

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**  
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**  
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**  
4 **THURSDAY FEBRUARY 27, 2025 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED**  
5 **IN THE *RICHMOND TIMES-DISPATCH* FEBRUARY 10, 2025 AND FEBRUARY 18,**  
6 **2025.**

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8  
9 **Members Present:** Terone B. Green, Chair  
10 Barry R. Lawrence, Vice-Chair  
11 Walter L. Johnson, Jr.  
12 John R. Broadway  
13 Joseph S. Massie, III

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

21  
22  
23 **Mr. Green -** Good morning. I'd like to call the Board of Zoning Appeals  
24 Thursday, February 27<sup>th</sup> meeting to order. For those of you who are able, would you  
25 please join us, in the pledge of allegiance?  
26

27  
28 **[Recitation of Pledge of Allegiance]**  
29  
30

31 **Mr. Green-** Thank you. Mr. Blankinship will now read our rules. But Mr.  
32 Blankinship, after you read our rules for, for the for the purpose of the board, as well as  
33 the citizens, I was reading that there's some new changes that Board of Supervisors did  
34 as it relates to short term, you know, accessory dwelling units, and a new zoning district.  
35 Could you please explain how that potentially could impact us and what that means?  
36

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

47 comments into a chat, but please send a chat to Janaya Poarch now. For those of us in  
48 the room, as the secretary, I will call each case, we will ask everyone in the room who  
49 intends to speak to that case to stand and be sworn in. Then a member of staff will give  
50 a brief summary of the case, and then the applicant will go to the back of the room where  
51 there's a microphone on the lectern and present your case to the board. After the  
52 applicant has had a chance to speak, anyone else who wishes to speak will be given the  
53 opportunity. We'll hear from citizens in the room first and then from those on Webex. After  
54 everyone has had a chance to speak, the applicant and only the applicant will have an  
55 opportunity for rebuttal. This meeting is being recorded, so we'll ask everyone who speaks  
56 in the room to speak directly into the microphone, as I said, back there on the lectern. We  
57 ask you to state your name, and please spell your last name so we get it correctly in the  
58 record. And also, once your case is over, you're free to leave, there's no need for you to  
59 stay until the end of the meeting.

60  
61 As the Chair mentioned, the Board of Supervisors recently decided to add a new zoning  
62 district category called the R-5B, General Residence District. And this will open the  
63 opportunity in select areas that are targeted for redevelopment, or infill development  
64 particularly to allow for a builder or a developer or a property owner to apply for rezoning  
65 to a category that will allow smaller lot sizes and smaller setbacks in exchange for higher  
66 quality in terms of design of the dwellings and design and layout of the whole subdivision  
67 that they would propose. So, it is something, you know, it's one more tool in the toolbox,  
68 if you will, to promote affordable housing and housing opportunity, housing choice, and  
69 just open up some of these infill areas. A lot of the cases this board sees are lots that  
70 were left over when development came through, and in some cases, you can assemble  
71 five or ten acres of that property and build a new community, rather than trying to squeeze  
72 new houses on old lots where they don't really fit well. So, there is no land in the county  
73 that is zoned to that district. Anybody that wants to take advantage of that would begin by  
74 applying to rezone to R-5B. But it is one more way that we are trying to stay current with  
75 the times and stay ahead of the curve in terms of housing opportunity and keep the county  
76 headed in the right direction.

77  
78 Mr. Green- So, how are we impacted? Because I've noticed that there's a  
79 gentleman that would come from time to time with particularly small lots that he tries to  
80 build on, has been rather successful, so that means he won't have to come and force it.

81  
82 Mr. Blankinship- If he could find lots could be reasonably assembled into a new  
83 R-5B community, yes. He would go through the Planning Commission and Board of  
84 Supervisor's process rather than coming here to get exceptions on a lot-by-lot basis. He'd  
85 be able to do a design, or any developer could do a design at the beginning of their project  
86 that suits their particular environment.

87  
88 Mr. Green- Okay, any questions from the board on that?

89  
90 Mr. Lawrence- No, sir.

91

92 Mr. Green- Thank you. I just wanted clarification of a point of information  
93 for ourselves and for you all. So, this should be good.

94  
95 Mr. Blankinship- Alright, we do have two withdrawals on this morning's agenda.

96  
97 **CUP-2024-102763 - Alison Meehan: conditional use permit to build a detached**  
98 **garage in the front and side yards at 12585 Kain Road, Three Chopt. Parcel 734-**  
99 **770-3379. Zoning: A-1, Agricultural District. Code Section: 24-4404.A.1.**

100  
101 Mr. Blankinship- One we've known about for quite some time, that's Conditional  
102 Use Permit **CUP-2024-102763**, Alison Meehan: a conditional use permit to build a  
103 detached garage in the front and side yards at 12585 Kain Road, in the Three Chopt  
104 Magisterial District. That case has been withdrawn, so if anybody was here for that, thank  
105 you for coming, but that case will not be heard this morning.

106  
107 **VAR-2024-100763 - Katherine and Jonathan Kennedy: variance from the public**  
108 **street frontage requirement to build a single-family dwelling at 8701 September**  
109 **Drive, Tuckahoe. Parcel 755-736-1968. Zoning: R-3, One-Family Residence District.**  
110 **Code Section: 24-4306.E.1. The applicant has 0 feet public street frontage where**  
111 **the Code requires 50 feet public street frontage. The applicant requests a variance**  
112 **of 50 feet public street frontage.**

113  
114 Mr. Blankinship- The second withdrawal is on page two of the agenda. It's  
115 Variance **VAR-2024-100763**, Katherine and Jonathan Kennedy: a variance from the  
116 public street frontage requirement to build a single-family dwelling at 8701 September  
117 Drive, in the Tuckahoe Magisterial District. That case was withdrawn just yesterday. So,  
118 if anybody was here for that, again, thank you for your appearance, but that case will not  
119 be heard this morning.

120  
121 **CUP-2024-102489 - Tim Coffey: conditional use permit to build a detached**  
122 **accessory dwelling unit at 610 Horsepen Road, College Hills, Tuckahoe. Parcel 761-**  
123 **738-3664. Zoning: R-3, One-Family Residence District. Code Section: 24-4406.**

124  
125 Mr. Blankinship- With that, Mr. Chair, the first case we have, of five conditional  
126 use permits to hear this morning, as well as three variances. And the first is Conditional  
127 Use Permit **CUP-2024-102489**, Tim Coffey: a conditional use permit to build a detached  
128 accessory dwelling unit at 610 Horsepen Road, in College Hills, in the Tuckahoe  
129 Magisterial District.

130  
131 Mr. Green- Excuse me, before you begin, there's a question.

132  
133 Mr. Lawrence- Mr. Blankinship, this a question for my clarification, and  
134 maybe the folks here. When a case is withdrawn, we have two on the agenda today, what  
135 are the rules regarding an applicant being able to reapply for that permit? Is there a time  
136 period in which they have to wait before that's done?  
137

138 Mr. Blankinship- There is and it's interesting we have two different examples.  
139 The Alison Meehan case, there had never been a hearing on that case, so she could  
140 reapply next month if she wanted to, because it has not been heard and then withdrawn.  
141 The other case has already had a public hearing and has now been withdrawn. In that  
142 case, you cannot resubmit substantially the same application within one year. So, if there  
143 were substantial changes to the application, it could be resubmitted. But to bring  
144 essentially the same request back, you have to wait at least one year.

145

146 Mr. Lawrence- Okay, thank you Mr. Blankinship.

147

148 Mr. Blankinship- Yes, sir.

149

150 Mr. Lawrence- That's all I had Mr. Chair.

151

152 Mr. Blankinship- Alright, so would everyone who intends to speak to 2489,  
153 please stand and be sworn in. Raise your right hand, please. Do you swear the testimony  
154 you're about to give us the truth, the whole truth, and nothing but the truth so help you  
155 God? Thank you. Mr. Gidley.

156

157 Mr. Gidley- Thank you, Mr. Secretary. Good morning, Mr. Chairman,  
158 members of the board. This application was deferred from last month's hearing to allow  
159 the applicant's architect to work with staff from Planning and the Permit Center to resolve  
160 any outstanding issues. Based on these conversations, revised plans were submitted.  
161 The subject property is located on Horsepen Road, as you can see here, approximately  
162 one-half mile south of Patterson Avenue. The applicant proposes to construct a two-story  
163 accessory structure in the rear yard. You can see that right here. The ground floor would  
164 be predominantly a two-car garage along with the laundry room. The second floor would  
165 be an accessory dwelling unit with 800 square feet of finished floor area, the maximum  
166 permitted, with 200 square feet being unfinished. The garage is allowed by right while the  
167 ADU requires a conditional use permit, thus today's application. Reviewing this request,  
168 the property zoned R-3 One-Family Residence District and complies with the lot area and  
169 lot width requirements for this district. A family dwelling is a permitted use and as noted  
170 an ADU can be approved via conditional use permit. This is the front of the residence  
171 here. Accessory structures must be subordinate in height to the principal dwelling. The  
172 applicant's home is a split-level home that appears to be one-story from the street but  
173 viewed from the rear would be two stories. Accessory structures are limited in height to  
174 20 feet and the revised plans comply with this requirement. Due to the size of the home  
175 up to the maximum of 800 square feet is allowed, and that is what the applicant is  
176 proposing with regard to finished floor area, not counting the first-floor laundry. The  
177 proposed building is larger than the typical size of accessory structures found on the  
178 block, most of which are under 500 square feet. Staff is concerned there could be an  
179 adverse impact on neighbors, however none have expressed any opposition to staff, even  
180 though they were notified of this request, of course. In conclusion, this is a request for a  
181 two-story accessory structure with a first-floor garage and laundry and an accessory  
182 dwelling unit on the second floor. The proposed structure is much larger than other  
183 accessory structures on the block. As noted, while staff has concerns about the impact

184 on neighbors none have voiced any opposition. The revised plans have the maximum  
185 800 square foot finished floor area and comply with the building height. So, so long as  
186 the board considers the two-story accessory structure to be subordinated in height to the  
187 home and compatible with the surrounding neighborhood, then it should go ahead and  
188 approve the conditional use permit. This concludes my presentation. If you have any  
189 questions, I'll be happy to answer those. Thank you.  
190

191 Mr. Lawrence- Does anyone from the board have any questions? I had one  
192 question for staff if I could. Mr. Gidley, is there ambiguity in the county ordinance as to  
193 whether a house with this design should be characterized as one-story or two-story?  
194 There was a lot of discussion about it at the last meeting in that from the street side it  
195 appears to be a one-story house. But then if you look at it from the rear, it's two-story. Is  
196 that... Does the ordinance address that situation? I know the ordinance limits accessory  
197 dwellings to the same. Basically, if you have a one-story house, you can only have a one-  
198 story accessory dwelling. But this is a little bit different here. It's kind of an unusual  
199 situation, maybe it's not unusual, but unusual, I think, in terms of since I've been on the  
200 board.  
201

202 Mr. Gidley- Little bit different, yeah.  
203

204 Mr. Lawrence- Yeah.  
205

206 Mr. Gidley- Is that taken from the street area, Mr. Blankinship?  
207

208 Mr. Blankinship- The stories?  
209

210 Mr. Gidley- Yeah.  
211

212 Mr. Blankinship- In terms of what is a story, that's a matter, I wouldn't say  
213 ambiguity, but I would say a matter of interpretation. The old zoning ordinance had a little  
214 bit more stress on stories. Buildings were limited, you know, principal buildings were  
215 limited by number of stories. And we spent endless hours arguing about well, do you  
216 count this, do you count that? And one of the changes we made with the code update in  
217 2021 was that we removed all those references to stories where we felt they were not  
218 necessary and relied on the height as the measurement. So, it is a word that means  
219 different things in different contexts and different situations. That's why Mr. Gidley pointed  
220 out if you look at this house from one side, it looks like one-story, if you look at it from the  
221 other side, it looks like two stories. Of course, the accessory dwelling is going to be in the  
222 rear yard, but the building height would be measured at the front yard. Okay. So that's  
223 why there are five of you, you know, to make judgment calls with this.  
224

225 Mr. Lawrence- Sure. Thank you.  
226

227 Mr. Green- Any other questions from the staff? I mean from board to staff.  
228 If not, we'll hear from the applicant.  
229

230 Mr. Coffey- Okay, Tim Coffee, C O F F E Y. So, these plans, as we've  
231 talked before, are for building a garage with an ADU in our backyard, for my father-in-law,  
232 to be able to spend significant time. He currently lives in California and plans to maintain  
233 his residence in California, but he plans to come for extended periods of time to spend  
234 with us and his grandchildren. So, after the last BZA hearing our architect did meet with  
235 Brett Hinson, in the Permit Center and they were able to determine what counted towards  
236 that 800-square-foot and what didn't. And as Mr. Gidley suggested, we've met that 800-  
237 square-foot piece, and I'm happy to answer any questions that the board has.

238  
239 Mr. Green- Any questions from the board to the applicant? Is there  
240 anyone in the audience to speak for or against this application?

241  
242 Mr. Blankinship- There's no one on Webex for this case.

243  
244 Mr. Green- Hearing none, is there a motion?

245  
246 Mr. Broadway- Yes sir, Mr. Chairman, I would move that we approve this  
247 conditional use to permit subject to the conditions that the staff has recommended.

248  
249 Mr. Green- Is there a second?

250  
251 Mr. Johnson- I second.

252  
253 Mr. Green- Motion has been made by Mr. Broadway, seconded by Mr.  
254 Johnson. Was there any discussion? Hearing no discussion, all in favor say aye.

255  
256 Board- Aye.

257  
258 Mr. Green- All opposed, like sign. Anybody who opposes, or in  
259 opposition? Thank you.

260  
261 Mr. Coffey- Thank you very much.

262  
263 On a motion by Mr. Broadway, seconded by Mr. Johnson, the Board **approved case**  
264 **CUP-2024-102489** subject to the following conditions:

- 265  
266 1. This conditional use permit authorizes a detached accessory building to include an  
267 accessory dwelling unit (ADU). All other applicable regulations of the County Code  
268 remain in force.
- 269  
270 2. This conditional use permit applies only to the improvements shown on the revised  
271 plot plan submitted at the December meeting and the building design titled "Coffey  
272 Residence Detached Garage & ADU" prepared by Nomad Studio and revised  
273 February 18, 2025, filed with the application. Any substantial changes or additions  
274 to the design or location of the improvements will require a new conditional use

275 permit. Any additional improvements must comply with the applicable regulations  
276 of the County Code.

- 277
- 278 3. The ADU is subject to the requirements of the Zoning Ordinance, including the  
279 following:
- 280 a. The building must be subordinate in height to the principal dwelling (Sec.  
281 24-4403)
  - 282 b. The building must not exceed 20 feet in height (Sec. 24-4404)
  - 283 c. The ADU must not exceed 800 square feet of finished floor area (Sec. 24-  
284 4406).
- 285
- 286 4. Any exterior lighting must be shielded to direct light away from adjacent property  
287 and streets.
- 288
- 289 5. The new construction must match the existing dwelling as nearly as practical in  
290 materials and color.
- 291
- 292 6. Before beginning any clearing, grading, or other land disturbing activity, the  
293 applicant must obtain approval of an environmental compliance plan from the  
294 Department of Public Works. The applicant may be required to analyze and  
295 provide solutions to minimize drainage impacts on downstream properties. Corps  
296 of Engineers and DEQ permits may be required.
- 297
- 298 7. The applicant must obtain a building permit for the proposed building by February  
299 27, 2027, or this conditional use permit will expire. If the building permit is cancelled  
300 or revoked after that date due to failure to diligently pursue construction, this  
301 conditional use permit will expire at that time.
- 302

303

304 <b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Massie</b>	<b>5</b>
305 <b>Negative:</b>		<b>0</b>
306 <b>Absent:</b>		<b>0</b>

307

308

309 **CUP-2024-102713 - Haidy Wahba: conditional use permit to provide daycare for up**  
310 **to 12 children in the home at 4601 Pinenoble Court, Woods at Innsbrook,**  
311 **Brookland. Parcel 754-765-1291. Zoning: R-3A, One-Family Residence District.**  
312 **Code Section: 24-4205.**

313

314 Mr. Blankinship- Alright, the second case is Conditional Use Permit **CUP-2024-**  
315 **102713**, Haidy Wahba: a conditional use permit to provide daycare for up to 12 children  
316 in the home at 4601 Pinenoble Court, Woods at Innsbrook, in the Brookland Magisterial  
317 District. Would all those who intend to speak to this case stand and be sworn in. Raise  
318 your right hand please. Do you swear the testimony you are about to give is the truth, the  
319 whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley.

320

321 Mr. Gidley- Thank you, Mr. Secretary. This case was deferred from last  
322 month to see if the applicant, the neighbors, and the Homeowners Association could  
323 resolve their differences. The Homeowners Association and many of the neighbors,  
324 however, continue to oppose the application. The applicant's property is a corner lot  
325 located at the entrance to a cul-de-sac in the Woods at Innsbrook subdivision. The  
326 applicant, who previously worked in the childcare industry, was planning to provide care  
327 for up to five children, which does not require a conditional use permit. During this  
328 process, however, setting this up she discovered that she had enough potential clients to  
329 go up to 12 children. Since this requires a conditional use permit, she has applied for the  
330 required conditional use permit. In reviewing this request, the property zone R-3A one-  
331 family residence district. The property complies with the dimensional standards for this  
332 zoning district. A single-family home is permitted by right and, as noted, care for between  
333 six and 12 children is permitted, so long as a conditional use permit is approved by this  
334 board. The surrounding area is made up single-family homes and a family day home is  
335 typically consistent with residential subdivisions. The property does have a driveway, as  
336 you can see here, that can accommodate up to six vehicles. The rear yard is rather small.  
337 Although if it proved the applicant has indicated she has plans to, you know, clean it up a  
338 little bit and to install a privacy fence to allow for an outdoor play area. The Homeowners  
339 Association has received opposition from several neighbors concerned about items such  
340 as increased congestion, noise and whether the property is large enough to handle up to  
341 12 children. The HOA has also indicated their opposition as they believe the covenants  
342 prohibited the proposed use of the property. In conclusion, the subject property appears  
343 to be suitable for a large family day home, especially if the rear yard is fenced. However,  
344 the Woods at Innsbrook Homeowners Association has formally objected to this request  
345 based in part on their covenants not allowing the proposed use. Several neighbors have  
346 also objected as well based on traffic and noise concerns. While the BZA is independent  
347 of the homeowners association, typically this board does not set up conflicts between the  
348 two governing boards and the neighborhood. As a, as a result of the HOA's opposition to  
349 this and some of the neighbors, staff is going to go ahead and recommend denial of this  
350 request to avoid that conflict between the two boards that govern the neighborhood. This  
351 concludes my presentation. If you have any requests, I'll be happy to answer those.

