
581 nothing—if we were in there with stuff that people could go in there and steal,
582 we'd be concerned about security.

583

584 Mr. Mackey - I think we might also have a thing about a safety
585 aspect of people, especially kids, going inside and tampering with the manholes
586 and stuff like that.
587
588 Mr. Lyttle - Gotcha. Well, plan B might be to fence in just the
589 laydown part, which would be like an acre, instead of the whole five. That way
590 you could secure where your manholes and pipe are.
591
592 Mr. Mackey - Yes. I don't think that a silt fence will be adequate for
593 all that equipment.
594
595 Mr. Lyttle - Right. I would say for security purposes if we have to
596 fence in just the laydown portion, which is about an acre of it, then yes, I would
597 be okay with that.
598
599 Mr. Mackey - One other question. If you put the chain link fence up
600 at six feet, it doesn't have to have barbed wire, does it, because I don't think that
601 would be—
602
603 Mr. Lyttle - I've seen contractors use what's called a temporary
604 fence like you see around construction sites. That might not be a bad idea,
605 actually, to do the laydown part to keep kids from climbing up on the manholes or
606 the pipe or whatever.
607
608 Mr. Blankinship - Your insurance company will thank you.
609
610 Mr. Lyttle - Right, gotcha. Exactly.
611
612 Mr. Mackey - That was all I had, Mr. Chairman.
613
614 Mr. Berman - Any other questions?
615
616 Ms. Harris - I noticed in the conditions that the fencing is not listed
617 at all. Do we want to insert that?
618
619 Mr. Blankinship - It was just by reference to the plan, yes ma'am.
620
621 Ms. Harris - Okay.
622
623 Mr. Mackey - We would need to amend that.
624
625 Mr. Berman - Actually, I'll just go ahead and ask Mr. Lyttle. When
626 we come to the motion portion, we will suggest adding several conditions. I want
627 to make sure before then that you're okay with the existing conditions. And
628 subsequently, we've also recommended a "no trespassing" sign and a removal of
629 the buildings and the petitions, and the fence for at least the laydown area, and

630 possibly—I don't know if it's appropriate or not to add the duration in the
631 condition for the temporary.

632
633 Mr. Blankinship - Condition #7 sets the expiration now.

634
635 Mr. Berman - I apologize; I didn't turn the page.

636
637 Mr. Blankinship - We'd need to change that if he wants an extra month
638 or two. Staff does not oppose that at all.

639
640 Mr. Lyttle - I'm okay with everything that you all just said.

641
642 Mr. Berman - Very good.

643
644 Ms. Harris - Did you see the conditions? Have you examined the
645 conditions that you have in the report?

646
647 Mr. Lyttle - Yes.

648
649 Ms. Harris - You have. So the date you actually want changed is
650 from November the 17th—November 2017 to the end of the year?

651
652 Mr. Lyttle - Well, as I said, I'd like to see if we could go from
653 January '17 to the end of December of '17, which would sync with our
654 construction.

655
656 Ms. Harris - Tell me about a silt fence? I'm not familiar with that
657 term.

658
659 Mr. Lyttle - It's the black fabric fence that's about this tall. It's to
660 keep mud and stuff from running into streams that you see at construction sites.
661 Once we apply for the land disturbance permit and erosion control, that will be
662 part of the erosion control the County's going to make us do anyway. When it's
663 raining and so forth, it keeps the silt from polluting streams and waterways and
664 things like that.

665
666 Ms. Harris - It doesn't seem very durable or secure.

667
668 Mr. Lyttle - It isn't.

669
670 Mr. Blankinship - It's not secure. It is durable.

671
672 Mr. Lyttle - It holds mud, but that's about it.

673
674 Mr. Blankinship - Yes. It's about three feet high, so you can step right
675 over it.

676
677 Mr. Lyttle - You are correct.
678
679 Mr. Berman - So the retention of the suggested chain link fence
680 doesn't release you from the obligation of the EC, you understand.
681
682 Mr. Lyttle - Correct, yes.
683
684 Mr. Berman - Any other questions?
685
686 Mr. Mackey - No sir.
687
688 Mr. Berman - Very good. Thank you, sir. Is there anybody here who
689 wants to speak in favor or against this project? Very good, thank you. Let's move
690 on to our last applicant.
691
692 **[After the conclusion of the public hearings, the Board discussed the case**
693 **and made its decision. This portion of the transcript is included here for**
694 **convenience of reference.]**
695
696 Mr. Berman - What is the pleasure of the Board?
697
698 Mr. Mackey - Mr. Chairman, after going over the case, I don't see a
699 problem with us allowing the temporary site. I would like to make a motion to
700 approve CUP2016-00030, with the eight conditions that were given by the staff,
701 also including the other two conditions, one being the fencing-in of the laydown
702 area. And I believe the other was a "no trespassing" sign. And that we allow this
703 to be used from January 15, 2017 until December 31, 2017.
704
705 Mr. Berman - Would you also want to entertain the removal of the
706 buildings as a condition?
707
708 Mr. Mackey - Yes sir.
709
710 Mr. Berman - So condition 9 would be a "no trespassing" sign.
711 Condition 10 would be the removal of buildings. Condition 11 would be fence in
712 the laydown area. And then I'm not sure where you would amend it or if it would
713 be a condition, but extend to December '17 the temporary end date.
714
715 Mr. Blankinship - Condition #7.
716
717 Mr. Berman - Sorry. It's a modification to condition #7. Okay.
718 Mr. Mackey has made a motion for the affirmative with added conditions. Do I
719 hear a second?
720

721 Ms. Harris - I second the motion. I feel that granting this CUP
722 would not adversely affect the health, safety or welfare of the neighborhood.

723
724 Mr. Berman - Thank you, Ms. Harris. Ms. Harris has seconded. Any
725 further discussion? I would also recommend on the "no trespassing" sign to have
726 a phone number after hours for contact in case there are any issues or concerns.
727 All in favor say aye. All opposed say no. The motion carries 5 to 0.

728
729 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
730 Ms. Harris, the Board **approved** application **CUP2016-00030, LYTTLE**
731 **UTILITIES INC's** request for a conditional use permit pursuant to Section 24-
732 116(d)(1) of the County Code to allow a temporary storage yard at 1647 Old
733 Williamsburg Road (Parcels 835-715-5020 and 835-715-7117) zoned Business
734 District (B-3) (Varina). The Board approved the conditional use permit subject to
735 the following conditions:

736
737 1. This conditional use permit applies only to the use of the property as a
738 temporary storage yard for equipment used in connection with the Seven Pines
739 Villa sewer replacement project. All other applicable regulations of the County
740 Code shall remain in force.

741
742 2. Only the improvements shown on the plans filed with the application may be
743 constructed pursuant to this approval. Any additional improvements shall comply
744 with the applicable regulations of the County Code. Any substantial changes or
745 additions to the design or location of the improvements shall require a new
746 conditional use permit.

747
748 3. Before beginning any clearing, grading, or other land disturbing activity, the
749 applicant shall submit an environmental compliance plan to the Department of
750 Public Works.

751
752 4. Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday-
753 Saturday. There shall be no activity permitted on Sundays or national holidays.

754
755 5. A stop sign shall be placed at the exit from the site onto Old Williamsburg
756 Road. The access to Old Williamsburg Road shall be graveled from the street
757 back to the entrance gate.

758
759 6. All means of access to the property shall be from the established entrance
760 from Old Williamsburg Road or such other entrance as may be approved in
761 writing by the Planning Department. Trucks entering or leaving the site shall not
762 travel on that portion of Old Williamsburg Road to the west of the property or on
763 Whiteside Road. A sign prohibiting a left turn shall be posted at the property's
764 exit.

765

766 7. [AMENDED] All machinery and equipment stored on the site in conjunction
767 with this use permit shall be removed no later than December 31, 2017, at which
768 time this use permit shall expire.