352

353 Mr. Green- Alright, the question I have, you said most rules are clear, so  
354 either you can, if you're dealing with an HOA, or you can't. You said, "appears". So, is it,  
355 does it appear, or is it, or is it against in their, in their bylaws?

356

357 Mr. Gidley- They've stated their opinion that is that it is in violation of their  
358 bylaws. That's what they've stated.

359

360 Mr. Green- So it is, so when you say it appears, you mean...

361

362 Mr. Gidley- Yeah, it's not my job to read their covenants as such and to  
363 judge them. The HOA has come out and says it would be a violation of their covenants,  
364 or their bylaws.

365

366 Mr. Green- Just wanted that for clarification.

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Mr. Gidley- Sure.

Mr. Green- Any questions from the board? Okay, thank you. Hearing none, we'll hear from the applicant.

Ms. Wahba- My name is Haidy and last name is Wahba, which is W A H B A. I applied to have a childcare in my home at 4601 Pinenoble Court. So, I have experience with children and childcare. I worked in commercial childcare for five years, and before those five years I worked another five years with a nonprofit organization with the children, and in my country I have also five years. So, it's a total of 15 years with kids. I was looking to provide service for my community, which for families who they couldn't speak English, as I speak Arabic. And my husband speaks four other languages other than English. The HOA were not willing to work with me. They stopped responding to my emails and explaining for me. And I was waiting for their annual meeting to discuss that with them, but they just sent agenda which I provided here to the board. They said, first thing, no questions will be answered about the proposed childcare. So, I couldn't just get contact with them by any way, either by email or in the meeting, the annual meeting. And another thing while I immigrate here, I believed the law applied equally to everyone regardless to their status, which I found from the HOA it's not true. All the board members has their own business in their houses, which they told me, "No business allowed in houses" while all of them they have running business from their own house. In same street I live on, it was childcare operated in the same street which I live in. Same house, I just bought it recently. It was a coffee business running over there and I have old paper for this. That's all.

Mr. Green- Okay, thank you. Are there any questions? You can just stay right there. Any questions from the board to the applicant? Go ahead, Mr. Johnson.

Mr. Johnson- You said that you started off with how many kids?

Ms. Wahba- I got approved for five kids, but even HOA didn't allow me to run those five kids. And they said we not allowed those five kids. And whenever I applied for 12 kids, the reason is my business will be monitored from the state because it will be licensed, and I couldn't have more than five without having this use, conditional application. That's why I apply for it, but at the same time, not all the 12 kids will be at the same time, but while I enrolled more than five kids. I have to get this approval for 12 kids, but I was willing to divide them for part time, so maybe six and six or seven and five kids. Not all of them at the same time. And I provide also for the HOA agreement which said no parking will be allowed except on my driveway, so this way I will avoid making traffic in my street and I was willing to work with all reasonable persons but they refuse to work with me.

Mr. Johnson- Well, the county would want you to have enough space for you to have 12 kids at the same time. From what you're saying, you don't have that space.

413 Ms. Wahba- In my house, inside, I do have a big space for them. And for  
414 outside, they will not be more than 30 minutes all day, so. Which might be 15 minutes  
415 and 15 minutes. I also will be having someone help me, because regarding the points of  
416 the kids, following my license couldn't be only me. So, I can divide the kids for inside and  
417 outside, like six and six or five and seven, as I mentioned before. And I was also willing  
418 to provide toddler, infant which is going to be in a stroller, just walk them around those  
419 10-15 minutes, so avoid also neglect my neighbors.

420  
421 Mr. Johnson- And so, you're doing that by yourself, or do you have someone  
422 else?

423  
424 Ms. Wahba- No, no, no. It's going to be someone else helping me  
425 regarding to the points, because each child has a specific point. For infants, only one  
426 infant is four points. And then only one person can handle 16 points. So, let's say it's four  
427 infants for one person.

428  
429 Mr. Lawrence- Yes. Good morning, Miss Wahba, a couple questions for you.  
430 So, you're, how many children are you watching in your home currently?

431  
432 Ms. Wahba- Right now?

433  
434 Mr. Lawrence- Yes.

435  
436 Ms. Wahba- I don't have any kids. I have just my own kids. I didn't start the  
437 business yet.

438  
439 Mr. Lawrence- So, but you're working on daycare, so you're working for a  
440 commercial company?

441  
442 Ms. Wahba- Yes, I do. Correct. I watched 20 kids with assistant teacher.

443  
444 Mr. Lawrence- Okay, how many children do you have?

445  
446 Ms. Wahba- My own?

447  
448 Mr. Lawrence- Yes.

449  
450 Ms. Wahba- Four.

451  
452 Mr. Lawrence- So, you're asking basically to have 16 kids in your home, is  
453 that correct?

454  
455 Ms. Wahba- It's correct, but as I mentioned before, my own three kids, they  
456 go to school in the morning, so I can use their spots in the morning. And just reduce the  
457 number in the afternoon while they make it home.

458

459 Mr. Lawrence- Okay, now, I see where you recently moved in the  
460 neighborhood and I guess my question is, were you aware when you moved in the  
461 neighborhood that they had restrictive covenants? Were you aware there's an HOA and  
462 there are restrictive covenants that govern certain types of activities?  
463

464 Ms. Wahba- I just didn't get this question. Do you mind if you explain?  
465

466 Mr. Lawrence- Sure. So, when you purchased your house, your realtor was  
467 obligated to inform you there was a homeowners association that governed standards in  
468 the neighborhood and you should have received a copy of the restrictive covenants that  
469 spelled out what was allowed and was not allowed. Did you receive that information?  
470

471 Ms. Wahba- I did not, but whenever I ask them for it, I see it online and  
472 they write down on it that only houses should be used for residences, but which they even  
473 them, they didn't follow this rule. While all of them, they run business from house, and I  
474 have all the paper for that. While a childcare was running in the same street, that's why I  
475 was working to have my own childcare, which is another business in my same house,  
476 which was a coffee business, and all people keep going back and forth too.  
477

478 Mr. Lawrence- You showed us some schematics of your, the area where you  
479 want to watch the children in your house and then also your backyard, and I've eyeballed  
480 it from the street, because I'm not going to trespass on your property, but I do like to  
481 review properties before we hear the case. So, do you know what the approximate square  
482 footage is? Because your backyard looks like it's probably about the smallest backyard  
483 in the neighborhood. And I know there's also, you talked about putting a fence up, but I  
484 know there are restrictive covenants in terms of fencing and fence height, but do you  
485 know what your square footage is in your backyard? And also, with your square footage  
486 of the room in your house that you've identified where you're going to be keeping up to  
487 16 children.  
488

489 Ms. Wahba- Okay, as I mentioned before, I will not keep all of them at the  
490 same time, this is the first thing. And second, I don't know how much it's square feet. And  
491 by license I got informed that I don't have to have a big fence, just a small one since my  
492 house, the speed limit on it, it's not more than 40. That's all. And as I mentioned, if I have  
493 infant, and toddler, I will just take them in a stroller to just walk around and if it's bigger  
494 than like two years old, I might put small toys for them like sand table, water table in some  
495 area.  
496

497 Mr. Lawrence- It does appear you have a lot of front and side yard, but I  
498 guess the concern there is, as identified by maybe staff and some of your neighbors, is  
499 that it's on a street corner. There's an elementary school nearby, there's a bus stop there.  
500 I know there is, you know, a fair amount of traffic at certain times of the day. But I did  
501 have a question for staff. I'm a little confused on one point. The applicant has said there  
502 is another daycare already operating in the neighborhood. Yet the staff report says the  
503 staff could not find any evidence of a daycare in the neighborhood. Can you, can you  
504 address that question?

505  
506 Mr. Blankinship- It is no longer operating. We did get an email, and we left it at  
507 the table for you this morning as part of that package. We did get an email message from  
508 a person who said that they used to live on this cul-de-sac. They used to operate a family  
509 day home in their home, and they were at that time a member of the HOA board. Now,  
510 we received that just a couple days ago, we don't have any way of verifying any of that  
511 information. But we do have some,  
512  
513 Mr. Lawrence- But, if they only had five or fewer children, they would not have  
514 had to come through the county to get that.  
515  
516 Mr. Blankinship- That's correct. That's correct.  
517  
518 Mr. Lawrence- Okay.  
519  
520 Mr. Green- Now my question is, if they had five or fewer, was that still  
521 restricted by the HOA?  
522  
523 Mr. Blankinship- Again, we are not the experts on how to interpret or enforce  
524 their HOA covenants, so I can't really answer that.  
525  
526 Mr. Green- Okay, but you said someone is on there from the HOA?  
527  
528 Mr. Blankinship- Yeah, we will have someone on Webex as well.  
529  
530 Mr. Green- And for practical purposes, where you feel that maybe other  
531 folks are running businesses in your neighborhood, we can't address that. That's a HOA  
532 situation. We can only look at what your request is. So, while I appreciate you bringing  
533 that to our attention, there's nothing we can do about that. We just have to stay focused  
534 on what you're doing. Are there any other questions for the applicant?  
535  
536 Mr. Lawrence- I have one for the applicant, Mr. Chair. Miss Wahba, you are  
537 aware that we can't address the covenants in your homeowners association. We can't get  
538 into that. Although we do usually defer to homeowners associations on those issues. It  
539 does raise some legal issues; I think too, in terms of what takes precedence. But, you are  
540 aware that under the county ordinance, we can't address the homeowners association,  
541 but you could have up to five children in your home, without having to get a conditional  
542 use permit.  
543  
544 Ms. Wahba- I'm aware of that.  
545  
546 Mr. Lawrence- Okay. I'm sorry go ahead. Yeah, go ahead.  
547  
548 Mr. Massie- I have a question for you. So, you say you're going to have 12  
549 children, but you said they're not going to be at the same time. So how does this work?  
550 Do you get children from six in the morning to 12 in the afternoon? How does it work?

551 Ms. Wahba- I didn't decide yet, but I'm willing to do that. It's just for the  
552 family's needs. Like some of them they will need like a specific day Monday, Wednesday  
553 Friday, and some of them they need Tuesday, Thursday. And I might also, as I mentioned  
554 before, divide them for part of the day, let's say from six to 12, then in the other in the  
555 afternoon from 2:30 p.m. to 6:30 p.m.  
556

557  
558 Mr. Massie- Okay, so there's nobody to regulate that. That's just, we take  
559 your word for that and figure you're going to do what you say you're going to do.  
560

561 Ms. Wahba- Right? Yeah, I just didn't put the plan because I don't have  
562 any families yet, but it's just my plan to do that.  
563

564 Mr. Green- My question is, why wouldn't you just start, since most folks  
565 would start with the five, then they grow? Why are you not starting with the five and then  
566 growing after you know you can handle the five, show the neighbors, show the association  
567 that this is manageable? Because I think everyone gets nervous when this starts with the  
568 large number versus growing into it. Can you explain that to us?  
569

570 Ms. Wahba- Yeah, of course. Whenever I just get the approval of five kids,  
571 I complete all my applications for license. While I submitted for them, the HOA refused  
572 even to give me those five kids. When I applied for the 12 kids and when I get my husband  
573 want to work with me and another coworker, which had experience in the childcare is  
574 willing to come work with me from home. So, I said, let me apply until I get the approval  
575 for 12 kids. I would be working with the five kids, but HOA just came up and said, no  
576 childcare at all.  
577

578 Mr. Green- Well, but I guess we have someone on HOA, because the real  
579 question is, is that a restrictive covenant too? We don't know. So, we'll hear from HOA, I  
580 guess. Mr. Johnson, you had a question?  
581

582 Mr. Johnson- And also when you mentioned about the five children, you're,  
583 talking about doing that, having those five during a certain length of time and then  
584 somebody else another time, correct?  
585

586 Mr. Green- No, she's talking about the whole 12.  
587

588 Mr. Johnson- But she's saying she can't... that she can only do five at a  
589 time.  
590

591 Mr. Green- No, she said she would start with five, but then go up to 12,  
592 but then it looks like it could potentially be 16. She said if there were 12, they could  
593 fluctuate the times. She didn't say that with the five. Correct?  
594

595 Ms. Wahba- Yes, that's true.  
596

597 Mr. Green- Okay. Any other questions from the board? Is there anyone  
598 else to speak in support of this applicant? If you're speaking in support you can go for...  
599

600 Ms. Lemon- Hi, good morning. My name is Kristin Lemon, L E M O N.  
601 Thank you for allowing me to speak today and for your time. I am here to support Miss  
602 Haidy's request for a home daycare conditional permit. I live immediately next door at  
603 4605 Pinenoble Court and share a property line with her. I want to attest that she's a  
604 highly qualified childcare provider with a safe and well-maintained home. I also want to  
605 attest she has made repeated efforts to work with the HOA to try and compromise. A letter  
606 was sent to the entire neighborhood mischaracterizing Miss Haidy and the situation. I've  
607 provided a copy of that letter. In the ten years that I've lived in this neighborhood I've  
608 never received a letter from the HOA, especially when it pertains to what people want to  
609 do with their home. Unfortunately, the HOA is operating with bias, whether it's conscious  
610 or unconscious, and selective enforcement rather than recognizing the value of this  
611 childcare. Haidy mentioned the other businesses in our neighborhood, which I won't touch  
612 on again since you've heard. Our HOA bylaws were written in the 1980's and they're  
613 vague and outdated. The HOA has gone years without board members and even fell  
614 delinquent with the SCC for a time. The HOA board cited a general rule. Our bylaws state  
615 all homes, all lots must be used for residential purposes. But there's no explicit prohibition  
616 against home-based businesses within any of the governing documents. In researching  
617 this topic I found under the property Owner's Association Act in Virginia, the law changed  
618 in 2019 stating that home-based childcare is classified as a permanent residential use,  
619 unless specifically prohibited in the HOA governing documents. Since no express  
620 prohibition exists, the HOA's objections are personal opinions, which they are certainly  
621 entitled to, but in this case not enforceable rules. It's disappointing that the HOA has not  
622 provided a community forum for this. That's why the last case was deferred to allow for it.  
623 Approving this request is aligned with Henrico County's vision for growth and strong  
624 communities. Home daycares provide much needed childcare, especially with long  
625 waitlists and the high costs in our area. Our own family benefited for many years from  
626 home daycare, and I know many others will as well. Since this request meets all the legal  
627 requirements and contributes greatly to the county's goals, I respectfully ask the board to  
628 approve it based on law and fairness and the community support rather than the  
629 unenforceable and vague HOA objections. Thank you for your time.

630  
631 Mr. Green- Thank you. Any questions from our board to Ms. Leron. Next  
632 individual. Are you for or against?

633  
634 Ms. San Martin- For.

635  
636 Mr. Green- Okay, thank you.

637  
638 Ms. SanMartin- Good morning, my name is Beth SanMartin. It's...

639  
640 Mr. Green- Were you sworn in?

641  
642 Mr. Blankinship- Were you here at the beginning of the hearing?

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Ms. SanMartin- No.

Mr. Blankinship- Okay, sorry. At the beginning of the case, we ask everyone who intends to speak to the case to stand and be sworn in. Would you raise your right hand, please? Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Ms. SanMartin- Yes.

Mr. Blankinship- Thank you.

Ms. San Martin- Sorry about that. My name is Beth SanMartin, it's S A N M A R T I N. I live over at 10713 Shadyford Lane. So, kind of like on the other side of the whole subdivision from Ms. Haidy. I've never met her. I don't know anything about her. However, I've heard about this case and I'm a little appalled at the way the HOA is handling it. As Miss Lemon mentioned, we don't really hear from the HOA, which is something that I think a lot of us like about our area, is it's not very restrictive. They more or less leave you alone and they're not trying to go after every single little thing that you do in your neighborhood. And I think that's something that our community appreciates. I know my neighbors also appreciate it. I have heard of other daycares on my street in the past, not existing right now. That would have been before I moved there so I can't confirm or deny. I just know that I have heard of them existing in our neighborhood. And one thing that struck me is, as Miss Lemon mentioned, they sent this letter out and it was, that letter was very negative, it was basically asking for people to be against this as they are. I didn't feel as if I was receiving information and being told, hey, let's have a conversation. That these are the basic facts, like let's have a community conversation about it. It was very much, this is happening. We, the board, are against it. We just want you to know that we don't like this. And as a resident, I didn't very much appreciate that. And they did hold that meeting recently. I don't know about others in the community, but I wasn't able to make that meeting because I felt that they put it at a time that's very difficult for people. They made it at 5:00 p.m. on, I think it was a Thursday. And I know I'm on my way home from work picking up my kids from daycare. That's not a time that I feel is very plausible for working people, and most of the people who live in that community are working people, to be able to make that meeting. And I personally felt that that was intentional to make it so that people couldn't come in and speak. Not that it would have mattered because in big red bold font on the proposed agenda it said no comments would be taken about this anyway. So, I feel very strongly that this HOA is not even allowing people to give their opinion on it. They made mention of how the neighbors in the area are against it, and I, I think it's great that they are listening to people in the neighborhood, but it seems like they're not willing to hear opinions other than that. So, that's just kind of what I have noticed about this. And, as Miss Lemon also mentioned, there is a daycare, daycare shortage in this area, and I think it could be a great thing to have that in our neighborhood. I know I personally, she mentioned part-time care, that's extremely hard to find, especially when you look at the centers. Trying to find a part-time daycare that will take your child part-time is exceedingly difficult. So, if she's actually gonna focus on that, I think that's

689 incredible for parents because that's really, really hard to find. Most daycares don't want  
690 to take part-time kids. And I know I might have to have a part-time child next year because  
691 my child will be in preschool for her IEP. So, I'm already worried about where I'm going  
692 to place my kid. It might end up being great that there will be one in my neighborhood.  
693 The HOA mentioned they're worried about traffic. I live on Shadyford Lane, which is the  
694 last street that you can turn left onto before you hit the school. My street is probably one  
695 of the most impacted by the traffic from the school, and I'm not at all worried about extra  
696 traffic on the complete opposite end of the subdivision from the school. It also goes off of  
697 Fort McHenry and off into another cul-de-sac. It's streets removed from all of that traffic.  
698 So, I personally don't feel that that is a valid argument. It's not really going to affect school  
699 traffic that much. The school has actually done an excellent job of managing that traffic.  
700 Especially since COVID, everyone went back and everything. I can tell you this year, I  
701 barely even noticed it and I live in the street that's probably the most impacted other than  
702 Fort McHenry itself. So, I just wanted to come and speak that I, I really feel like the HOA  
703 is tainting the community against her. I don't know her. I have never stood and had a  
704 conversation with her, so this is not a friend trying to help a friend out. I'm just, I'm really  
705 appalled by the way the HOA is handling this.