769
770 8. The applicant shall provide a financial guarantee in an amount of \$15,000.00,
771 guaranteeing that the land will be restored to a reasonably level and drainable
772 condition. In addition, a healthy stand of grass shall be established within the
773 area impacted by this use permit. Within 60 days of the use of the property as a
774 temporary storage lot ceasing, the applicant shall restore the land as provided for
775 in the first part of this condition. Termination of such financial guaranty shall not
776 relieve the applicant from its obligation to indemnify the County of Henrico for any
777 breach of the conditions of this use permit.

778
779 9. [ADDED] A sign shall be posted on the property prohibiting trespassing and
780 providing an emergency contact telephone number.

781
782 10. [ADDED] The two buildings on the property shall be removed.

783
784 11. [ADDED] The temporary storage yard shall be enclosed by a fence at least
785 six feet in height.

786
787
788 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
789 Negative: 0
790 Absent: 0

791
792
793 **CUP2016-00031 MARGOT L. GEISLER** requests a conditional use
794 permit pursuant to Section 24-52(a) of the County Code to allow a
795 noncommercial kennel at 11501 Greenwood Road (GREENWOOD ACRES)
796 (Parcel 773-774-2247) zoned Agricultural District (A-1) (Brookland).

797
798 Mr. Blankinship - Would everyone who intends to speak to this case
799 please stand and be sworn in? Please raise your right hands. Do you swear the
800 testimony you're about to give is the truth, the whole truth, and nothing but the
801 truth so help you God? Thank you. All right, Mr. Madrigal.

802
803 Mr. Madrigal - Thank you, Mr. Secretary, Mr. Chair, members of the
804 Board. Before you is a request to allow a non-commercial kennel on a residential
805 lot. The subject property is located at the northeast corner of Greenwood and
806 Chiles Roads in the Greenwood Acres subdivision.

807
808 The subject lot is one acre in size and fronts on Greenwood Road. It is improved
809 with a two-story, 2,678-square-foot residence with open parking that was
810 constructed in 1989. Site access and parking is taken from a side street, which is
811 Chiles Road. The property has a large rear yard, which is segmented into two

812 parts: a 2400-square-foot area immediately behind the home, which is enclosed
813 by a six-foot-tall privacy fence and a 15,000-square-foot area enclosed by a four-
814 foot-tall wire fence. You can see it here on the aerial. Here is that private area
815 with a pool, and then this is a larger rear yard area. The perimeter of the property
816 is lined by a row of evergreen and deciduous trees forming a substantial screen
817 from public view. The front of home is barely visible from Greenwood Road due
818 to the wooded nature of the front yard.

819

820 The applicants purchased the property in 1999. In recent years, they have had
821 several complaints regarding inoperable vehicles and excessive dogs at the
822 property. They currently have five Boston terriers ranging in age from 3 to 11
823 years old and have owned this breed for some time. Four litters have been bred
824 on the property, and all the dogs they currently own were born on site and are
825 kept as pets. They do not show the dogs and are no longer breeding them. All of
826 the dogs have been spayed or neutered with the exception of one of the younger
827 females, which will soon be spade as per the applicant.

828

829 In September of this year, the County received a complaint regarding the number
830 of dogs on the property, and the owner was contacted by County personnel. The
831 applicant subsequently filed a CUP request in November for a non-commercial
832 kennel.

833

834 The property is zoned A-1 and is designated as Rural Residential on the
835 Comprehensive Plan. The keeping of pets is a customary use accessory to a
836 one-family residence. Although the applicant exceeds the maximum number of
837 pets allowed by code, the use is consistent with both the zoning and
838 Comprehensive Plan designations.

839

840 No substantial detrimental impacts are anticipated if the applicant's request is
841 approved. The subject lot is one acre in size, and the area is semi-rural in nature,
842 consisting of large-lot residential development. The dogs are kept primarily in the
843 home and are let out into a large fenced-in rear yard you can see here.

844

845 While it is customary to keep pets, especially in the agricultural district, owning
846 five small dogs is not inconsequential and can adversely impact adjacent
847 neighbors, primarily by way of noise. In this case, the adjacent neighbors are on
848 large lots of one acre or more in size. The homes are spaced well over 100 feet
849 apart, and the applicant has a private rear yard area immediately behind the
850 home, which is set back from sight and rear property lines. In addition to this
851 private yard area, they have a larger rear yard that is fenced in by a four-foot-tall
852 wire fence and is screened from view by an existing tree line and vegetation.

853

854 The cumulative effect of fencing, distance, and screening should aid in
855 minimizing noise and visual impacts associated with the dogs. Also, the applicant
856 does not intend to add any more pets, and the number of animals should be
857 reduced by natural attrition.

858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903

In conclusion, the applicant's request is consistent with the zoning and Comprehensive Plan designations. The dogs are kept primarily in the home and ample yard area is being provided for their wellbeing. Due to the large size of the lots, existing spacing between homes, and screening, there appear to be no substantial detrimental impacts associated with the request. Specific conditions of approval have been prepared to mitigate any potential adverse impacts on adjacent property.

Based on these facts, staff recommends approval of the applicant's request. One letter in opposition has been received and you received a copy of that.

That concludes my presentation.

Mr. Berman - Thank you, Mr. Madrigal.

Mr. Blankinship - Thank you for mentioning that letter, Mr. Madrigal. That was left at the table for you this morning.

Mr. Berman - Any questions for Mr. Madrigal from the Board?

Mr. Bell - Did you have any discussion with the owner about cleanup of debris and barking?

Mr. Madrigal - No, not with the owner. But I did speak to Community Maintenance. The inspector that is handling that area, he's new to the area. So he's familiar with the property, and he said he would be going back to talk with the owner about that.

Mr. Berman - Any others?

Mr. Mackey - Yes, Mr. Chairman. Mr. Madrigal, a little clarification on the warning given back in September. Do you know if it was just for having the extra two dogs or was there more to the warning that Animal Control gave them?

Mr. Madrigal - It was the Animal Control officer.

Mr. Mackey - Yes. I'm saying was it just because they were two dogs over or was it—what exactly did they warn them of?

Mr. Madrigal - If I remember correctly, I think it was the number of animals and also providing paperwork on the animals for their rabies shots and all that.

Mr. Mackey - Okay. Thank you.

904 Mr. Bell - Any complaints about barking?
905
906 Mr. Madrigal - No. In the record, I didn't see any complaints about
907 barking. Excessive dogs is basically it. Essentially on the property, there are four
908 cases against the property or on the property. They've all been closed. The notes
909 were primarily for inoperable vehicles and excessive dogs.
910
911 Mr. Bell - Any other dogs in the area that you're aware of?
912
913 Mr. Madrigal - Not that I saw or heard. In fact, when I went to take
914 pictures of the property, we could hear probably a couple of dogs inside. That's
915 about it. As far as the condition of the property, pet waste and all that, I didn't see
916 any and I didn't smell any.
917
918 Mr. Bell - Thank you.
919
920 Ms. Harris - Mr. Madrigal, we received this letter from Regina Ann
921 Windsor on Chiles Road. Do you know how far her residence is from the subject
922 property?
923
924 Mr. Madrigal - Yes. That's the neighbor right to the back, which is
925 right here.
926
927 Ms. Harris - Thank you.
928
929 Mr. Berman - Any further Board questions? Thank you,
930 Mr. Madrigal.
931
932 Mr. Madrigal - Thank you. ✓
933
934 Mr. Berman - Can the applicant please approach? Spell your name
935 into the mic, please. Good morning.
936
937 Ms. Geisler - Good morning. Margot Geisler. G-e-i-s-l-e-r. Well, we
938 raised the dogs. Every single one of the litters was by accident, which is why we
939 took care of the spay and neutering. We had one litter that was a bit defective, so
940 we kept the extra animals. We had only planned on keeping three dogs, but we
941 ended up with two extras that had severe problems health-wise. We didn't feel
942 like we could give those away. I don't know, they're pets.
943
944 Mr. Bell - Has anybody complained to you about you having
945 your dogs?
946
947 Ms. Geisler - No.
948