706  
707 Mr. Green- Thank you. Thank you. And my question, I live in a  
708 neighborhood where there's an HOA and I assume, when I signed documents purchasing  
709 my house, I got the HOA rules. I don't know what they are. But I do know that whenever  
710 there's some potential violation in my neighborhood, I don't break the law, but from other  
711 people, the HOA will send you out the section which tells you what you're doing. Because  
712 within my area you have to paint your mailbox stands a certain way. Maybe you can, all  
713 three of you can address this. When you receive the notification from the HOA, did they  
714 specifically share with you the section in the covenant which says certain things can or  
715 cannot be done. Which legally binds what you're, what you're doing rather than an  
716 opinion? Was there? And, you can go back and address that. Do you, do either one of  
717 you all, or yourself, know if that occurred?

718  
719 Ms. Lemon- They did, but they paraphrased about three words from the  
720 covenant, but if you read the full covenant, it states that no lot should be used other than  
721 for residential purpose, and then it goes into talking about you can't build like an external  
722 shed. But there's nothing that's specifically, in the entire declaration document that  
723 specifically states any particular type of business or anything. And like I stated, they're  
724 from 1986 and haven't been updated since, and the world has changed significantly. A  
725 lot of us work from home and could potentially fall under that definition if it's allowed to be  
726 given a broad stroke like that. So, you know, we voiced that we would like them to be  
727 updated and more specific, so there's not so much room for opinion. But yes, to answer  
728 your question, they did cite that particular one, but paraphrased it.

729  
730 Mr. Green- Paraphrased it, okay. Okay, fortunately Mr. Blankinship said  
731 there is someone on Webex from the HOA so we can delve into this. Thank you. Anyone  
732 else to speak in favor of this applicant? Is anyone going to speak against it? Mr.  
733 Blankinship said someone is on the web, someone's on Webex?

734

735 Mr. Blankinship- Yes, if we can hear from the speaker on Webex now, please.  
736 Good morning.

737  
738 Ms. Becker- Good morning. Yes, my name is Mary Becker. I'm on the HOA  
739 board. I listened to what everybody had to say. The original proposed daycare was for  
740 12. It wasn't for five, it was for 12. And the board talked about it, did a lot of research and  
741 asked for documents from Miss Wahba and she submitted. And then we started getting  
742 emails from various members around her home. There was a zoning sign that was posted  
743 in her yard, so people started seeing it and they were contacting the board asking about  
744 it. Several were rather upset because they had not received any notification. So, the board  
745 discussed more in detail and came to the conclusion that we were not going to allow up  
746 to 12 children, due to our covenants and the feedback that we were receiving from the  
747 neighbors and voted not to allow it. And then Miss Wahba came back asking for five, and  
748 because of the fact that we had already voted no to the 12, and we knew that she could  
749 do it without our approval anyway, that she only needed that through zoning for up to 12,  
750 we felt that if we said yes to the five, which she didn't need our approval, we were going  
751 against what all the neighbors and other members were stating and we were worried  
752 about liability and all that. So that's why we did what we did.

753  
754 Mr. Green- My question is, since this was an issue that a homeowner, a  
755 resident, someone who's a part of the HOA, and I assume pays the dues and is compliant,  
756 why didn't you give her an opportunity to present her case before the board?

757  
758 Ms. Becker- We actually, we're talking to her via email. We've never  
759 personally talked to her on the phone or met her. She started getting very threatening  
760 with the board in her emails. She began calling us racist, discriminatory, and this wasn't  
761 just in one email. It started getting where it was overboard.

762  
763 Mr. Green- No, I don't want to get into what's in an email, because that's  
764 opinion. Getting into the fact that if you have an HOA and a resident has an issue and,  
765 and would like the issue addressed, why didn't the board take the time, regardless of how  
766 you felt about it, to give that individual and others an opportunity to present their case to  
767 you? Why would you just say no? Because I would think if I had an issue in my community,  
768 I would expect my HOA to at least hear me out if I requested it and not just blanketly tell  
769 me no. And the mere fact that you did that could attribute to why someone may turn  
770 negative or have certain, certain feelings. So, I'm just trying to ascertain, you know, what  
771 that is. And then also, is there specific language in your covenant which prohibits her from  
772 doing what she's attempting to do?

773  
774 Ms. Becker- Well, in our covenants, it states no lot shall be used except for  
775 residential purposes. So, that's what we have to go by as the board, based on that. We  
776 did want to work with Miss Wahba, but at that point when things started going awry, we  
777 felt we had all kinds of people saying all kinds of statements, the board had voted no, and  
778 there was no sense in rehashing anything. The board had voted no based on the  
779 covenants, based on the feedback from 21 neighbors that were totally opposed to it, and  
780 we felt that it was left up to zoning at that point. That there was no, there was nothing to

781 rehash because it had gotten out of hand and we had already voted no, and the neighbors  
782 spoke, and we felt that zoning, it was in your hands based on the feedback and everything  
783 that was happening, that we would leave it in your hands. Rehashing it wasn't gonna get  
784 us anywhere. It was getting nasty.

785  
786 Mr. Green- Well, no, I'm, and I'll let others ask you questions, but it's not  
787 a question of rehashing. It's a question of just, just due process and allowing her to make  
788 her case before you. See, the beauty of what we do, we get, we hear staff opinions, we  
789 hear the applicant, we hear other folks, and you'd be surprised how that will change how  
790 we look at something, and our opinion. And, and there are times where we've looked at  
791 cases, and it's been clear how we're going to vote yes or no, but somebody will come in  
792 here and make a compelling case, even a neighbor will make a compelling case, which  
793 changes our mind. And that's just, I mean, and, and if, if, if we come in with a closed mind  
794 and, and just say no and, and staff will tell you that, that, that we've, "no, we hear what  
795 you say, but we're going to do something different". That's what. The purpose of a board.  
796 Is for giving folks the opportunity to do that. And, and, and so that that's I typically am on  
797 the side of listening to what HOAs... But if you're not giving this person due process, then  
798 I'm I, I think that could be problematic and why you receive some of the concerns. And  
799 then I'm looking at the fact that folks have taken their time out of this day, which they didn't  
800 need to, the other neighbors, to come and speak and in favor of this. And while this is,  
801 and with all due respect, while we appreciate Webex, you know, nothing is better than  
802 face to face, you know, you, you all have taken position to do address this issue on  
803 Webex, but other folks have come in and are present. I'm old fashioned. I'm, I want to see  
804 you, I want to look at you. I don't like this Zoom. I don't like this Webex. I appreciate it, I  
805 use it, but I like to see you because I like to understand the situation.

806  
807 Mr. Lawrence- Mr. Green with all due respect, we did have the applicants, or  
808 the association representatives at the last meeting that were here to speak, and the  
809 applicant didn't show. So, I think we need to, you know, point that out.

810  
811 Mr. Green- Well, that may be the case, but then they could have come  
812 again. They could have come again.

813  
814 Mr. Lawrence- The applicant could have come to when the meeting was first  
815 heard, so let's, let's be fair now.

816  
817 Mr. Green- Well, I am. I am just stating my opinion.

818  
819 Ms. Becker- Can I speak?

820  
821 Mr. Broadway- I have a question...

822  
823 Mr. Green- Yes. No, No.

824  
825 Mr. Broadway- ...for the, the lady on Webex, the member of the board. There  
826 have been several references to the fact that you can't have a business in your home,

827 according to the Homeowners Association. But there's a reference here to the Southern  
828 Charm Childcare. How long was that in operation and what's the background on that?

829  
830 Ms. Becker- You're asking, the board?

831  
832 Mr. Broadway- I'm asking you, yes.

833  
834 Ms. Becker- Oh, okay. We had no idea of that until it was brought up to us.  
835 My understanding was it was a previous board member. We were not, none of the current  
836 board was on that board when this individual did that or had that. We had contacted Mr.  
837 Blankinship, and he stated that it never went through zoning, nothing was applied for.  
838 There was no licensing. So, we had no idea of that daycare until it was brought up to us.  
839 So, it must have either been under five as stated before, or it was something that was  
840 being done, not the correct way.

841  
842 Mr. Broadway- Okay, so it's no longer in operation?

843  
844 Ms. Becker- No, that individual moved.

845  
846 Mr. Broadway- Okay.

847  
848 Ms. Becker- Yeah, and also, I'd like to say the vice president and president,  
849 as mentioned, did attend the last meeting and they had to take off without pay. Which,  
850 maybe these individuals had to do the same thing today, but, you know, to do it again,  
851 they just felt that for someone to be on Webex to be able to talk. And as far as not  
852 acknowledging Ms. Wahba, our understanding was when it was deferred at the last  
853 zoning that it was mentioned with the hopes that she would talk with the board. We never  
854 heard from her again. If she'd reached out to us, then we would have spoken to her, but  
855 she never did. We did not hear from her at all after the zoning was deferred.

856  
857 Mr. Green- Are there any other questions from from board?

858  
859 Mr. Lawrence- I have a couple questions. Ma'am, let me ask just a couple of  
860 questions. I don't want to get into a homeowner versus association. I live in an Innsbrook  
861 neighborhood. We have a homeowners association. I've lived there since 1987. We've  
862 had covenants since I moved in, and you know, frankly, some people have moved into  
863 the neighborhood over the years and they don't like the covenants, and, you know, I  
864 understand that, but, you know, that's what you, that's what you sign up for when you  
865 move into that kind of neighborhood, you know. Whether you like them or not, when you  
866 purchase a house in a neighborhood with restrictive covenants, you agree to abide by  
867 those. Now I know it's difficult for your organization, just like for my homeowners  
868 association, which is even smaller than yours, to enforce covenants as a volunteer  
869 organization, it's very difficult. And yeah, there are going to be violations at times that go  
870 on unchecked because you've got, you know, volunteers in the neighborhood, but let me  
871 ask you these questions. First of all, has the association ever approved a daycare in your  
872 neighborhood for 12 children?

873  
874 Ms. Becker- No, we have not.  
875  
876 Mr. Lawrence- Is your neighborhood, is your board treating the applicant here  
877 differently than you would treat any other neighbor in the neighborhood that would come  
878 forth with a similar request?  
879  
880 Ms. Becker- No, not at all.  
881  
882 Mr. Lawrence- And was your neighborhood willing to meet with the applicant  
883 to further discuss her concerns?  
884  
885 Ms. Becker- If she would have asked us to, certainly.  
886  
887 Mr. Lawrence- That's all I have Mr. Chairman.  
888  
889 Mr. Green- Any other questions?  
890  
891 Mr. Massie- I have a question for her. Supposed she wanted to keep eight  
892 children versus 12, would that make it better for you guys?  
893  
894 Ms. Becker- No, actually, I mean because of the fact that the board did  
895 vote for up to 12. We even said in our information, if she wants to do under five, that's up  
896 to her. That's her choice. She doesn't need the board's approval. But if we were to say  
897 eight, we're going against all the other people that have come forward that asked us to  
898 stand up for them. And that's all we're trying to do. We're going by the bylaws and we're  
899 going by the feedback, and we're just trying to make everybody happy in the best way  
900 that we can adhering to what we're here to do. And that's what we're trying to do.  
901  
902 Mr. Massie- I understand.  
903  
904 Mr. Green- So, if your bylaws state that you just said that if she did five,  
905 that's okay. But you earlier said your bylaws said nothing can be done with any house  
906 under you all's HOA. So, what is it?  
907  
908 Mr. Becker- Well, it is. It's only for residential purposes, but what I'm saying  
909 is our bylaws, like everybody has said, are older, and that's what it stipulates, only for  
910 residential purposes. We said no for even, you know, two. I mean it was anything for the  
911 daycare because of what our covenants say, but she doesn't need the board's approval,  
912 only she had to do it because of zoning up to 12 individuals. Now, would we approve it?  
913 No, we're not because we voted no, and we have to stick with that based on what the  
914 covenants say. But it's totally up to her. That's going to be on her and what she has to  
915 deal with, but we're not going to approve it. We already voted no.  
916  
917 Mr. Green- Okay, 12, but you will approve five.  
918

919 Mr. Blankinship- I think she's saying they would not approve it, but they would  
920 not be involved in the process.

921  
922 Ms. Becker- Correct.

923  
924 Mr. Lawrence- I think, Mr. Green, just to clarify, I think what she's saying is  
925 their covenants do not permit commercial businesses in the neighborhood. I believe, you  
926 know, that's common among most similar associations. I think what she's saying is their  
927 covenants would not allow this activity. However, if she goes ahead and goes forward  
928 with it anyway, under the county ordinance, then I think there's some ambiguity in the  
929 laws to as to whether restrictive covenants would take precedence over county or state  
930 laws. And I don't know that any of us here in this room can answer that question. I think  
931 that's an answer for attorneys, and it's probably been litigated. But I think what she's  
932 saying is their homeowners association, their bylaws, their interpretation is family daycare  
933 is a business. Which it is, it's a commercial enterprise. I think it's a very worthwhile  
934 enterprise and I think we have approved, you know, on select instances these cases. But  
935 let me ask this question while we have staff. I don't recall us approving a conditional use  
936 permit for a daycare center without having a track record of service already being  
937 provided. In other words, the cases I'm familiar with, we've had folks that have started out  
938 with five children, they've gotten their state licenses, they built a track record, they've  
939 demonstrated to the community that it's a worthwhile enterprise, and then if it looks like  
940 it's not negatively impacting the neighborhood, we've approved that. There haven't been  
941 a lot, but there have been, you know, select cases, but I'm not aware of any cases where  
942 we've granted approval without any business already having operated with five children.

943  
944 Mr. Blankinship- Yeah, not since you've been on board, Mr. Lawrence. I think  
945 we have in the past, but gradual growth is the more common path. But there have been  
946 cases in the past, I'm fairly certain, where we have approved a first-time large family day  
947 home. But each case is taken on its own merits.

948  
949 Mr. Lawrence- Sure.

950  
951 Mr. Green- Were there any other questions from the board to the person  
952 on Webex? Hearing none, is there any other person on Webex?

953  
954 Mr. Blankinship- Staff, is there anyone else on Webex? Not for this case. Okay,  
955 thank you.

956  
957 Mr. Green- Thank you miss. And the applicant now can come back and  
958 rebut.

959  
960 Ms. Wahba- The first thing, I would apologize that I couldn't attend the last  
961 meeting in person because my child has operation, and I joined online from my phone  
962 while I've been in the hospital and I said I will attend to see if you will approve the defer  
963 because I already applied for the deferral. And as Miss Mary mentioned that they didn't  
964 reply to me, to my emails and I was waiting for the annual meeting, so by this way I can

965 get contact with them, but while I was talking, they said your time is out and they mute  
966 me so I couldn't ask them any question or even just get contact with them. I'm willing to  
967 follow their rules. Since I live in their community. I'm not willing to break any rules. But the  
968 ways they keep contact with me and they telling me no. And whenever they ask me are  
969 your childcare will be a licensed daycare, which I said yes and to just give evidence to  
970 them, I took screenshots from my email to who's the lady who is responsible for my license  
971 and they used my information, and they go ahead direct and email her and they said we  
972 vote no for even five kids. Then after that. In her conversation, she's just mentioned that  
973 if it's four or even five, we will not be involved because I already got approval for five kids,  
974 which is not true because they even emailed the lady of license, and they said we even  
975 didn't approve four kids. Do not give her license. Which makes me feel very upset. And  
976 as I mentioned before, whenever I immigrate here to this country, I believe that law  
977 applied for everyone equally. But whatever they treated me, I feel it's not.

978  
979 Mr. Green- So, you, you have been approved by the state for how many  
980 children?

981  
982 Ms. Wahba- Five.

983  
984 Mr. Green- So would you be willing to start out with five and then  
985 potentially, like Mr. Lawrence said, prove and show that, you can then potentially grow?  
986 Because 12, when someone doesn't have a track record, is a lot. So, that's almost a good  
987 shock treatment. But starting small and then growing, I mean, are you willing to  
988 compromise and do that?

989  
990 Ms. Wahba- Actually, they didn't let me to do these five kids, and as I  
991 mentioned before...

992  
993 Mr. Green- Who didn't let you?

994  
995 Ms. Wahba- The HOA.

996  
997 Mr. Green- No, I'm talking about your state license. What, I mean who...

998  
999 Ms. Wahba- Because they already emailed the lady who is responsible for  
1000 my case. That's why I grabbed my case here to hear from you, because all HOA  
1001 members, they said it's not in our hands anymore, we're waiting for Zoning. That's why I  
1002 grabbed my case here.

1003  
1004 Mr. Green- I guess my question, Mr. Blankinship, is if she wanted to do  
1005 five...

1006  
1007 Mr. Blankinship- It would not involve this board or county zoning, as it is  
1008 permitted by right under the county zoning ordinance.