949 Mr. Bell - Have you read and understand the conditions that
950 you have to go under if this is approved?
951

952 Ms. Geisler - I had a couple questions. One was about the pet
953 waste being removed from the property at least once every two weeks. Basically,
954 we compost that waste and wanted to know if that was acceptable as opposed to
955 removal.
956

957 Mr. Berman - As long as the smell is contained.
958

959 Ms. Geisler - Well it is. He walked the whole property and didn't
960 smell anything. There are a few cedars, and that helps also.
961

962 Mr. Blankinship - The way the condition is phrased now it says "remove
963 from the property." If that's not going to be the case, that would have to be
964 amended.
965

966 Mr. Bell - Any other conditions you want to talk about?
967

968 Ms. Geisler - The last one. I wasn't sure which part of the property
969 we were talking about confining them to, and I wondered if the isolated pool area
970 was only if the dogs were out unsupervised, which they should never be. My
971 husband and I, when we take the dogs out, we go with them. Not just for their
972 bodily functions, but to play.
973

974 Mr. Bell - Is that a fenced-in area?
975

976 Ms. Geisler - The pool area is fenced in with a large fence. It's an
977 all-wooden fence. And then the back property has a partial wooden fence and
978 part wire fence. So everything is fenced in.
979

980 Mr. Bell - So if the dogs were by themselves by chance, then
981 they couldn't get out.
982

983 Ms. Geisler - No, they can't get out.
984

985 Mr. Bell - Are there any other dogs in the immediate area?
986

987 Ms. Geisler - Yes. My next door neighbor to the west of me has a
988 couple dogs.
989

990 Mr. Bell - Have you ever had any problems with your dogs or
991 any dogs in the neighborhood barking? Complaints, things of that nature.
992

993 Ms. Geisler - My dogs don't bark a lot. They will bark—when the
994 neighbor and I try to carry on a conversation across the fence, if both sets of

995 dogs are out, they'll bark at each other. But that's pretty rare. And sometimes the
996 dogs will bark if there's somebody unknown walking the street, which on the
997 dead-end street is hardly anyone.

998

999 Mr. Bell - How do the dogs you have right now react to
1000 strangers or kids? Are they aggressive?

1001

1002 Ms. Geisler - No. No, not at all. They'll lick you to death.

1003

1004 Mr. Bell - Do you understand as a condition that you have five
1005 right now and as the older one—I believe you said the older one was about 11
1006 years old. As he gets older and maybe passes away, you cannot have any more
1007 dogs other than the three that the County allows without a permit.

1008

1009 Ms. Geisler - Yes, I understand that.

1010

1011 Mr. Bell - And you accept that as well.

1012

1013 Ms. Geisler - Yes.

1014

1015 Ms. Moore - I just have a clarification. Can you describe how you
1016 compost?

1017

1018 Ms. Geisler - The dogs have an area, part of the yard closest to the
1019 street. That's their area where they relieve themselves. It's totally covered with
1020 leaves. We add more leaves all the time to cover up. It would be to the back in
1021 there. There's a wood pile and it's to the opposite side of the shed. So it would be
1022 to the right of the shed, behind the trampoline, within the trees.

1023

1024 Mr. Bell - Do you use any additives to help eliminate or make
1025 it—like lime, is what I'm referring to.

1026

1027 Ms. Geisler - No.

1028

1029 Mr. Berman - Ms. Moore, is there some condition of composting
1030 that it needs to be enclosed?

1031

1032 Ms. Moore - Usually composting does involve a little bit of tilling
1033 and a container. That's why I asked the question. Just based on if it rained,
1034 runoff, where it's going. We'd probably have to ask the Health Department on
1035 that question.

1036

1037 Ms. Geisler - We compost our food and take it out there. We just
1038 leave it to rot. That's the whole idea, to give back to the soil.

1039

1040 Mr. Berman - So definitely it's a great thing to compost, and we do it
1041 as well, my family, but not at the cost of smells permeating the community. So
1042 I'm concerned about open composting. If we had a condition that we added
1043 during the motion that stated composting must be in a closed unit—you've seen
1044 like the green barrels that you kind of churn—would you have any issue with
1045 that? We're concerned about the impact to your neighbors with odor.

1046
1047 Ms. Geisler - Okay. I've had the one dog for 11 years now. We've
1048 never really had odor.

1049
1050 Mr. Berman - It's the opinion of one of your neighbors that there is
1051 an odor issue. Let me also address something. I think I know the answer already.
1052 They said that they've observed far more than five dogs at one point. I'm
1053 guessing that's at the point of one of the litters, which has since gone down in
1054 population?

1055
1056 Ms. Geisler - There have been more and as we give them away—I
1057 had an extra two dogs for a couple of months. My daughter had moved out of her
1058 residence to move in with my other daughter while she was in the process of
1059 buying a house. As soon as she moved into the house, she took her two dogs
1060 back.

1061
1062 Mr. Berman - How long have you had five? Approximately.

1063
1064 Ms. Geisler - Three years.

1065
1066 Mr. Berman - Three years? And I understand the oldest dog is
1067 approximately 11. The fourth dog is approximately how old? The fourth oldest
1068 dog.

1069
1070 Ms. Geisler - The fourth oldest dog, probably six.

1071
1072 Mr. Berman - Six? And I don't mean to mean to get graphic, but the
1073 average lifespan of a dog is approximately 12 to 15-ish for that breed?

1074
1075 Ms. Geisler - Yes. I had two Boston terriers that I lost at eight due
1076 to cancer. But yes, I think it's probably 12 years.

1077
1078 Mr. Berman - It's certainly not lost on this Board that these are pets,
1079 and many people feel they're true family members. We have cases like this
1080 multiple times each year. And it's never easy, but we have to be respectful of the
1081 entire community. So I appreciate you working with us on this. Are there any
1082 further questions for the applicant?

1083
1084 Ms. Harris - I have a few questions. Are you saying that you will
1085 not be able to comply with condition #3 that says all pet waste shall be removed

1086 from the property at least once every two weeks? Are you not able to comply with
1087 that?
1088
1089 Ms. Geisler - We would be able to.
1090
1091 Ms. Harris - And are you able to comply with condition #1 as far as
1092 the keeping of five dogs? I know you said you kept some of your daughter's dogs
1093 for her temporarily. But are you able to comply with the five small dogs as pets?
1094
1095 Ms. Geisler - Yes.
1096
1097 Ms. Harris - Okay. What about the fences, are they well
1098 maintained?
1099
1100 Ms. Geisler - Yes.
1101
1102 Ms. Harris - Okay. Those are my questions. Thank you.
1103
1104 Mr. Berman - Thank you, Ms. Harris.
1105
1106 Mr. Mackey - Mr. Chairman, I have question for Ms. Geisler. Back
1107 to the fences. The portion of your fence that backs up to Mrs. Windsor at 3054
1108 Chiles Road, she said she has to take her fence down because it's in poor
1109 condition and that part of your fence is tie-wired to it. Is that holding your fence
1110 up?
1111
1112 Ms. Geisler - I didn't realize that there was anything there. And
1113 certainly we can fix that. I'll have my husband look at it.
1114
1115 Mr. Mackey - She said she was soon to be taking her fence down.
1116
1117 Mr. Blankinship - Do we have a photo of that?
1118
1119 Mr. Berman - The relevance of that question is that we want to
1120 make sure that the dogs stay contained, if your fence does fall down that they
1121 won't go where their kids are playing or their grandchildren are playing.
1122
1123 Ms. Geisler - We'll make sure to look at that and fix whatever we
1124 need to.
1125
1126 Mr. Mackey - Mr. Chairman, do you think we need to add that to
1127 the—
1128
1129 Mr. Berman - Let's bring that up, Mr. Mackey, during motion.
1130
1131 Mr. Mackey - Okay.