1009

1010 Mr. Green- Okay. So, if you did five, you could do it, but if you do more  
1011 than five, we have to approve it. And I think there's some apprehension of potentially 12  
1012 when they want to see growth. So, either you can do five, well, if we deny this, you can  
1013 still do five.  
1014  
1015 Mr. Blankinship- Yes.  
1016  
1017 Mr. Green- So we can deny 12, but that doesn't stop you from doing five.  
1018  
1019 Mr. Blankinship- Yeah. That leaves it between her, the license, and the HOA.  
1020  
1021 Mr. Green- Right.  
1022  
1023 Mr. Massie- You can come back next year if you want to prove yourself,  
1024 you may have a stronger case.  
1025  
1026 Mr. Broadway- Okay, so she can do five?  
1027  
1028 Mr. Blankinship- The zoning ordinance allows it.  
1029  
1030 Mr. Broadway- Yeah, even if the HOA opposes?  
1031  
1032 Mr. Blankinship- Well that would be between her and the HOA, I mean if they  
1033 felt like she was in violation, they could take whatever enforcement action they're  
1034 authorized to take, and she would have to take that up with them. But it would not be back  
1035 before us.  
1036  
1037 Mr. Lawrence- I don't think we want to get in the middle of HOA-resident  
1038 litigation.  
1039  
1040 Mr. Broadway- No, no. I'm just wondering if we are saying by-right she can  
1041 have five, if that supersedes...  
1042  
1043 Mr. Green- Right. That is the question.  
1044  
1045 Mr. Blankinship- I don't know if it supersedes the HOA...  
1046  
1047 Mr. Lawrence- That's a good question.  
1048  
1049 Mr. Massie - That's a different ...  
1050  
1051 Mr. Blankinship- It gets us out of the middle.  
1052  
1053 Mr. Lawrence- We can't answer that question. Maybe Mr. Massie can, he's  
1054 an attorney. Or maybe you can, Mr. Broadway.  
1055

1056 Mr. Broadway- Well, I have a little familiarity with the Virginia Condominium  
1057 Act, but not really the Homeowners Act, that's a little bit different.  
1058

1059 Mr. Lawrence- Yeah.  
1060

1061 Mr. Green- Mr. Massie, what do you...  
1062

1063 Mr. Massie- I have no idea.  
1064

1065 Mr. Green- Okay.  
1066

1067 Mr. Massie- The only thing I know is we're out of it.  
1068

1069 Mr. Green- If we can approve 12 or we could deny it. This is the way to  
1070 say it, we can approve or deny 12. If we deny your request for 12, that does not stop you  
1071 from going forward with five. So, ...  
1072

1073 Mr. Lawrence- From the county's standpoint.  
1074

1075 Mr. Green- ...from the county's standpoint. And then, you know, you  
1076 would then have to potentially work something out with your HOA. And then I think you  
1077 or someone else cited some other law, but that, that's legal, which is not, which is not  
1078 before us. So, that's where it stands. So, if we deny this, this does not stop you from  
1079 moving forward, if you choose to, with five.  
1080

1081 Ms. Wahba- So, actually, I wasn't planning to leave my..  
1082

1083 Mr. Blankinship- We need to move along...  
1084

1085 Mr. Green- Okay. Yeah, yeah. Okay.  
1086

1087 Ms. Wahba- Should I talk?  
1088

1089 Mr. Green- No, we need to understand this. And so yes, you take your  
1090 time, we need to understand. I'm not going to rush folks who take their time to come and  
1091 speak before us. Please, you know, you, I appreciate you doing this. I appreciate the folks  
1092 that take their time to do this. You know, we get compensated, you all don't. So, do what  
1093 you need to do, miss. Say what you need to say. This is your case.  
1094

1095 Ms. Wahba- Thank you, sir. Thank you. As I mentioned in the paper I  
1096 provided, in the commercial daycare, I'm working as a floor manager for all preschool  
1097 classes. So, to be honest I'm not willing to leave my job which paid me very well to just  
1098 start with only five kids. I might start with five kids at the beginning as you mentioned that  
1099 till I used to the paperwork and handle it and all the stuff, but at the same moment I know  
1100 that I have the approval to increase the number whenever I feel comfortable.  
1101

102 Mr. Green- Okay.  
1103  
1104 Ms. Wahba- That's all.  
1105  
1106 Mr. Green- Alright, thank you.  
1107  
1108 Mr. Massie- I have a question.  
1109  
1110 Mr. Green- Yes, yes sir.  
1111  
1112 Mr. Massie- Even if we approved her for the 12 children, does that mean  
1113 she doesn't have the HOA issue anymore? They could still sue her?  
1114  
1115 Mr. Blankinship- They could, yes.  
1116  
1117 Mr. Massie- So, it still doesn't go away.  
1118  
1119 Mr. Green- Anyone else to speak? Okay, we're going to close the hearing.  
1120 Any other discussion from the board? Is there a motion?  
1121  
1122 Mr. Lawrence- Yes sir, Mr. Chairman. And I would like to, to thank Miss  
1123 Wahba and I'm trying to remember your name ma'am.  
1124  
1125 Mr. Blankinship- Ms. Lemon.  
1126  
1127 Mr. Lawrence- Ms. Lemon, yes, for coming and taking your time to speak.  
1128 And also, SanMartin, is that right?  
1129  
1130 Mr. Blankinship- Yes.  
1131  
1132 Mr. Lawrence- SanMartin, yes. And we do appreciate your, your comments,  
1133 and taking the time to speak. This is a difficult case. I think, you know, we are interested  
1134 in seeing ways we can help the community watch children. I know daycare can be an  
1135 expensive proposition. We do have a lot of commercial daycare centers in the county, but  
1136 I know that we're also seeing more applications for folks that want to watch children in  
1137 their home. And I commend you, Ms. Wahba, for wanting to do that. I have no doubt that  
1138 you are a responsible person. It sounds like you've got good experience and you're going  
1139 through the correct process in terms of the state. Having said that, though, I think we also  
1140 have to give due difference to neighborhoods, and citizens and their concerns, regardless  
1141 of the HOA issue. And I think that's a gray area, but I think it's an area we can't delve into.  
1142 We can't solve, you know, your bylaw issue or covenant issues, I know there's a lot of  
1143 cases in Virginia where they've had litigation in that area probably. But I do think, you  
1144 know, regardless of all that, 16 children is a lot and your backyard is pretty small, so I'm  
1145 guessing you're going to have to use your side and front yard, which are right there on a  
1146 busy street corner. It's a school bus stop. The area you've identified inside your house  
1147 doesn't appear to be very large either. I don't think you provided us with the square

1148 footage of that. But five seems like a reasonable number. I'm confident you can, you can  
1149 handle that. And again, that'll be between you and the homeowners association as to  
1150 whether or not the covenants will allow that. But under the county ordinance you're  
1151 permitted to do that. The cases I've been involved with in the BZA, we've approved 12,  
1152 and there haven't been many, there have been a few. We haven't had neighborhood  
1153 opposition. We haven't had an HOA issue. And the person has already been in operation  
1154 generally for several years with five children, and been able to demonstrate both to the  
1155 county, the state, and also the community that it's an asset to the community. So, having  
1156 said all that, Mr. Chairman, I'm going to move that we deny the conditional use permit.  
1157 We did have seven people that expressed support, but we also had 12 neighbors, in  
1158 addition to the Homeowners Association board that expressed opposition to the proposed  
1159 use. The Homeowners Association has taken a formal position in opposition to the  
1160 application based, in part, on the restrictive covenants, which they have interpreted  
1161 prohibits this business.

1162  
1163 Mr. Green- Is there a second? Is there a second?  
1164

1165 Mr. Massie- I second.  
1166

1167 Mr. Green- Okay, motion is made and seconded. Any discussion? Only  
1168 thing I'm going to say is that what we look at is, and I agree with Mr. Lawrence, that we  
1169 would like folks to start, because it's a compromise. You start with a smaller number, then  
1170 you prove to your neighbors and your association that you can handle this. And please  
1171 note that I'm not comparing children to animals, but we see the same situation with folks  
1172 that want to come in with how they want to increase their pets, and, and, and, and we, we  
1173 take an approach. We hear, we listen to everything. I would, you know, like to see  
1174 someone start with... And then the other thing we pay attention to, sometimes where we  
1175 have denied a large number because the applicant has indicated that it's more profit  
1176 based to break even than it is more childcare based and educational for the, for the  
1177 children. So, we do have some experience in listening to hear all of that. So, I would, I'm  
1178 supportive of what you're attempting to do, but also, I'm cognizant of what we would like  
1179 to see done, and I'm going to support that, that motion. So, is there any other discussion?  
1180 Hearing none, all in favor of denying the request, say aye.

1181  
1182 Board- Aye.  
1183

1184 Mr. Green- All those opposed. I mean all those are unfavorable. Sorry,  
1185 thanks.

1186  
1187 Mr. Blankinship- Did everybody vote Aye?  
1188

1189 Mr. Green- Yes.  
1190

1191 Mr. Blankinship- Okay.  
1192

193 Mr. Green- Motion was made by Mr. Lawrence and seconded by Mr.  
1194 Massie.

1195  
1196 Mr. Blankinship- Thank you.  
1197

1198 On a motion by Mr. Lawrence, seconded by Mr. Massie, the Board **denied case CUP-**  
1199 **2024-102713.**

1200  
1201  
1202 **Affirmative: Broadway, Green, Johnson, Lawrence, Massie 5**  
1203 **Negative: 0**  
1204 **Absent: 0**  
1205

1206

1207 **CUP-2024-102556 - Grace Screeney: conditional use permit to keep up to six hens**  
1208 **in the rear yard at 9624 Tracy Court, Pemberton West, Tuckahoe. Parcel 748-747-**  
1209 **9619. Zoning: R-3, One-Family Residence District. Code Section: 24-4420.G.**

1210

1211 Mr. Blankinship- Alright, Mr. Chair, the next case is Conditional Use Permit  
1212 **CUP-2024-102556**, Grace Screeney: a conditional use permit to keep up to six hens in  
1213 the rear yard at 9624 Tracy Court, in Pemberton West, in the Tuckahoe Magisterial  
1214 District. Would all those who wish to speak to this case stand and be sworn in. Raise your  
1215 right hand please. Do you swear the testimony you are about to give is the truth, the whole  
1216 truth, and nothing but the truth, so help you God? Thank you. Ms. Rozmus.  
1217

1218

1219 Ms. Rozmus- Thank you Mr. Secretary. Good morning board. This case is  
1220 to keep up to six hens, no roosters, in the rear yard at 9624 Tracy Court in the Tuckahoe  
1221 Magisterial District. The property was built as part of the Pemberton West Subdivision in  
1222 1983 and is zoned R-3. The lots range in size from a quarter to one-acre and are generally  
1223 single-family homes. The applicant purchased the home in 2016. On November 22<sup>nd</sup> and  
1224 December 10th, the county received complaints of free-ranged chickens wandering  
1225 around the neighborhood. The inspector was notified of the property, or the inspector  
1226 came out, notified the property owner of the regulations for keeping chickens. The  
1227 property owner was cooperative and is now seeking a conditional use permit to keep up  
1228 to six hens on the property. So, she does already have the hens on the property. They  
1229 are located in the rear yard. It currently includes a chicken coop and a run, with enclosed  
1230 chicken wire and both structures are located adjacent to the fence. When staff came out  
1231 to inspect the area, we noted that the chicken coop and run are a little close to the rear  
1232 lot line. So, we informed the applicant that she would most likely need to move the chicken  
1233 coop to be with to be compliant with the rear yard setback, which is 40 feet. The applicant  
1234 was amenable to do that with no issues. The unique situation of this lot is that the rear of  
1235 the lot is up against a school. So, there is no immediate neighbor, so the impact to any  
1236 surrounding property is pretty minimal. With the coop and the run moved to comply with  
1237 the required setback staff does not anticipate any detrimental impacts to the surrounding  
area. I also have put a note of an email of support on your desk this morning from a

1238 nearby neighbor that is in support of the chickens, and was happy that she was going  
1239 forward with this. But yeah, that's it. I'm happy to take any questions.

1240  
1241 Mr. Green- Any questions from board to staff? Hearing none, we'll hear  
1242 from the applicant.

1243  
1244 Ms. Screeney- Right, my name is Grace Screeney.

1245  
1246 Mr. Blankinship- Pull that microphone down so it's a little closer to you.

1247  
1248 Ms. Screeney- Yeah.

1249  
1250 Mr. Blankinship- Thanks.

1251  
1252 Ms. Screeney- My name is Grace Screeney. That's S C R E E N E Y. And I  
1253 live at 9624 Tracy Court. I am hoping to be able to keep my chickens. I have two small  
1254 toddlers, two and four, and one of the things that I set out to do with these chickens was  
1255 to just teach them about raising animals and the importance of knowing where your food  
1256 comes from. Before I had two toddlers, I also had a garden, but it's hard to keep up with  
1257 that now. I did not know actually that there were all of these rules and regulations when I  
1258 got the chickens, and learned about them during this process, I'm willing to comply with  
1259 whatever I need to do to make it appropriate. So yes, and also, more than ever I would  
1260 like to keep my chickens because eggs are very expensive right now.

1261  
1262 Mr. Green- This is a good example of when the county put this whole  
1263 process in to allow chickens in folks' yard, you know, no one knew that the price of eggs  
1264 would skyrocket, the way they are. The real question is, are you going to sell us those  
1265 eggs cheap?

1266  
1267 Ms. Screeney- I should have brought some.

1268  
1269 Mr. Green- No, we can't accept. Any questions from the board to the  
1270 applicant? Is there anyone here to speak for or against this, or is there anyone on a  
1271 Webex?

1272  
1273 Mr. Blankinship- There is no one on Webex for this case.

1274  
1275 Mr. Green- Hearing none, is there any motion?

1276  
1277 Mr. Broadway Yes sir, I move that we approve this conditional use permits  
1278 subject to the conditions recommended by the staff, which include the chicken coop  
1279 should not affect the neighbors and the conditions of approval addressed food storage  
1280 and past control.

1281  
1282 Mr. Lawrence- Second.

1283

1284 Mr. Green- Motion has been made and seconded. All in favor say aye.

1285  
1286 Board- Aye.

1287  
1288 Mr. Green- Now that it's been passed, we're going to negotiate the egg  
1289 crisis!

1290  
1291 Ms. Screeney- Thank you.

1292  
1293 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **approved case**  
1294 **CUP-2024-102556** subject to the following conditions:

1295  
1296 1. This conditional use permit authorizes the keeping of six hens, no roosters. All  
1297 other applicable regulations of the County Code remain in force.

1298  
1299 2. This conditional use permit applies only to the improvements shown on the plot  
1300 plan and building design filed with the application. The coop and run must be  
1301 relocated to comply with the requirements of Sec. 24-4420.G: 25 feet from the side  
1302 lot lines, 40 feet from the rear lot line, 10 feet from the dwelling, and 6 feet from  
1303 any other detached accessory structure. Any additional improvements must  
1304 comply with the applicable regulations of the County Code.

1305  
1306 3. The applicants must comply with Sec. 24-4420.A and G of the Zoning Ordinance.  
1307 This includes requirements that the hens be kept in a covered enclosure and not  
1308 allowed to run free, and that the activity must not produce any objectionable odors  
1309 or vermin.

1310  
1311 4. Any feed stored on the site must be kept indoors, in a metal container with a secure  
1312 lid or other sealed container impervious to vermin.

1313  
1314 5. Waste from the hens must be composted in a responsible manner or removed from  
1315 the property weekly. Until composted or removed, waste must be kept at least 100  
1316 feet from surface water and wells and covered with an impermeable barrier that  
1317 will resist wind.

1318  
1319 6. No later than April 14, 2025, the applicant must submit an inspection report from a  
1320 licensed pest control company addressing recommendations to prevent any  
1321 infestation of vermin related to the keeping of hens.

1322  
1323  
1324 **Affirmative:** Broadway, Green, Johnson, Lawrence, Massie 5  
1325 **Negative:** 0  
1326 **Absent:** 0

1327  
1328

1329 Mr. Blankinship- Alright, Mr. Chair, as I mentioned conditional use permit **CUP-**  
1330 **2024-102763 has been withdrawn.**

1331  
1332 **CUP-2024-102812 - Dieleta McKnight: conditional use permit to finish the basement**  
1333 **as an accessory dwelling unit at 1314 Cole Boulevard, Berrymeade Hills, Fairfield.**  
1334 **Parcel 783-763-1594. Zoning: R-4, One-Family Residence District. Code Section:**  
1335 **24-4406.**

1336  
1337 Mr. Blankinship- So, the next case will be Conditional Use Permit **CUP-2024-**  
1338 **102812**, Dieleta McKnight: a conditional use permit to finish the basement as an  
1339 accessory dwelling unit at 1314 Cole Boulevard, in Berrymeade Hills, in the Fairfield  
1340 Magisterial District. Would all those who wish to speak to this case stand and be sworn  
1341 in. Raise your right hand please. Do you swear the testimony you are about to give is the  
1342 truth, the whole truth, and nothing but the truth, so help you God? Thank you. Ms.  
1343 Rozmus.

1344  
1345 Ms. Rozmus- Thank you sir. The subject property is located southwest of  
1346 the Interstate 295 - Brook Road interchange. The house on the property was built in 1937.  
1347 It is one of four houses that were later incorporated into the Berrymeade Hills subdivision,  
1348 which was recorded in 1997. The subdivision was actually built around those original  
1349 homes. The applicant bought the property in 2016 and would like to finish the basement  
1350 to include a small apartment. It would include a separate kitchen, which would fall into the  
1351 category of accessory dwelling unit, which does require the approval of a conditional use  
1352 permit. The property is zoned R-4, One-Family Residence District and meets the  
1353 requirements for that district. The floor area of the ADU must not exceed 35 percent of  
1354 the floor area of the principal dwelling. Because the principal dwelling measures 2,016  
1355 square feet, the proposed ADU must not exceed 705 square feet. Most of the basement  
1356 is deep enough to be finished into a livable space, but there is part of it that is just going  
1357 to be, is just too shallow, so will remain unfinished and is not included with the final square  
1358 footage. The plan submitted will have a 698.6-square-foot finished ADU and 309.4 square  
1359 feet to remain unfinished. The basement area will include a bathroom, kitchen, laundry  
1360 room, and multi-purpose area that will be used for both the sitting room and a bedroom.  
1361 The concrete driveway is large enough to accommodate additional vehicles, and staff  
1362 does not anticipate any detrimental impact to the surrounding area and recommends  
1363 approval subject to the conditions included in the staff report.

1364  
1365 Mr. Green- Are there any questions from the board to staff?

1366  
1367 Mr. Lawrence- I had a question Mr. Chairman. It might be a little bit off  
1368 subject, but related. Do we, Ms. Rozmus or Mr. Blankinship, allow duplexes under the  
1369 county ordinance?

1370  
1371 Mr. Blankinship- No, that's the reason for the 35% rule, or 800 square feet,  
1372 because otherwise an accessory dwelling unit could be 50/50 with the principal dwelling,  
1373 in which case it would essentially be a duplex. I said no quickly. Duplexes are allowed in  
1374 the R-5 district, but not in any of the single-family districts.

1375  
1376 Mr. Lawrence- But those would not come before our board, right?  
1377  
1378 Mr. Blankinship- That's correct.  
1379  
1380 Mr. Lawrence- Okay, thank you.  
1381  
1382 Mr. Green- Any other questions? Hearing none, we'll hear from the  
1383 applicant.  
1384  
1385 Ms. McKnight- Good morning. My name is Dieleta McKnight.  
1386  
1387 Mr. Blankinship- Dieleta, I'm sorry I mispronounced that.  
1388  
1389 Ms. McKnight- No worries, last name spelled M C K N I G H T. So, my  
1390 husband and I would like to finish our basement, my father-in-law travels back and forth  
1391 from Georgia and so we'd like to have a place for him to stay when he's in town.  
1392  
1393 Mr. Green- Is there anyone in the audience to speak for or against this?  
1394 Or on Webex?  
1395  
1396 Mr. Blankinship- There's not. I will mention there was one gentleman who  
1397 called yesterday we had a good conversation about this. He said he might show up this  
1398 morning or might not, I guess he chose not to, but his only concern was about parking.  
1399 So, make sure you don't conflict with your neighbor's parking.  
1400  
1401 Mr. Green- Since there's no one to speak, is there a motion?  
1402  
1403 Mr. Massie- Yes, sir. I move that we approve this conditional use permit  
1404 subject to the conditions recommended by the staff. It is consistent with the  
1405 comprehensive plan and the zoning ordinance. The dwelling unit is in the basement of  
1406 the house, so it will not have much impact on the neighbors.  
1407  
1408 Mr. Green- Is there a second?  
1409  
1410 Mr. Johnson- I second it.  
1411  
1412 Mr. Green- All in favor, or is there a discussion? Hearing no discussion,  
1413 all in favor say aye.  
1414  
1415 Board- Aye.  
1416  
1417 On a motion by Mr. Massie, seconded by Mr. Johnson, the Board **approved case CUP-**  
1418 **2024-102812** subject to the following conditions:  
1419  
1420



1467 cause 14 feet is pretty tall for a garage door and he said that he is planning on storing his  
1468 camper in there. So, as you see it does not have a home, and he wants to make a home  
1469 for it.