1132
1133 Mr. Berman - Thank you. Any further questions for the applicant.
1134 Thank you very much. Anybody else here for or against the application?
1135
1136 Ms. Windsor - Good morning. I'm Ms. Windsor. I live at 3054 Chiles
1137 Road. You've covered most of the things for me. I just wanted to restate that I'm
1138 taking the fence down. And I have found that their small thin fence is zip-tied to
1139 my fence, which has a stronger wire fence attached on the back of the split rail.
1140 So I was concerned about that because my grandsons play in the front yard. It's
1141 just the safety of them not getting bit by the dogs.
1142
1143 And then I read in the record about the waste cleanup. I didn't know if somebody
1144 would go out and inspect that they had cleaned it up or whether that would be on
1145 me if I were to smell it. I didn't know who would really check behind that.
1146
1147 Mr. Blankinship - We normally don't make a practice of routine
1148 inspections on that sort of a condition. Some conditions we do, some we don't.
1149 But if we received complaints, we would inspect. And if we receive more than
1150 one complaint, then we probably would make it a more regular thing.
1151
1152 Ms. Windsor - Okay. And I did want to say that I have smelled the
1153 waste, but it's mainly in the summer I guess because the heat may make it smell.
1154
1155 Like I said, I've read over the conditions. There was a comment in there about
1156 complaints on the vehicles. On the way to work yesterday, I noticed that there
1157 are still old, rusted vehicles on the property. On the back side where she was
1158 showing where she allows the dogs to go to the bathroom, right through there
1159 there's a lot of piled up junk and stuff that's really an eyesore. I could plant things
1160 down there to block it out. The reason I haven't gone over to take my fence down
1161 is because I wanted it to be cold so I don't run into any snakes or anything. But I
1162 do intend to have it down probably by the end of the year.
1163
1164 I thank you for considering all the things in my letter.
1165
1166 Mr. Berman - Questions for Ms. Windsor?
1167
1168 Ms. Harris - Yes. Which fence is yours and which is—
1169
1170 Ms. Windsor - The split rail is mine.
1171
1172 Ms. Harris - Okay. So that's yours.
1173
1174 Ms. Windsor - Their back yard is 173 feet of my front yard.
1175
1176 Ms. Harris - Have you had any fear with the dogs out and your
1177 grandchildren playing? Any fear of safety?

1178

1179 Ms. Windsor - I have because they're run along the fence barking at
1180 them when they're playing. But as long as I've kept my fence up there with the
1181 wire, that was to ensure them not coming over there after them to chase them. I
1182 don't know that they would bite them, but you can't ever predict dogs, especially
1183 when there's a group of dogs together. And some kids tend to run from dogs
1184 when a dog could be playing. So you can't really predict what a dog will do.

1185

1186 Ms. Harris - If you did have a problem with safety, would you call
1187 Animal Control?

1188

1189 Ms. Windsor - Yes ma'am.

1190

1191 Ms. Harris - I think this is a universal problem. We have the same
1192 problem. We have dogs in fenced yards. One child decided to jump over the
1193 fence into the yard, and the dog did bite. But I think this is a universal problem
1194 even with little dogs.

1195

1196 Ms. Windsor - Thank you.

1197

1198 Mr. Berman - Any further questions for Ms. Windsor? Thank you
1199 very much. Anybody else speaking to this application? Hearing none, that was
1200 our final request. Let's now move into the motion portion of today's proceedings.
1201 We're going to go in the order of the agenda.

1202

1203 **[After the conclusion of the public hearings, the Board discussed the case**
1204 **and made its decision. This portion of the transcript is included here for**
1205 **convenience of reference.]**

1206

1207 Mr. Berman - What is the pleasure of the Board?

1208

1209 Mr. Bell - I move that we accept the request. It is consistent with
1210 the zoning and the Comprehensive Plan, and there appears to be no substantial
1211 detrimental impact associated with the request. However, there are several
1212 points that we discussed about wanting to add to the motion. Is it at this time we
1213 would add it or would it be with another motion?

1214

1215 Mr. Blankinship - This would be the time.

1216

1217 Mr. Bell - All right. I believe you took a lot of notes. The only
1218 one I remember that concerned me was the disposition of the waste.

1219

1220 Mr. Berman - Yes sir. The thought was for modifying condition #3 to
1221 state that it could be removed from the property or composted in an enclosed
1222 method such that odor is prevented from permeating.