1470  
1471 The A-1 district requires single-family homes to have a lot area of one acre or more.  
1472 However, the lots adjoining the subject partial parcel are much larger, ranging from seven-  
1473 acres to 488-acres. The subject property is consistent with the zoning district and is  
1474 surrounded on three sides by open agricultural or conservation land. The proposed  
1475 garage will be located 350 feet from the nearest neighbor on the north side of the property.  
1476 There's ample space in front of the lot, and as you can see the front of the residence,  
1477 from the street you can barely see it. So, there's a lot of good tree coverage and staff  
1478 does not see any detrimental impact on the surrounding area and recommends approval  
1479 subject to the conditions included in the staff report.

1480  
1481 Mr. Green- Any questions from the board to staff? Hearing none...

1482  
1483 Mr. Lawrence- I have one Mr. Chairman. I'm sorry, Ms. Rozmus, if the board  
1484 approves this case, would the applicant be able to also keep his existing two-bay garage,  
1485 which is attached, and he has a three-bay garage, which is detached, currently on the  
1486 property? So, would he be able to maintain or can he keep those dwellings or accessory  
1487 dwellings or not accessory dwellings...

1488  
1489 Mr. Blankinship- Structures.

1490  
1491 Mr. Lawrence- ... accessory structures.

1492  
1493 Ms. Rozmus- He does have enough lot acreage to not exceed the 30%, lot  
1494 coverage that's outlined in the zoning code.

1495  
1496 Mr. Lawrence- So, there's not a limit on the number of garages you could  
1497 have. So, he could have eight garages as long as he didn't exceed the 30 percent.

1498  
1499 Ms. Rozmus- Yes.

1500  
1501 Mr. Lawrence- Okay, thank you.

1502  
1503 Mr. Green- And we've seen cases similar to this because you... There are  
1504 people that will have vintage cars, and they want to store their vintage cars. So, we've  
1505 seen something similar to this before, but in this instance, he wants to put his camper  
1506 inside, which to me takes it out of the elements and covers it.

1507  
1508 Ms. Rozmus- Community Maintenance, will be happy.

1509  
1510 \*Laughter {inaudible}

1511  
1512 Mr. Green- Yeah. So, we'll hear from the applicant?

1513  
1514 Mr. Sneed- Thank you all for letting me speak. My name is Melvin Sneed,  
1515 the 3rd, and, as was presented, my plan is that I'd like to build a structure there that I  
1516 could put my camper in and just keep it out of the weather. I've got six acres, 5.97-acres,  
1517 there and the whole reason for this meeting was because a portion of the building where  
1518 I plan to erect it will actually be in front of the front line of the house.  
1519  
1520 Mr. Green- Okay, any questions from the board to the applicant?  
1521  
1522 Mr. Lawrence- You're not interested in selling any of your acreage areas, sir?  
1523  
1524 Mr. Sneed- What is that?  
1525  
1526 Mr. Lawrence- You're not you're not interested in selling any of your acreage  
1527 are you?  
1528  
1529 Mr. Sneed- No I don't think so.  
1530  
1531 Mr. Green- Is there anyone in the audience or on Webex to speak for or  
1532 against this?  
1533  
1534 Mr. Blankinship- Not for this case, no sir.  
1535  
1536 Mr. Sneed- I do have one other question.  
1537  
1538 Mr. Green- Yes sir.  
1539  
1540 Mr. Sneed- I want, my only concern reading over all of the paperwork and  
1541 everything, I see where it says that the structure should not be over 20 feet.  
1542  
1543 Mr. Blankinship- Right.  
1544  
1545 Mr. Sneed- And the actual structure is 23 feet, but it's still about 11 feet  
1546 short of being as tall as a house.  
1547  
1548 Mr. Blankinship- For a gabled roof like yours, the zoning ordinance specifies  
1549 that the height is measured at the midpoint between the ridge and the eaves. Oh, so the  
1550 height is not to the ridge. On a flat roof it would be to the highest point or to a dome. But  
1551 on a gabled roof it's measured halfway because you know it only has a reduced effect  
1552 and you we're at 19 feet 8 inches.  
1553  
1554 Mr. Sneed- Well planned.  
1555  
1556 Mr. Lawrence- And also because you've got a slope where you're putting that  
1557 shed at anyway.  
1558

1559 Mr. Snead- Right.  
1560  
1561 Mr. Green- And thank you for being honest enough to let us know  
1562 because...  
1563  
1564 Mr. Blankinship- ... have to redesign that.  
1565  
1566 Mr. Green- Right. I asked if there is anyone else to speak for or against  
1567 this here or on Webex?  
1568  
1569 Mr. Blankinship- No, not for this case.  
1570  
1571 Mr. Green- Hearing none, is there a motion.  
1572  
1573 Mr. Johnson- Yes. I move that we approve this conditional use permit  
1574 subject to the conditions recommended by staff, and it is consistent with the  
1575 comprehensive plan and the zoning ordinance. And the garage will not be visible from the  
1576 street. It's another good thing, and it will not have any impact on the neighbors. Again,  
1577 move to approve.  
1578  
1579 Mr. Green- Is there a second?  
1580  
1581 Mr. Lawrence- Second.  
1582  
1583 Mr. Green- Motion was made and seconded. All in favor say aye.  
1584  
1585 Board- Aye.  
1586  
1587 Mr. Green- All opposed, like sign. Thanks.  
1588  
1589 Mr. Snead- Thank you.  
1590  
1591 Mr. Blankinship- Thank you.  
1592  
1593 On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **approved case**  
1594 **CUP-2025-100024** subject to the following conditions:  
1595  
1596 1. This conditional use permit authorizes a garage in the side and front yard. All other  
1597 applicable regulations of the County Code remain in force.  
1598  
1599 2. The proposed garage must be located as shown on the plot plan filed with the  
1600 application and must not exceed 40 feet in width or depth. The height of the  
1601 building at the midpoint between the eaves and the ridge must not exceed 20 feet.  
1602 Any substantial changes or additions to the design or location of the improvements  
1603 will require a new conditional use permit. Any additional improvements must  
1604 comply with the applicable regulations of the County Code.

- 1605  
1606  
1607  
1608  
1609  
1610  
1611  
1612  
1613  
1614  
1615  
1616  
1617  
1618  
1619
3. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.
  4. The garage must not be occupied for residential or business purposes.
  5. The applicant must obtain a building permit for the proposed garage by February 27, 2027, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

1620 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Massie** **5**  
 1621 **Negative:** **0**  
 1622 **Absent:** **0**  
 1623  
 1624

1625 Mr. Green- Alright. And just a point of clarification, you know, there are  
 1626 some cases we hear that may go longer, and some cases that we hear that are shorter.  
 1627 And what I've seen is that folks recognize that they're deferring their time where we have  
 1628 to hear a longer case. So, thank you to anyone who does that. We try to be expeditious,  
 1629 but we also are going to be polite. Because this is a new process to people. Some folks  
 1630 are scared. Some folks are intimidated. And we're going to take our time to do this,  
 1631 because when you walk out, whether or not you like the decision, you're going to,  
 1632 hopefully, feel we've been fair. Thanks.  
 1633

1634 Mr. Blankinship- Alright. That completes the conditional use permit portion of  
 1635 this morning's agenda. There are three variances on the agenda. One was withdrawn, so  
 1636 we will not be hearing variance VAR-2024-100763.  
 1637

1638 **VAR-2025-100077 - Nate Doggett: variance from the lot area requirement to build a**  
 1639 **single-family dwelling at 11571 Edinburgh Road, McDonalds Small Farms, Three**  
 1640 **Chopt. Parcel 744-762-1650. Zoning: A-1, Agricultural District. Code Section: 24-**  
 1641 **3204.D. The applicant has 0.74 acre lot area where the Code requires 1.0 acre lot**  
 1642 **area. The applicant requests a variance of 0.26 acre lot area.**  
 1643

1644 Second variance is **VAR-2025-100077**, Nate Doggett: a variance from the lot area  
 1645 requirement to build a single-family dwelling at 11571 Edinburgh Road, McDonalds Small  
 1646 Farms, in the Three Chopt Magisterial District. Would all those who wish to speak to this  
 1647 case stand and be sworn in. Raise your right hand please. Do you swear the testimony  
 1648 you are about to give is the truth, the whole truth, and nothing but the truth, so help you  
 1649 God? Thank you. Alright, Ms. Rozmus, if you'll give us the brief.  
 1650

1651 Ms. Rozmus- Thank you sir. This property is part of the McDonalds' Small  
1652 Farm Subdivision of two-acre to ten-acre lots recorded in 1944. Although this area  
1653 remained rural in character for half a century, it is now designated on the Comprehensive  
1654 Plan for Traditional Neighborhood Development. Since 2006, the county has approved  
1655 five rezoning applications in this area that taken together encompass 56 acres. The  
1656 adjacent property to the northwest was rezoned to R-3C, One-Family Residence District  
1657 after a variance was denied. The property across the street is zoned R-5AC, General  
1658 Residence District, which allows for a higher density. When the subdivision was recorded,  
1659 the subject lot contained over two acres of land. In 1964, the Commonwealth of Virginia  
1660 acquired part of the lot for construction of Interstate 64. Because the one-acre minimum  
1661 lot was already in effect at this time, the owner was compensated for the loss of a  
1662 buildable lot. While the zoning ordinance limits the use of the property, it is not  
1663 unreasonable. The subject property is part of a lot that was left over when the state  
1664 acquired the rest of the land for highway construction. The owner of the subject property  
1665 also owns property to the east, which is residue from the highway acquisition. Although  
1666 neither of the two parcels meets the requirements for a buildable lot, they could be  
1667 consolidated to make one buildable lot. Alternatively, the owner could apply for a  
1668 rezoning, which has been approved next door and across the street. When I initially spoke  
1669 with the applicant, we did discuss that as an option, but they still wanted to go forward  
1670 with a variance application. No hardship was found because a property owner was  
1671 compensated for the value of a buildable lot when the highway was constructed. As noted  
1672 by the applicant, the land was rendered unbuildable when part of it was purchased by the  
1673 Commonwealth to build Interstate 295. At that time, the owner was compensated for the  
1674 loss of a buildable lot. The current owner bought the property knowing it was not a  
1675 buildable lot; therefore no hardship was found. The comprehensive plan designates the  
1676 land for Traditional Neighborhood Development. And since 2007, the county has  
1677 approved six rezoning applications in this area. Granting a variance to build one dwelling  
1678 on the subject lot would be inconsistent with the county's goal of promoting a coordinated  
1679 development of a walkable community. In conclusion, staff has found that since the  
1680 property could be rezoned to a category more consistent with the comprehensive plan  
1681 and the case was not found to meet the legal requirements for a variance, staff  
1682 recommends denial.

1683  
1684 Mr. Green- I have a question.

1685  
1686 Ms. Rozmus- This is the site, I didn't show the...

1687  
1688 Mr. Green- Yes. But, Mr. Blankinship, the county Board of Supervisors  
1689 approved a new...

1690  
1691 Mr. Blankinship- Zoning district.

1692  
1693 Mr. Green- ... zoning district. Would this applied... Would this particular  
1694 case qualify for that?

1695  
1696 Mr. Blankinship- It could be.

1697  
1698 Ms. Rozmus- Yeah.  
1699  
1700 Mr. Blankinship- Do you want to put up the aerial? Or put the expanded aerial  
1701 back up. There's the property immediately to the east and the house further to the east  
1702 are all owned by this applicant. So, he could consolidate all that and have enough acreage  
1703 to do, probably, a small development. But you do see right across the street there, you  
1704 can just pick out the property lines. That area was recently rezoned for higher density  
1705 development. So, you know, a lot of times, as you mentioned, we have cases where  
1706 somebody's trying to squeeze that house onto a small lot in the middle of a bunch of big  
1707 lots, and we're usually opposed to that because of the inconsistency. This is kind of the  
1708 opposite situation. This is a case where the comprehensive plan calls for a more dense  
1709 development. The pattern we're seeing in the neighborhood is more dense development.  
1710 And if a single-family dwelling is approved on this larger lot, it will interrupt that pattern in  
1711 the future. So, not the end of the world, but there's an inconsistency between this and the  
1712 comprehensive plan.  
1713  
1714 Mr. Green- Are there any other questions?  
1715  
1716 Mr. Lawrence- Yes, sir, Mr. Chairman. Ms. Rozmus, the staff report indicated  
1717 that there was a previous variance request on, I believe, one of the adjoining lots that was  
1718 denied.  
1719  
1720 Ms. Rozmus- Yes.  
1721  
1722 Mr. Lawrence- Can you identify which parcel that is and tell us what year that  
1723 was denied?  
1724  
1725 Ms. Rozmus- It was part of this lot and there's a bigger lot over here. I  
1726 believe the variance was specifically on this lot and it was denied because the board  
1727 found that it was inconsistent with the development of the surrounding area.  
1728  
1729 Mr. Lawrence- Do you know what year that occurred?  
1730  
1731 Ms. Rozmus- I thought it was 2007. I don't remember.  
1732  
1733 Mr. Blankinship- It feels like it was more recent than that.  
1734  
1735 Ms. Rozmus- It might have been more recent than that. I don't remember off  
1736 the top of my head. Do you Paul?  
1737  
1738 Mr. Blankinship- Yeah, Mr. Gidley, do you know?  
1739  
1740 Ms. Rozmus- Paul might have, I think he wrote that one.  
1741

1742 Mr. Gidley- I handled the one. I know Mr. Green was on the board at the  
1743 time, so it was since his tenure here. You had to leave early that day but indicated you  
1744 had concerns with the case.  
1745

1746 Mr. Green- I'm old and I can't remember.  
1747

1748 Mr. Gidley- I know you were on the board.  
1749

1750 Mr. Lawrence- So, is that property also owned by Mr. Granger?  
1751

1752 Ms. Rozmus- No.  
1753

1754 Mr. Lawrence- No, okay. And the only other question I had for staff is if Mr.  
1755 Granger previously pursued a rezoning request for this parcel?  
1756

1757 Mr. Blankinship- No.  
1758

1759 Ms. Rozmus- For this one, no.  
1760

1761 Mr. Lawrence- Okay. I might have some questions later, but that's what I  
1762 have for now Mr. Chairman.  
1763

1764 Mr. Green- Any other questions from the board to staff? Hearing none  
1765 we'll move to the applicant. Point of clarification, Mr. Granger while... No, mister...  
1766

1767 Ms. Rozmus- Mr. Doggett.  
1768

1769 Mr. Green- Mr. Doggett. While you're on Webex, I have no, I have no bias  
1770 for you being on Webex. I just stated a point of preference. So, this will not be judged by  
1771 anyone being on Webex or whatever, so you can proceed Mr. Doggett.  
1772

1773 Mr. Doggett- Yes, good morning. Again, my name is Nate Doggett, so I did  
1774 want to clarify that Mr. Granger is the current property owner and I'm hoping to purchase  
1775 this lot. But as pointed out, it's currently unbuildable, so before I do purchase it, I'd like to  
1776 ensure that at a minimum, I am buying something that I can purchase without having to  
1777 wait multiple months for rezoning. The other, previous variance for the lot next door that  
1778 was brought up was in 2020. And I can mention the case number, it was variance 2020-  
1779 00013, just if anybody wants to look it up. But the basis for that denial of the variance was  
1780 due to there being a large quantity of A-1 zoned agricultural properties. And they viewed  
1781 that that variance could prevent that, but looking at the scope of the neighborhood, that's  
1782 no longer the case. Now the lot that is currently under consideration, the one for this  
1783 variance is to the left of it and is zoned residential, to the right of it is agriculture currently  
1784 owned by Mr. Granger. But he's in his eighties or nineties, he's lived there for over 60  
1785 years. He wants to keep that as a buffer. He doesn't have any interest in selling it. He just  
1786 wants to keep a little space. And I don't personally really have any interest trying to heckle  
1787 him for it, so, you know, I did approach him early on during the discussion and say, you

1788 know, I would be interested because this wouldn't give me a buildable lot. But he has no  
1789 interest in that currently. Also, directly across the street, previously when that variance  
1790 was denied in 2020 directly across the street was all agriculture, but now that has changed  
1791 recently, everything's zoned R-5A, which is smaller than what I'm trying to build. And  
1792 that's kind of my reason that I wanted to go for the variance to guarantee that I can build  
1793 a lot, and I thought it was reasonable considering that it is a large lot nearly three quarters  
1794 of an acre, and it shouldn't cause any adverse effect for the rest of the community. Thank  
1795 you.

1796  
1797 Mr. Lawrence- Yeah, Mr. Doggett, can you, can you just clarify for us again?  
1798 I'm sure you said this, but I got distracted for a moment. Why you didn't ask, or you're not  
1799 asking, for a rezoning of the property as opposed to a variance.

1800  
1801 Mr. Doggett- Yeah, yes sir. I did not mention that, so thank you for asking.  
1802 We would like to be able to build on it as soon as possible. That's the main reason. And  
1803 also, to be able to close on the purchase. I don't feel comfortable purchasing it with the  
1804 caveat that it may be buildable. So, this would guarantee that we would close and be able  
1805 to build. Without this, we would likely delay the closing for... I've spoken to people in the  
1806 Planning Department that they can say it takes typically three to four months, assuming  
1807 there's no questions or deferrals. So, trying to avoid that process is the main reason.

1808  
1809 Mr. Lawrence- Well, let me ask Mr. Doggett, while I've got you on the line,  
1810 and ask Mr. Blankinship. If the board granted a variance for this property, and in my  
1811 opinion, I've seen the way this, this area is developed because I used to ride my bike  
1812 through there all the time. I will never ride my bike on Sadler Road to get there now. Like  
1813 taking my life into my hands. But, for many years I did, and I've recently driven through  
1814 there and it's just stunning the amount of development, and the density of development,  
1815 that has taken place in this rural paradise near Innsbrook that's now, you know, it's, it's  
1816 unbelievable. And you know, it was going on for ten years before I retired, and, you know,  
1817 but I sat through rezoning cases, but, you know, all this property is being carved up and,  
1818 and eventually it's going to, you know, the large lots are going to be gone. The agricultural  
1819 zoning's going to be gone. If the board were to grant a variance in this case, could this  
1820 property still be rezoned at a later time? I mean, in my humble opinion, this property, given  
1821 what's going on around the area should be zoned for residential purposes. And, you know,  
1822 most of the lots in the subdivisions being divided are smaller than this lot but at the same  
1823 time understanding we have legal criteria we have to meet in granting a variance. So,  
1824 have we had cases where this board has granted a variance and then the property has  
1825 been rezoned after the fact, I guess?

1826  
1827 Mr. Blankinship- I can't remember a case where that's happened. It certainly  
1828 could. Granting the variance wouldn't require him to go forward with building the house.  
1829 But if he does build one large house in the middle of the property, then that would  
1830 interrupt, you know, any development in the future, would then have to work around that.  
1831 Rather than bringing this into a coordinated plan.

1832

1833 Mr. Lawrence- And there's also water, and the last question I had is there's  
1834 water and sewer, it looks like, now available. I've seen all the activity going on with that  
1835 too. That's a pretty massive undertaking. But if this property were either rezoned or the  
1836 variance was granted so they can build a residential lot, would that property owner be  
1837 required to connect to county water and sewer?  
1838

1839 Mr. Blankinship- That is our standard condition, Mr. Lawrence, and it's in the  
1840 report there that we recommend if the variance is approved that would be subject to a  
1841 requirement that both water and sewer be connected.  
1842

1843 Mr. Lawrence- Okay. That's all I had. Mr. Green, you might, or other members  
1844 of the board may have some questions.  
1845

1846 Mr. Green- Yeah, my only question is that you talked about  
1847 compensation. This gentleman was not compensated. The person who owns, Mr.  
1848 Doggett, was compensated, correct?  
1849

1850 Ms. Rozmus- I'm assuming Mr. Granger was compensated for his...  
1851

1852 Mr. Blankinship- The owner of the property.  
1853

1854 Ms. Rozmus- Right. Mr. Doggett is the contract purchaser, so he was not  
1855 compensated.  
1856

1857 Mr. Green- Yeah, that's what I'm saying. I just want to make sure that it  
1858 didn't, because it didn't appear that Mr. Doggett was compensated.  
1859

1860 Ms. Rozmus- No.  
1861

1862 Mr. Green- And then now is asking for something. This was someone  
1863 else.  
1864

1865 Mr. Blankinship- To refresh everybody again, and for the audience as well. The  
1866 reason we look into that is that part of the reason variances exist is to prevent the county  
1867 from accidentally taking property without compensation. So, if we say you can't make any  
1868 reasonable use of a piece of property, we've essentially taken that property from you, and  
1869 the county can't take property. But it has to, we have to compensate the property owner  
1870 if we do that. So that's just a way of looking at this. There was a lot here, it was taken by  
1871 a government action, but they were compensated. The Commonwealth of Virginia paid  
1872 them more than the value of the buildable lots in the area at the time that interstate was  
1873 built. So, it takes that takings question off the table. That's the reason we refer to that. It's  
1874 not, you know...  
1875

1876 Mr. Green- No, I just want to make sure Mr. Doggett was aware. It's clear  
1877 that that this happened before him.  
1878

1879 Mr. Blankinship- Right. He's a contract purchaser.  
1880  
1881 Ms. Rozmus- Yes.  
1882  
1883 Mr. Green- Yeah, so, it's not like he was compensated and now he's still  
1884 attempting to do something. So that makes it cleaner.  
1885  
1886 Mr. Lawrence- From our conversations, Mr. Chairman and Mr. Blankinship,  
1887 historically when VDOT goes in and condemns property, or takes property for a project,  
1888 they typically cut off a piece of someone's yard or a piece of their property and  
1889 compensate them for that amount. Whereas the county's practice has been to go in and  
1890 take the entire property with the understanding that once part of it's gone the rest of it's  
1891 going to be devalued and may not be suitable for future development. So, the county  
1892 tends to come in and negotiate a fair price to take the, you know, to purchase the entire  
1893 property. Whereas the state has a little different philosophy, I guess. Is that kind of  
1894 accurate...  
1895  
1896 Mr. Blankinship- I don't really know the state philosophy that well. But certainly,  
1897 they are required to compensate the owner for what was taken and for any damage to  
1898 the residue. And we do have some circumstances where they have, the state has bought  
1899 the whole property, built the highway and sold back what was left that they didn't have  
1900 any need for. And that puts us in that awkward position of then telling the property owner  
1901 "yes you bought a piece of property from the state, but it's not buildable, and it never will  
1902 be." But that's not this case.  
1903  
1904 Mr. Lawrence- Right, thank you. What other questions does the board have  
1905 for staff? No other questions for the applicant, Mr. Doggett? Any questions for Mr.  
1906 Doggett? Okay, thank you Mr. Doggett. Do we have anyone else here who wants to speak  
1907 in favor or against the case, either in person or online?  
1908  
1909 Mr. Blankinship- There's no one else online.  
1910  
1911 Mr. Lawrence- No one online, okay? Any other comments from, from board  
1912 members on the case? Okay, I guess, we're entertaining a motion now, Mr. Chairman.  
1913  
1914 Mr. Green- I move we approve the variance subject to conditions  
1915 recommended by the staff. The hardship is the result of the construction of Interstate 64.  
1916 There is no other reasonable use of the property, the house will meet the setbacks. So,  
1917 there should be no detrimental impact. The other tests are met as stated in the staff report.  
1918 And also, by approving it, this helps put that property back and, and construction back in  
1919 place so it's taxable and it doesn't prevent Mr. Doggett from being delayed in his closing.  
1920 So, I think we need to work with that.  
1921  
1922 Mr. Lawrence- We have a motion from Mr. Green to approve the variance. Is  
1923 there a second?  
1924

1925 Mr. Massie- Second.  
 1926  
 1927 Mr. Lawrence- All in favor say aye.  
 1928  
 1929 Board- Aye.  
 1930  
 1931 Mr. Lawrence- Any opposed? Motion carries five “ayes” and no “noes”.  
 1932

1933 On a motion by Mr. Green, seconded by Mr. Massie, the Board **approved case VAR-**  
 1934 **2025-100077** subject to the following conditions:  
 1935  
 1936

- 1937 1. This variance applies only to the lot area requirement for one dwelling only. All other  
 1938 applicable regulations of the County Code remain in force.  
 1939
- 1940 2. This variance applies only to the improvements shown on the plot plan and building  
 1941 design filed with the application. Any substantial changes or additions to the design or  
 1942 location of the improvements will require a new variance. Any additional improvements  
 1943 must comply with the applicable regulations of the County Code.  
 1944
- 1945 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant  
 1946 must obtain approval of an environmental compliance plan from the Department of  
 1947 Public Works. The applicant may be required to analyze and provide solutions to  
 1948 minimize drainage impacts on downstream properties. Corps of Engineers and DEQ  
 1949 permits may be required.  
 1950
- 1951 4. Any dwelling on the property must be served by public water and sewer.  
 1952
- 1953 5. The applicant must obtain a building permit for the proposed dwelling by February 27,  
 1954 2027, or this variance will expire. After that date, if the building permit is cancelled or  
 1955 revoked due to failure to diligently pursue construction, this variance will expire at that  
 1956 time.  
 1957

1958  
 1959 **Affirmative: Broadway, Green, Johnson, Lawrence, Massie 5**  
 1960 **Negative: 0**  
 1961 **Absent: 0**  
 1962

1963  
 1964 **VAR-2025-100104 - Dennis Smith: variance from the lot area requirement to build a**  
 1965 **single-family dwelling at 7817 Noble Avenue, Vaughan Heights, Fairfield. Parcel**  
 1966 **785-755-9005. Zoning: R-4, One-Family Residence District. Code Section: 24-**  
 1967 **6402.A.2. The applicant has 4,719 square feet lot area where the Code requires**  
 1968 **6,000 square feet lot area. The applicant requests a variance of 1,281 square feet**  
 1969 **lot area.**  
 1970

1971 Mr. Blankinship-                    Alright, the last case is variance **VAR-2025-100104**, Dennis  
1972 Smith: a variance from the lot area requirement to build a single-family dwelling at 7817  
1973 Noble Avenue, in the Vaughan Heights subdivision, in the Fairfield Magisterial District.  
1974 Would all those who wish to speak to this case stand and be sworn in. Ya'll raise your  
1975 right hands please. Do you swear the testimony you are about to give is the truth, the  
1976 whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley.  
1977

1978 Mr. Gidley-                            Thank you, Mr. Secretary. The subject property is located  
1979 southeast of the intersection of Parham and Brook Roads. It consists of two 25-foot-wide  
1980 lots that have been under common ownership since the subdivision's recordation back in  
1981 1924. The adjacent property to the south contains a tri-level home built in 1977. This gets  
1982 a little bit confusing, so I ask you to bear with me. In April of 1984, the owners of the lot  
1983 with the tri-level on it purchased the vacant parcel to the north here. That same month the  
1984 owners of this home obtained a building permit to add an addition above their carport,  
1985 and you can see the addition up here. Access to this car port, if we go back to the aerial,  
1986 is through this driveway to the northern portion of the carport. And as you can see here,  
1987 the driveway goes over onto the second parcel here, which is likely why they purchased  
1988 it the same month they obtained the building permit for their addition. Now that was all  
1989 fine and dandy, as long as the two lots were held in common, you know, both this one  
1990 and this one. The Ritchies owned these two parcels. Mrs. Ritchie died in 1998, and in  
1991 2018 Mr. Ritchie passed away. The home here was subsequently sold through  
1992 foreclosure in 2020. The vacant lot, however, was not included in this sale and reverted  
1993 to the heirs of the Ritchie family. Those heirs, in 2023, sold the property to Cava Capital,  
1994 who's the owner of this property today. Now the applicant for the variance today wishes  
1995 to purchase this parcel, here in red, from Cava, and build a two-story home here. The  
1996 original proposal showed the home partially on this driveway which would have  
1997 significantly impaired the ability of these homeowners to access their garage. Which  
1998 again, as you see here the access is through the side right here. After discussion with the  
1999 neighbors and staff, the applicant agreed, as you can see here on the revised concept  
2000 plan, to move the home further to the north, and off the driveway, so that it no longer  
2001 blocks access to these people's garage.  
2002

2003 In reviewing the legal tests for a variance, staff believes the second subtest is met. The  
2004 lots were buildable when platted, changes in the zoning ordinance in the 1940s rendered  
2005 the lots unbuildable. So, there was a change in code that caused the hardship in this  
2006 case. So, we believe one of the threshold tests are met. And looking at the five subtests,  
2007 staff generally believes these are met as well, as noted in your staff report. Let's go to the  
2008 expanded aerial. One of those is detrimental impact. This lot is a lot smaller; it's half the  
2009 size of the property to the south and a third the size of the property to the rear. This is  
2010 mitigated somewhat, however, by the woods that surround this lot, along with the fact that  
2011 you have the, I believe, it's the North Park Shopping Center with Walmart and Lowes here  
2012 just to the northwest. And finally, as noted, there was an issue with the driveway  
2013 accessing this house being on this property. The public street is not maintained all the  
2014 way down to the applicant's proposed property. So, he would need to drive onto the  
2015 driveway owned by the property owner here to get access to its property, so they both  
2016 kind of need to work together for each other's benefit, so to speak. As a result, in addition

2017 to moving the home location off of the driveway, the applicant has indicated he's willing  
2018 to work on a cross-access easement and shared maintenance agreement when it comes  
2019 to this driveway. This would in effect give the property owner the right to continue, I mean,  
2020 this would give the homeowner here the right to continue to access their carport with this  
2021 driveway that's on this property and yet this individual here would also be allowed to utilize  
2022 the homeowner's driveway to get to their property. So, it's kind of a win-win for both people  
2023 in this case, if you follow what I'm saying.

2024  
2025 In conclusion, the property already consisted of two lots that were buildable before  
2026 changes to the zoning ordinance in the 1940s. Staff believes all five subtests are met,  
2027 especially if the two neighbors cooperate on shared use and maintenance of the  
2028 driveway. As a result, Staff can recommend approval of this request subject to the  
2029 conditions in your staff report. I would note, one of those is that the applicant connects to  
2030 public water. They have to connect to public sewer. They're proposing to utilize a well on  
2031 the property. Staff's recommending connection to public water, which the applicant does  
2032 not want to do. If you look up here, this is Mebane Street. There is a water main in Mebane  
2033 Street and an easement that would allow connection. The distance is 340 feet. Anything  
2034 within 300 feet public utilities would require a connection. But instead of 300, because it's  
2035 340 feet Public Utilities only recommends connection. Staff concurs with their  
2036 recommendation. There's several reasons for that. One, the Comprehensive Plan  
2037 recommends connection when it's available, and it's available in this case. Secondly, this  
2038 lot here is just over a 10th of an acre, that's a very small lot. A lot of times people with  
2039 wells are on large lots out in the countryside. Given the small nature of this lot. You know,  
2040 it does limit flexibility if there are problems in the future. And the other thing is this is not  
2041 the country. You have the shopping center right here with a huge parking lot. And then  
2042 just to the east is Interstate 95, so I'm not sure, you know, a family purchasing this home  
2043 would want to rely on ground water that comes from an area as intensely developed as  
2044 this. So, there's some concern over the possibility of contamination, whereas if you hook  
2045 up the county water that's right up here in the terminus of Mebane, that solves that issue.  
2046 You get county water that you can rely on for your family. So, staff is recommending  
2047 connection to public water. If you have any questions, I'll be happy to answer those.

2048  
2049 Mr. Green- Yeah, we typically don't deal with if's, we deal with what is.  
2050 But what if that, a person decides, well, someone, the person sells that house and says,  
2051 well, I don't want the applicant crossing my driveway. How is that resolved?

2052  
2053 Mr. Gidley- Do you want me to answer that?

2054  
2055 Mr. Blankinship- Yeah, go ahead.

2056  
2057 Mr. Gidley- Okay. I wasn't in the meeting, but my understanding is the  
2058 agreement would basically say the applicant today would say to the homeowner here, I  
2059 will give you access over my property to access your garage and record that agreement.  
2060 So, it goes with the land.

2061  
2062 Mr. Green- Okay.

2063  
2064 Mr. Gidley- And Mr. Massie, our attorney here, is nodding his head. The  
2065 owner of the home here, who owns this driveway and that crosses their property, would  
2066 give the property owner here the right to access that property across the driveway and  
2067 that would be recorded so that in the future, if there's turnover in ownership the access  
2068 nonetheless is recorded and would go from owner to owner to owner. And then there  
2069 would also be, you know, an element of maintenance that would be shared between the  
2070 two of them and that would also be recorded. So, it would be binding on future owners.  
2071  
2072 Mr. Green- And is it possible for that individual to just extend the road and  
2073 not have to do that if they want to.  
2074  
2075 Mr. Gidley- Yes sir, the other option was to construct a public street down  
2076 here all the way to the property. That's a very expensive proposition, so I think the  
2077 applicant...  
2078  
2079 Mr. Green- That would be on the applicant?  
2080  
2081 Mr. Green- Yeah. And, and then the other question is while it is  
2082 recommended that they connect to public water within 300 feet, because it's 340, they  
2083 don't have to. So, even if they built the house and sold it, someone later could come back  
2084 and say, "Well, I'm going to go ahead and try to hook up", correct? Or you have to do  
2085 that... No, you don't have to do that when you're building a house because you can come  
2086 back later and do it, right?  
2087  
2088 Mr. Gidley- If someone in the future wanted to, they could. From our  
2089 perspective, within 300 feet you have to connect. You're talking only a 40-foot difference  
2090 here. And again, this is not a large lot out in the country. There is a lot of intense  
2091 development here. And so, you know, if I was purchasing the home I would want to have  
2092 the county water and there's not. It's only a 40-foot difference in distance.  
2093  
2094 Mr. Green- But technically they don't have to.  
2095  
2096 Mr. Gidley- Technically they don't have to, no.  
2097  
2098 Mr. Green- And that's also a matter of preference because some people  
2099 want county water, some people like wells, right. So that's just a personal preference.  
2100  
2101 Mr. Gidley- Yeah, yeah, to an extent.  
2102  
2103 Mr. Green- And then because if they connect and has a potential cost that  
2104 they would have to pay. So, they may be doing it to mitigate that potential cost. And then,  
2105 you know, sell a house and pass it on to the next person. That's your problem. Correct?  
2106  
2107 Mr. Gidley- Yeah, and we try to look out for the public health, safety, and  
2108 welfare in this case, which is...

2109 Mr. Green- Technically to 300. When it's 340, it's their choice.  
2110  
2111 Mr. Gidley- Right.  
2112  
2113 Mr. Green- With that 40 feet it's their choice. Right.  
2114  
2115 Mr. Gidley- It is. This board can mandate the connection, Staff's  
2116 perspective is just simply from a health perspective, it makes sense to connect.  
2117  
2118 Mr. Green- I'm just looking at the legality.  
2119  
2120 Mr. Gidley- Yeah.  
2121  
2122 Mr. Green- Okay. Any other questions? Mr. Johnson?  
2123  
2124 Mr. Johnson- On the lot, the building in that corner there, is that part of the  
2125 house?  
2126  
2127 Mr. Blankinship- Can you put the concept plan back up, Paul? On our GIS map,  
2128 it shows that as being located on the subject property, but it's actually not. That line is just  
2129 a little misdrawn on our map. As you see here on the survey, the shed is on the same  
2130 property as the existing dwelling.  
2131  
2132 Mr. Johnson- Oh, okay.  
2133  
2134 Mr. Green- Any other questions? Mr. Lawrence?  
2135  
2136 Mr. Lawrence- Yeah, I'm still a little confused. So, the staff report says the  
2137 subject property has 50 feet of frontage on Noble Avenue. Is that correct?  
2138  
2139 Mr. Blankinship- On the right-of-way of Noble Avenue.  
2140  
2141 Mr. Lawrence- Okay, I guess my question is, why has the driveway been an  
2142 issue? Why can't they connect the driveway from Noble. If they have 50 feet of frontage  
2143 on Noble Avenue, why can't they connect the driveway?  
2144  
2145 Mr. Blankinship- Well, they could if they constructed Noble Avenue. Noble  
2146 Avenue has not been constructed all the way to the end of the right-of-way.  
2147  
2148 Mr. Lawrence- And I guess that my next question is why not? Why do we  
2149 have right-of-way that has not been taken into the county system?  
2150  
2151 Mr. Blankinship- Well, the right-of-way has been, but the road was not  
2152 constructed until later, and I guess they just built it as far as the dwelling at 7815, and  
2153

2154 there wasn't a dwelling beyond that so they didn't continue to build the road. This is a  
2155 subdivision from 1920.  
2156  
2157 Mr. Lawrence- Okay, so that the road was constructed by the subdivision's  
2158 developer, I guess, and he was required to extend it to the end of the subdivision, but  
2159 right-of-way was, I guess, dedicated in case there needed to be future development there.  
2160  
2161 Mr. Blankinship- Yes.  
2162  
2163 Mr. Lawrence- The ideal situation would be to have the road extended, right?  
2164  
2165 Mr. Blankinship- Yeah, have it all done at once, yes. See if you go back to the  
2166 expanded aerial though, Paul. At the time that this was developed all of that was shown  
2167 as residential and as you can see, plans changed.  
2168  
2169 Mr. Lawrence- Right. Right.  
2170  
2171 Mr. Blankinship- The restaurant depot is now on what used to be a number of  
2172 residential lots, and nobody wanted Noble Avenue to connect to the shopping center from  
2173 the back. It would have been nice if Noble had been continued onto the north and Mebane  
2174 had been continued onto the east, and they had been connected, but it wasn't.  
2175  
2176 Mr. Lawrence- I've just heard some horror stories from people that have  
2177 shared maintenance on driveways, or access that can... I guess that's not our concern,  
2178 but they get into civil litigation, I guess, over it sometimes.  
2179  
2180 Mr. Blankinship- It's not the ideal solution. We would rather have the road  
2181 extended. Mr. Smith does have the option of extending the road.  
2182  
2183 Mr. Lawrence- At his expense.  
2184  
2185 Mr. Blankinship- Yes.  
2186  
2187 Mr. Lawrence- Do we have an estimate of what that cost would be?  
2188  
2189 Mr. Blankinship- No, but it would be more than would normally be borne by the  
2190 construction of one house.  
2191  
2192 Mr. Lawrence- And probably more than the cost of extending water to the site  
2193 too?  
2194  
2195 Mr. Blankinship- Oh much more.  
2196  
2197 Mr. Lawrence- Okay, that's all I have Mr. Chairman.  
2198  
2199 Mr. Green- But the beauty is they've...