1223

1224 Mr. Bell - I think we should add that.
1225
1226 Mr. Berman - And condition 5 possibly would involve the fence. Is it
1227 appropriate to bring that in because there was a safety concern that future
1228 modification by a neighbor could cause the dogs to get out. Would you also want
1229 to entertain adding condition #5, the fence would be secured?
1230
1231 Mr. Bell - Yes, yes.
1232
1233 Mr. Blankinship - We're not going to try to describe what kind of fence
1234 would be required, just leave it as a fence adequate to keep the dogs on the
1235 property.
1236
1237 Mr. Berman - Or to keep kids from going in the yard.
1238
1239 Mr. Blankinship - No fence is adequate to that.
1240
1241 Mr. Berman - No it is not. Any further discussion? I'm sorry; was
1242 there a second? I apologize.
1243
1244 Ms. Harris - I second the motion.
1245
1246 Mr. Berman - Ms. Harris seconds the motion. Any further
1247 discussion? Hearing none, all in favor say aye. All opposed say no. None
1248 opposed. The motion carries 5 to 0.
1249
1250 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1251 Ms. Harris, the Board **approved** application **CUP2016-00031, MARGOT L.**
1252 **GEISLER's** request for a conditional use permit pursuant to Section 24-52(a) of
1253 the County Code to allow a noncommercial kennel at 11501 Greenwood Road
1254 (GREENWOOD ACRES) (Parcel 773-774-2247) zoned Agricultural District (A-1)
1255 (Brookland). The Board approved the conditional use permit subject to the
1256 following conditions:
1257
1258 1. This conditional use permit applies only to the keeping of five small dogs as
1259 pets by the property owners. All other applicable regulations of the County Code
1260 shall remain in force. This permit is not for the commercial boarding or breeding
1261 of animals at any time.
1262
1263 2. No new or replacement animals may be added, so that the number of animals
1264 will be reduced by natural attrition to three, as allowed by code, at which time this
1265 permit shall expire.
1266
1267 3. [AMEDED] The applicant shall maintain the property so that noise and odors
1268 are controlled. All pet waste shall be removed from the property at least once
1269 every two weeks or composted in an enclosed system.

1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315

4. [AMEDED] The dogs shall be limited to the private rear yard area enclosing the pool when let out. The fence along the rear yard shall be maintained or replaced as necessary to prevent the dogs from entering the neighboring property.

Affirmative:	Bell, Berman, Harris, Mackey, Reid	5
Negative:		0
Absent:		0

Mr. Berman - Let's move on to new business. I see no new business. I see approval of the minutes. Do we have any corrections for the minutes? I have one correction on page 20. Mr. Baka has snuck into our minutes. Let's please correct that reference.

Mr. Blankinship - What was the line number?

Mr. Berman - I just have page 20; sorry.

Mr. Mackey - Line 893.

Mr. Blankinship - 893?

Mr. Mackey - Yes sir.

Mr. Bell - 893?

Mr. Berman - Yes sir, 893, page 20. Minor. Any further corrections? Hearing none, do I hear a motion on the minutes?

Ms. Harris - I move that the minutes be accepted as corrected.

Mr. Berman - Thank you, Ms. Harris. Do I hear a second?

Mr. Reid - Second.

Mr. Berman - Thank you, Mr. Reid. No further discussion. All in favor say aye. All opposed say no. None opposed. Motion carries 5 to 0.


On a motion by Ms. Harris, seconded by Mr. Reid, the Board **approved as corrected the Minutes of the November 17, 2016**, Henrico County Board of Zoning Appeals meeting.

1316 Affirmative: Bell, Berman, Harris, Mackey, Reid 5
1317 Negative: 0
1318 Absent: 0

1319
1320

1321 Mr. Berman - Thank you everyone. Have a great rest of your day.
1322 We are adjourned.

1323
1324
1325
1326
1327
1328



Dennis Berman
Chairman

1329
1330
1331
1332
1333
1334



Benjamin Blankinship, AICP
Secretary

1335
1336
1337
1338
1339