2200

2201 Mr. Blankinship- They've worked a deal out.

2202

2203 Mr. Green- ... they've worked the deal out, so that...

2204

2205 Mr. Blankinship- And, I think, all the parties are here this morning, so we can  
2206 hear from them what they've worked out.

2207

2208 Mr. Green- Alright. Any other questions from the board to staff? Hearing  
2209 none, we'll hear from the applicant.

2210

2211 Mr. Smith- Good morning. I think the information that's been given so far  
2212 supports everything that we have to say. So, for the sake of time, I know we're the last  
2213 case, but I'll try to keep it short if we can. I agree with everything that's been said here,  
2214 the well was my one sticking point. With it being so far, 340 feet, I know it's only 40 more  
2215 feet, but it's still 300 feet that we have to go to stay in compliance and then an additional  
2216 40 feet, so there's an extensive cost associated with that. And then, just also to let you all  
2217 know, the well that we propose to use is a deep well. So, we're not doing a shallow well  
2218 that will catch any, you know, top ground contamination. It is going all the way down, you  
2219 know, to the aqueduct and so forth is how that process works. So, that's the type of well  
2220 that we would be putting in over there. We understand that, you know, wells aren't  
2221 generally used in the inner city or in the, you know, the heavier areas with, you know,  
2222 multiple more people. But in this particular instance, just because of the cost, is why we're  
2223 asking, you know, for the well to be approved in this variance application. There's a  
2224 subdivision, just to let you all know, we're trying to follow suit with the, what's the name of  
2225 it, Eastwood subdivision that's right there about .2 miles away from this particular lot. So,  
2226 we're not trying to come and reinvent the wheel or some type of house that's out of the  
2227 current lay of the land or anything like that. So, we're trying to stay in compliance. Price  
2228 points roughly the same as what those houses went for, 425 to up to \$500,000. We did,  
2229 as you all said, we had a conversation with the neighbor. We're not here to be in  
2230 opposition to anybody in that neighborhood. We want to work with them. And the  
2231 easement that's coming in there, the right-of-way, we do have some intentions on, you  
2232 know, kind of sprucing it up a little bit. It is a little rough to get back there. So, that would  
2233 help the other residents that get back there as well. Other than that, I think that's pretty  
2234 much it. Any questions or anything from me?

2235

2236 Mr. Green- Are there any questions from the board to the applicant?  
2237 Hearing none, are there any other individuals to speak for or against this?

2238

2239 Mr. Brown- How are you doing? My name is Eddie Brown. I'm the  
2240 neighbor. I own 7815. So, originally, I was going to basically explain from what I had been  
2241 shown before. I was shown that the house that wanted to be built was closer to the  
2242 carport. Which would have definitely impacted us greatly. And then, I also wanted to share  
2243 that as far as any, I guess, any plan or any agreement, I know from what my wife has said  
2244 that the gentleman came and told my wife about the plan as far as what they plan to do.  
2245 But as far as any agreement with the driveway I didn't, neither me or her, came up with

2246 any agreement with them as far as what we was going to do. That wasn't spoken to me  
2247 or to my wife. And so, that was, you know, that that's something I wanted to share. But in  
2248 regards to...

2249  
2250 Mr. Green- Excuse me, sir.

2251  
2252 Mr. Brown- Yes?

2253  
2254 Mr. Green- Your name is mister...?

2255  
2256 Mr. Brown- Eddie Brown.

2257  
2258 Mr. Green- Right.

2259  
2260 Mr. Brown- Brown, B R O W N.

2261  
2262 Mr. Green- So, you're not wanting to share your driveway with that, with  
2263 the applicant?

2264  
2265 Mr. Brown- I mean, I don't I don't think that it would be... I don't want any  
2266 unforeseen, I guess, circumstances of, or anything to happen with, you know, sharing the  
2267 driveway. The reason that the carport was built, and the extension was that it was for the  
2268 carport and for them to extend the house by the previous owner. We were unaware that  
2269 the, the house, or the property next to it was for sale or it was the previous owner. I didn't  
2270 learn that until maybe, you know, maybe six to eight months after we were in the house,  
2271 and then I was able to contact the previous owner and learn about that information. And  
2272 apparently, I believe it was during 2022, it was a variance that was trying to get passed  
2273 before, and I don't know if it passed or not. But I knew that people was already looking at  
2274 that lot for sale or, or to purchase. And so, you know, once it, I guess we figured that it  
2275 did not sell. The sign was removed. We were like, well, I guess the variance did not pass,  
2276 but this is a newer situation.

2277  
2278 Mr. Green- Oh, okay.

2279  
2280 Mr. Massie- So, hold on. Let's make sure I understand. So, you haven't  
2281 had an opportunity to discuss with anybody the parking area, the driveway?

2282  
2283 Mr. Brown- No.

2284  
2285 Mr. Green- So, why did we hear that agreement had been, is in place?

2286  
2287 Mr. Blankinship- I didn't think there was an agreement in place or completed,  
2288 but I thought there was a conversation ongoing that...

2289

2290 Mr. Brown- The gentleman came and he spoke to my wife, he told my wife  
2291 the plans and, but as far as the driveway's concerned and how that was going to happen,  
2292 there was no discussion of that.

2293  
2294 Mr. Green- Oh, let me ask you this; are you for or against this variance?

2295  
2296 Mr. Brown- Personally, I don't, I don't want it. I'm against it personally,  
2297 but...

2298  
2299 Mr. Green- Because in order for that to work, that person would either  
2300 have to extend, the applicant would either have to extend the street and create their own  
2301 or you'd have to agree to allow access to their property from your driveway. So, if you're  
2302 saying you're not going to... I guess the question is, if he's saying he's not going to allow  
2303 access to that property from his driveway, what happens?

2304  
2305 Mr. Gidley- The applicant has been told by Public Works he would need  
2306 to extend the street, which would probably make it cost prohibitive to develop the lot. So,  
2307 I would assume the applicant would no longer be interested in purchase.

2308  
2309 Mr. Blankinship- Well, we don't have to assume, he is here we can just ask  
2310 him.

2311  
2312 Mr. Green- So, are you are you amenable to a discussion with him or are  
2313 you just, "No I don't want to share my driveway".

2314  
2315 Mr. Brown- Our original purpose for buying the house, was for the fact that  
2316 there was no, you know, neighbors to left. But then, you know, we figured out that this  
2317 property was originally the previous owners. But then once we found out that there was  
2318 no chance to build on it because of the size of the lot, we didn't seek to try to, I guess  
2319 cover that lot because we said, well, it should be fine but...

2320  
2321 Mr. Green- Yeah

2322  
2323 Mr. Brown- But for my sake, we moved there for the sake of, you know,  
2324 that space to the left and to the right.

2325  
2326 Mr. Green- Mr. Brown, the question at hand is that in order for that person,  
2327 the applicant to have access to that land, they would have to work with you either  
2328 accessing your driveway or extending the street. You are saying you're not willing to, and  
2329 we can't get a previous owner, you're the owner, right? So, the real decision is, are you  
2330 amenable to sharing it? Yes or no?

2331  
2332 Mr. Brown- No.

2333  
2334 Mr. Green- Okay.

2335

2336 Mr. Lawrence- I've got a question, Mr. Chairman. Is anyone else sharing that  
2337 driveway currently?  
2338  
2339 Mr. Brown- No.  
2340  
2341 Mr. Lawrence- Okay, but the driveway is partially on the adjoining property?  
2342  
2343 Mr. Blankinship- Yes.  
2344  
2345 Mr. Lawrence- And why is that?  
2346  
2347 Mr. Blankinship- Because that's the way it was made when the same person  
2348 owned the house and the adjoining lot. The house was subject to a mortgage, but the lot  
2349 was added later and wasn't subject to the mortgage. The mortgage went into foreclosure  
2350 and so the house got sold, but the other property was just left out there. And the owners  
2351 passed away and the heirs sold the property.  
2352  
2353 Mr. Lawrence- But there's never been any structure on that other property?  
2354  
2355 Mr. Blankinship- Not that I'm aware of.  
2356  
2357 Mr. Lawrence- It's always been a vacant lot. Okay. But you're in the adjoining,  
2358 you're the adjoining property shown on the map, right?  
2359  
2360 Mr. Green- He's in that house.  
2361  
2362 Mr. Lawrence- Yeah. And you've got a neighbor to what, your left I guess,  
2363 and then...  
2364  
2365 Mr. Brown- I don't have a neighbor to my left, no. There's no house to my  
2366 left.  
2367  
2368 Mr. Lawrence- So, it's a vacant lot too?  
2369  
2370 Mr. Brown- A vacant lot.  
2371  
2372 Mr. Lawrence- And a vacant lot to your right.  
2373  
2374 Mr. Brown- Yeah, there's a there's a vacant lot on both sides. All the  
2375 neighbors are behind me.  
2376  
2377 Mr. Lawrence- The other lot? Is that a buildable lot? The one to your left?  
2378  
2379 Mr. Blankinship- Yes, that one has public street frontage on Noble all the way  
2380 up that portion of Noble.  
2381

2382 Mr. Lawrence- So, someone could build...  
2383  
2384 Mr. Blankinship- Yes.  
2385  
2386 Mr. Lawrence- ... a structure on that property if they wish to do so.  
2387  
2388 Mr. Brown- As far as I know that lot belongs to someone else in that  
2389 neighborhood.  
2390  
2391 Mr. Lawrence- Gotcha. Thank you.  
2392  
2393 Mr. Massie- I have a question for Mr. Smith.  
2394  
2395 Mr. Blankinship- We have one other speaker before we get back to Mr. Smith.  
2396  
2397 Mr. Massie- Okay.  
2398  
2399 Mr. Wilkinson- My name is Shane Wilkinson, W I L K I N S O N. My wife and  
2400 I live at 7806 Moss Side Avenue, which backs up to Eddie's property. We have some  
2401 concerns with something being built there. The first thing is that this property came up for  
2402 sale and Eddie was unaware of this weird scenario of how it cuts basically his garage off  
2403 his house. But it first came up for sale a couple years ago for \$15,000. We kind of thought  
2404 it was weird because my wife and I thought that that was just a lot that couldn't be, you  
2405 know, no one could build anything back there. So, we inquired about that and then was  
2406 told that, you know, it's too small, that you can't build anything on it. If we were told you  
2407 could have, we would have been interested in purchasing that for \$15,000 just to keep  
2408 the privacy. Because the main reason we purchased this house in 2020 was, one, interest  
2409 rate, and then two was the privacy back there. I have a three-year-old out in our backyard  
2410 all the time. We're all quiet neighbors. The neighborhood's quiet. But the wood line is a  
2411 huge buffer from the noise from the Restaurant Depot and Lowe's. And then also we're  
2412 concerned about where we've had this problem before to where we had somebody that  
2413 actually robbed Lowe's come through that wood line and back into our driveway, which is  
2414 on the cul-de-sac of Mebane, and I was outside. When this occurred in five minutes, I  
2415 didn't think anything of it, this gentleman kind of weirdly ran by us real quick up the street,  
2416 and five minutes later, Henrico PD showed up.  
2417  
2418 Mr. Green- Could you, could you stick to the issue. We appreciate that,  
2419 but we're going to have to get back.  
2420  
2421 Mr. Wilkinson- The wood line is a big buffer for keeping out the noise from  
2422 behind us and, you know, if you develop on that, you're going to take a bunch of trees  
2423 down to put in a drainfield and a well and push that property farther back away from his  
2424 property, and we're going to have another, but basically a house right on top of the back  
2425 of our yard. So, privacy concerns too, was our concern, so.  
2426  
2427 Mr. Green- And I guess, and we'll ask, any others?

2428  
2429 Mr. Wilkinson- Just the fact that we thought it was, you know, you couldn't  
2430 develop on that and if we had known this, we would have bought it for 15 grand two years  
2431 ago, but everybody told me no, so why spend over 15 grand if you don't have to.  
2432  
2433 Mr. Green- Yeah. Is there anyone else to speak?  
2434  
2435 Mr. Blankinship- There is no one else on Webex.  
2436  
2437 Mr. Green- Mr. Massie?  
2438  
2439 Mr. Blankinship- Oh, I'm sorry, there's one other, Mrs. Brown  
2440  
2441 Mr. Green- Yes. Okay, you can go. No, you got to go to the mic.  
2442  
2443 Mr. Lawrence- Has she been sworn in?  
2444  
2445 Mr. Blankinship- Yeah, go ahead and turn around here. Yes. Do you swear the  
2446 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so  
2447 help you God?  
2448  
2449 Ms. Brown- I do.  
2450  
2451 Mr. Blankinship- Thank you. Go ahead and state your name please.  
2452  
2453 Ms. Brown- Yes, I'm Elizabeth Brown. I'm the spouse of Eddie Brown. Just  
2454 a couple of things that I wanted to clarify that I think got a little bit muddled in this  
2455 conversation. Again, yeah we moved into the home in March 2021, unaware of the issues  
2456 with that property line situation. A couple of weeks ago, or I guess it's been going on for  
2457 a little bit. We've had different individuals come down over the last couple of years that  
2458 we've been in the home, looking at the lot. But we were informed, even by Henrico, that  
2459 it was not buildable due to the amount of space. When Mr. Smith came onto the property,  
2460 I came out and introduced them. He was polite, cordial. We spoke, but we had never seen  
2461 anything about any type of building plans prior to like Henrico coming and put in the zoning  
2462 sign in our yard? We didn't even know that the lot had been sold. And so there has been  
2463 no conversation or engagement in so far as like us saying, hey, we can share this  
2464 driveway, here are some other options. We were kind of, honestly, cut, caught off guard  
2465 by that conversation. So, the conversation of meeting him, I remember him saying he was  
2466 on the phone with Henrico to see about moving the house further up, so that it wasn't  
2467 literally jugged next to the shed that you saw on one of the aerial views. Which again will  
2468 keep us from even being able to utilize our carport, which is one of our biggest concerns.  
2469 We have a daughter who rides her bike in the area, so again that privacy thing. If the  
2470 driveway is being utilized by different people, you don't know what neighbor might move  
2471 in there, what their situation might be. You're talking about bigger things of like if we have  
2472 family or get together, if they have family things, there's going to be more traffic. Which  
2473 to me is also a safety concern. Which is not just us in the home, but children who are

2474 outside. And so, I feel like today is not a time for us to be able to really say about sharing  
2475 the driveway. So, as my husband said the answer is no because we were never talked to  
2476 about the options. And so that's kind of what I want to make sure that I clarified that we  
2477 came to this hearing unaware that steps were even fully being made to move forward to  
2478 put a structure there, or home. And then like we haven't talked to, been talked to. So, I  
2479 just want to say that I appreciate your time.

2480

2481 Mr. Massie- Thank you. I appreciate you. I have a question for you. She  
2482 did well. But the question I have for you based on what she just told me, is that it's not an  
2483 emphatic no. That you might be amenable to something. Do you want to hear him out  
2484 though? Is that possible to at least hear him out?

2485

2486 Ms. Brown- So, like I just said, we bought this property because of the  
2487 privacy. There wasn't an idea that that lot even initially was owned by the original owner  
2488 or that that would need to be shared for the home. So, no, like for me, and him were like,  
2489 no, we don't want to share that. Also, I feel like there hasn't been, from my standpoint,  
2490 even time to sit down with anybody and discuss possible options because it was never  
2491 brought to us in the first place.

2492

2493 Mr. Massie- That's what I'm talking about, possible options.

2494

2495 Ms. Brown- Yeah, so as I stand before you today, the answer is no.  
2496 Preferably, I would just want us to have our driveway and not share it.

2497

2498 Mr. Massie- You are aware that even if he doesn't get this property, if he  
2499 doesn't proceed with this, if he sells the property, he could sell the property to someone  
2500 else, so someone else could always live there. And they could do other things. It's still  
2501 back there, so you're not going to get the privacy that you necessarily want.

2502

2503 Ms. Brown- Right.

2504

2505 Mr. Massie- But what he wants is to be able to share the driveway and  
2506 you're telling me that right now the answer's no, but you might be amenable to change  
2507 that based on a negotiation that works for you guys.

2508

2509 Ms. Brown- I mean, I guess I could talk to my husband and clarify that. I'm  
2510 going to stand with him. He said no. The answer is no today.

2511

2512 Mr. Green- My question is why were we told that there was an  
2513 agreement? Where did that come from? And then, and okay. And why wasn't that verified  
2514 by staff? Because we've been given bad information.

2515

2516 Mr. Blankinship- And I believe that maybe we have been, and maybe Mr. Smith  
2517 can clarify that.

2518

2519 Mr. Smith- Alright, so I want to kind of talk to both of the comments. I've  
2520 been doing this for about 17 years, so this isn't new to me either. One thing I would like  
2521 to make them aware is, you know, the particular property that I'm potentially going to  
2522 purchase, you know, their garage, driveway would be on my property. So, you know,  
2523 again, I think this is a great opportunity for us to work together here, so that we can come  
2524 up with an acceptable solution for the both of us. When I spoke with her, I did tell her that  
2525 I'm going to do everything I can. And again, been working with Henrico County, we came  
2526 up with a very amicable solution to where they could still utilize their driveway to get in  
2527 and out of their home. In other variance meetings that I've been to, it's never really been  
2528 about not doing it just because somebody doesn't want it. There needs to be a, you know,  
2529 suitable reasoning as to why. They're going to say no or going to say yes. And, you know,  
2530 just because we want our own privacy, you know, I don't see how that's justifiable to stop  
2531 me from building on a property that if I purchase it now, it's my property, and their property  
2532 is on my property. So, I think this is the best time for us to really try to, you know, come  
2533 to an agreement. Again, we're here to work with the community. We're not here to, you  
2534 know, cause hardships or uncomfotabilities or anything like that. And like you all said,  
2535 you know, the strong possibility if I don't buy, somebody will, and may be sitting here  
2536 again and they may not be willing to work with them the way that I am. They may want to,  
2537 you know, go a different route. And as you know, people not knowing that the property  
2538 was buildable, but the lot isn't buildable right now, that's why we're here before the board.  
2539 And again, in my 17 years experience, I knew that I could come before the board and try  
2540 to come up with a reasonable accommodation with everybody. We did not have an actual  
2541 agreement signed in stone and in place, but I did tell her, that we would do all we can, to  
2542 make sure that she still can get in and out of her driveway, which that's what we did. Me  
2543 and the board sat down, with the county representative, sat down and did that. So, you  
2544 know, if it's about, you know, them not, you know, them being able to use the functionality  
2545 of their driveway with this plan that we have, they can do that. Now, as far as them just  
2546 not wanting anybody to live by them and they want their privacy, I mean, that's what...

2547  
2548 Mr. Green- Mr. Smith, I understand. The real question is now... I  
2549 understand some of the confusion. The real question is, who owns the driveway? That  
2550 portion.

2551  
2552 Mr. Blankinship- That portion of the driveway is owned by Cava Company and  
2553 Mr. Smith has a contract to purchase that property. The rest of the driveway is on the  
2554 Brown's property.

2555  
2556 Mr. Green- So technically, if he purchases it, it's his.

2557  
2558 Mr. Blankinship- That portion of the driveway would belong to him.

2559  
2560 Mr. Green- But the neighbors are under the impression that it's theirs.

2561  
2562 Mr. Blankinship- I think they understand where the, I can't speak for them, but  
2563 I think they understand there is a property line that runs through their driveway and part  
2564 of it is on their property, and part of it is on property that they do not own.

2565  
2566 Mr. Green- So, it is possible that Mr. Smith could buy the property if that  
2567 driveway is on the property that he purchases, he could just do what he wants to cut it off  
2568 and that's just the way it is, correct? Am I looking at something wrong? Because it's his  
2569 property now.

2570  
2571 Mr. Blankinship- Yeah, I don't think you're looking at it wrong.

2572  
2573 Mr. Green- So, it is Mr. Smith, who's accommodating by saying we can  
2574 share it.

2575  
2576 Mr. Blankinship- Well, it's both.

2577  
2578 Mr. Green- No, they say they don't want to.

2579  
2580 Mr. Blankinship- Well yes, right. If there were an agreement. Each party would  
2581 be giving something up, each party would be gaining something.

2582  
2583 Mr. Lawrence- Let me ask you this question. Let's assume the variance is  
2584 granted and the property is built on and the applicant decides he wants to redefine the  
2585 property line on the driveway. Would his neighbors still be able to use it to access? He  
2586 has enough driveway on his property where he could still use the driveway, and is there  
2587 enough driveway on the other side where the applicant could use the driveway?

2588  
2589 Mr. Blankinship- Alright, in order to answer that, I'm also going to answer Mr.  
2590 Green's question from a moment ago. Mrs. Brown mentioned that she walked out to  
2591 speak to Mr. Smith while he was on the phone with someone from Henrico, and that was  
2592 me. Mr. Smith and I were discussing this issue on the phone. Mrs. Brown came out and  
2593 spoke to him, so I knew that the two of them were having a conversation. And that the  
2594 ground had been broken in terms of "we need to work this out". Next week, Mr. Smith  
2595 came into my office and we worked out this plan, and I may have misunderstood what he  
2596 said. I thought what he told me at that point was that there was an agreement on the  
2597 general principle that the two sides were going to share the maintenance of the driveway.  
2598 Now, we knew that that was not written and completed. And so, we recommended the  
2599 condition that at the time of building permit application, the owner must record an  
2600 easement providing for shared access to, and maintenance of the existing driveway. So,  
2601 if there were a recorded document, if a variance were approved, the property was bought,  
2602 a document was recorded, and then a building permit was obtained, then everybody  
2603 would be bound by that document. So, he could not come in unilaterally and move the  
2604 property line, he would have to have the agreement of the property owner. They could  
2605 sell the property to someone else...

2606  
2607 Mr. Lawrence- If that was a condition of the variance.

2608  
2609 Mr. Blankinship- Yes, if that were a condition of the variance, there would have  
2610 to be a recorded piece...

2611  
2612 Mr. Lawrence- And what if it's not?  
2613  
2614 Mr. Blankinship- If there was a variance and no easement or if the variance  
2615 was denied?  
2616  
2617 Mr. Lawrence- If the variance was approved, but there was no condition  
2618 about sharing the driveway.  
2619  
2620 Mr. Blankinship- If there was no condition, then he could build a house seven  
2621 feet off the property line. And as you can see, the applicants would be able to get to the  
2622 front of their carport, but it would be difficult, if not impossible, to turn from the driveway  
2623 into the carport, in a vehicle. You have to have a certain amount of room, of turning radius,  
2624 you know, to swing around to get in and out of a side-loading carport.  
2625  
2626 Mr. Lawrence- They could park on the street though, right? Well, there is no  
2627 street parking.  
2628  
2629 Mr. Blankinship- Well they could park on the driveway in front of their carport.  
2630 They just couldn't park their car in their carport.  
2631  
2632 Mr. Lawrence- Okay.  
2633  
2634 Mr. Massie- I think what needs to happen is they need to get together and  
2635 see if they can figure this out and come back. He needs to defer this and come back next  
2636 month.  
2637  
2638 Mr. Blankinship- And I apologize for the confusion. I thought we had an  
2639 agreement in principle and that was my mistake.  
2640  
2641 Mr. Massie- If I thought there was not an agreement I would have actually  
2642 went to the property and looked at it myself.  
2643  
2644 Mr. Smith- Can I ask a question?  
2645  
2646 Mr. Green- Yes sir.  
2647  
2648 Mr. Smith- Okay, I think I want to allow them maybe one more opportunity  
2649 to come up and speak. I don't know if they want to, you know, agree to come up, because  
2650 we obviously don't have anything formal right now. I think for the sake of this variance  
2651 meeting, if they would agree to, you know, cooperate in this event, that the variance could  
2652 say something like, you know both parties agreed to an easement agreement. Would you  
2653 all want to come back?  
2654  
2655 Mr. Green- Hold on, hold on. My question is this.  
2656

2657 Mr. Blankinship- Let's not rush this.  
2658  
2659 Mr. Green- My question is this. No, no. My question is this. If Mr. Smith  
2660 purchases the land he's in control and then that forces them to either come to an  
2661 agreement with him and or allow him to do it. So, his hand, he owns that property. Yeah.  
2662 So, his hand is strengthened.  
2663  
2664 Mr. Massie- That's true.  
2665  
2666 Mr. Green- So, to be honest with you, I don't want to defer this. It's clear  
2667 it would be his property and then he would either have to negotiate, which he's willing to  
2668 do with the Browns or they would have to do something else. I mean, so.  
2669  
2670 Mr. Massie- I would like everybody to get along in the neighborhood.  
2671  
2672 Mr. Green- That's true, but do you want everybody to get along in the  
2673 neighborhood? But right now he don't... Have you purchased the property yet?  
2674  
2675 Mr. Smith- I'm supposedly closing tomorrow.  
2676  
2677 Mr. Green- If it's not his, how can he negotiate? How can you negotiate  
2678 on something that you don't own? So, he wants, if he closes tomorrow, then your  
2679 negotiation starts.  
2680  
2681 Mr. Johnson- Also, I have another idea.  
2682  
2683 Mr. Green- No, no, no, we're not doing that. No. No. No. No. No. No, hold  
2684 on hold on, wait, wait, no. This, hold on, no, I'm just saying this gentleman is here because  
2685 he's about to close tomorrow on a piece of property. I was under the impression that they  
2686 had worked something out. He clearly states that that driveway is on a piece of property  
2687 that he is attempting to purchase. So, if he goes and closes tomorrow, it's his, correct?  
2688 Correct. Correct, Mr. Gidley?  
2689  
2690 Mr. Gidley- If he closes.  
2691  
2692 Mr. Green- If he closes tomorrow, it's his, and then from that point, he can  
2693 then decide what he wants to do. While you're recommending 300, putting in water. He's  
2694 got the right. He's got 40 feet, he's says I don't have to do it. He doesn't want to necessarily  
2695 extend the street. He doesn't have to do it because he wants to...  
2696  
2697 Mr. Gidley- He does have to extend the street unless they give him  
2698 permission to access their driveway. So that's kind of the other end of this. There was a  
2699 statement he could, someone can build a house and move there. Financially, who's going  
2700 to pay to extend the public street all the way down there? So, the other option then is he  
2701 has to get permission from the Browns.  
2702

2703 Mr. Green- Would both parties be amenable? Well, Mr. Smith, if you're  
2704 closing tomorrow, then you own the property. Once you own the property, then you can  
2705 negotiate. I don't see how anybody can negotiate on something they don't own. The deal  
2706 could fall, you could go to closing tomorrow and the deal falls through.  
2707  
2708 Mr. Smith- Absolutely.  
2709  
2710 Mr. Green- So, until it's yours, why are we even here?  
2711  
2712 Mr. Lawrence- Mr. Johnson has another option, I think.  
2713  
2714 Mr. Massie- It might not be worth buying to him if he doesn't get what he  
2715 wants. Is that right?  
2716  
2717 Mr. Smith- Not necessarily true, not necessarily true. The reason why I  
2718 would, you know, like to have it hashed out here is because if I close tomorrow, I'm going  
2719 to proceed to, you know, getting specific plans drawn up for the house. I want to move  
2720 forward with this. I would like for it not to be delayed. So, I probably will still buy it, you  
2721 know, because I know that I do have options and you know it's a really nice lot and it's in  
2722 a nice little quiet neighborhood and I think it would do good for a Henrico family. So yes,  
2723 I will, I will probably still move forward to buy it. One thing I would like to have happen at  
2724 this variance is if they're willing to comply is when we close, if we can close it out, if we  
2725 close out and get it approved, that they would say here today that they're willing to do that  
2726 or...  
2727  
2728 Mr. Green- To negotiate, not give up the...  
2729  
2730 Mr. Smith- To negotiate. And then if they're not willing to negotiate I have  
2731 to go a different route to get the house built anyway. If we can work in conjunction with  
2732 each other, they would say that and that can be taken in with the approval if we get it,  
2733 right?  
2734  
2735 Mr. Green- Mr. Johnson has a proposal for you.  
2736  
2737 Mr. Johnson- Also, if you're looking at your sheet here, if you look where  
2738 there's a street on the rear.  
2739  
2740 Mr. Green- Can you pull it up?  
2741  
2742 Mr. Johnson- Rather than...  
2743  
2744 Mr. Green- You see the, look at the, what you're talking about on the  
2745 screen.  
2746  
2747 Mr. Johnson- I don't see it on the screen.  
2748

2749 Mr. Blankinship- Yeah, Noble is in one of the aerals.  
2750  
2751 Mr. Johnson- The other street. Not Noble. Where he's planning on buying  
2752 the property. Right there, Mebane. You're on that side so you only have, you can go  
2753 down and make the little right, because it's closing out right now.  
2754  
2755 Mr. Green- Yeah, but he would be responsible for having to build that  
2756 street out, right?  
2757  
2758 Mr. Johnson- Yeah, but it still would be just as short as he would with the  
2759 other house.  
2760  
2761 Mr. Green- Okay. No, see what he's not  
2762  
2763 Mr. Johnson- See, because if he builds it, if you take that lot he gets a road  
2764 right just to that street there.  
2765  
2766 Mr. Green- But who owns that on the other side of the red?  
2767  
2768 Mr. Blankinship- That is owned by the Restaurant Depot.  
2769  
2770 Mr. Green- So they would have to agree to allow that cut through, correct?  
2771 They don't...  
2772  
2773 Mr. Johnson- Yes, for about 45 or 50 feet or something.  
2774  
2775 Mr. Green- But what if they don't agree to that? They don't want to do that.  
2776 And then what's the cost associated with that? It appears to me it's a shorter distance...  
2777 If the choice were he was going to pay to extend Noble, it's easier to go straight up than  
2778 to go to cross somebody else's property and come down. Correct? He's making an I  
2779 versus an L. But what I'm hearing is that he's really not trying to pay for street construction  
2780 or hook up, which is his choice.  
2781  
2782 Mr. Smith- Correct.  
2783  
2784 Mr. Green- Okay. Alright.  
2785  
2786 Mr. Smith- And I just had one last question, you know, again, I've been  
2787 in several variance hearings, board meetings, and I've never seen where just because  
2788 somebody doesn't want it, and that's portends to, you know, do this process of getting a  
2789 no just because somebody just don't want it. There need to be reasons, you know,  
2790 suitable reasons as to why from a Henrico County requirement standpoint, for it not to be  
2791 approved, so I'm a little confused here in that part.  
2792  
2793 Mr. Massie- That's them talking, that's not necessarily us.  
2794

2795 Mr. Green- Okay, Mr. Gidley. If he were to purchase the property, close  
2796 tomorrow and do nothing with it and come back and say, I want to clear everything or I,  
2797 want my drive, that portion of my lot. That portion that's driveway on my lot, I want you to  
2798 move it. Will they have to do that?  
2799  
2800 Mr. Gidley- I would think so.  
2801  
2802 Mr. Green- Well, it's his property. Once he closes.  
2803  
2804 Mr. Massie- My question is, you're going to buy this property no matter  
2805 what?  
2806  
2807 Mr. Smith- Yes.  
2808  
2809 Mr. Johnson- But with the situation, you could go from the other end. For  
2810 that, he could still go back, if he's going to buy the property, he still could...  
2811  
2812 Mr. Green- But we don't know the costs associated with it. See, we can't,  
2813 tell somebody how they should access their house or...  
2814  
2815 Mr. Johnson- {inaudible}  
2816  
2817 Mr. Green- No, because once he buys that property, that driveway is on  
2818 his property, so he's holding aces, you know. So, then they can either work with him...  
2819 Because you were under the assumption that that was yours, that doesn't mean it was  
2820 yours, you know. It's like with all of us that live on corners, we're under the assumption  
2821 that certain property is mine until your association comes in and says, "No, that is not  
2822 yours". I put some trees out, thought that was my property, they come back, no, you got  
2823 to move them, and I had to move them, so.  
2824  
2825 Mr. Blankinship- Let me just make sure one thing is clear though. We've been  
2826 told by the Department of Public Works Transportation Division that the public portion of  
2827 Noble Avenue ends before you get to 7815. So, if he wants to build a house on that lot,  
2828 he has two choices. One is to extend Noble Avenue to the front of the lot. The other is to  
2829 work with the Browns to get their permission to cross their driveway. So, that was kind of  
2830 our starting point of saying both of these property owners have an issue that they'd like  
2831 to resolve, and both of these property owners have the ability to solve the other one's  
2832 issue, so.  
2833  
2834 Mr. Green- But does he have to cross theirs?  
2835  
2836 Mr. Blankinship- Yes. He cannot get to the public portion of Noble Avenue  
2837 without crossing their property, their driveway that they own.  
2838  
2839 Mr. Johnson- Right.  
2840

2841 Mr. Blankinship- He has to either get their permission or extend the street.  
2842  
2843 Mr. Johnson- Right.  
2844  
2845 Mr. Blankinship- He can do either one, but he has to do one or the other. So,  
2846 he's not entirely in control of the situation either.  
2847  
2848 Mr. Green- But how much of the street does he have to extend?  
2849  
2850 Mr. Blankinship- We were told from the end of wherever the end of the  
2851 maintenance is now to his property line.  
2852  
2853 Mr. Massie- Are you willing to do that sir? Or do you know?  
2854  
2855 Mr. Smith- Yes, I am.  
2856  
2857 Mr. Massie- Okay.  
2858  
2859 Mr. Smith- But that's not the option that I'm going to utilize out the gate.  
2860  
2861 Mr. Massie- I understand.  
2862  
2863 Mr. Smith- I'll utilize my other options first.  
2864  
2865 Mr. Massie- I understand.  
2866  
2867 Mr. Green- Yeah, Mr. Gidley.  
2868  
2869 Mr. Gidley- The cost of doing that would be prohibitive, I'm sure.  
2870  
2871 Mr. Blankinship- Well, prohibitive is up to Mr. Smith, not up to us. It would be  
2872 very high.  
2873  
2874 Mr. Massie- That's true.  
2875  
2876 Mr. Blankinship- Whether it's prohibitive depends on Mr. Smith and what he  
2877 feels is prohibitive.  
2878  
2879 Mr. Massie- You're going to buy the property no matter what?  
2880  
2881 Mr. Smith- I'm going to buy the property no matter what.  
2882  
2883 Mr. Green- So do you want us to defer or make a decision, Mr. Smith?  
2884  
2885 Mr. Smith- Again, I would like to give them one more opportunity to see,  
2886 I just want to confirm that they're a hard no.

2887  
2888 Mr. Green- Miss, you can go back up to the podium.  
2889  
2890 Ms. Brown- I think that the deferring is better because, again, our issue is  
2891 we haven't even had a chance to sit down and talk about the options. Even if we're open,  
2892 I'd like to see what the different options are. I see where the issue is with both our sides.  
2893 I'm seeing the design today for the first time. You know what I mean? So, for me it's very  
2894 challenging. I'm a person who needs to sit and look at the different options, talk to Mr.  
2895 Smith, and then if we're going to come to an agreement to be like, hey, you're going to do  
2896 this right now is very challenging for me. I feel like I'm being put on the spot to just be like,  
2897 yes, I'm going to do this thing or no, I'm not going to do this thing. Initially with this  
2898 information, our problem was the carport access. I understand that situation, if he buys  
2899 the property that still makes it challenging for us to use our carport. His access to the  
2900 home is still challenging. But again, none of this was brought to us until, like literally, this  
2901 time or getting the variance in the mail. So, I, mean deferring for me, I feel like is the  
2902 fairest thing for more time for us to talk. And even for him to discuss this with us, versus  
2903 saying, yes, we're going to do said thing without even knowing what that looks like. What  
2904 are we putting in writing? I think that's just kind of my hesitation as being like, you know,  
2905 can I say we're open, yes. But to say, I don't know, like here's what we're doing today is  
2906 very hard for me right now. Just to be honest. I'm not sure what to do with that.  
2907  
2908 Mr. Green- Well, the problem is, and I see what happened, you assumed,  
2909 or I would have to think you assumed, that that driveway was yours. Or did you know that  
2910 it was on somebody else's property?  
2911  
2912 Ms. Brown- Are you talking about where it cuts off at?  
2913  
2914 Mr. Green- Yeah.  
2915  
2916 Ms. Brown- After purchasing our home, we found out the issue with that.  
2917 The two lots were bought together and when they made the extension, it was made with  
2918 the other lots belonging together. So, we were in the dark until after the purchase. If that's  
2919 what you're asking me. Hopefully I'm understanding your question. We know that that lot  
2920 bumps right up against the shed like...  
2921  
2922 Mr. Green- No, my question is, when you purchased your home, did you  
2923 know that part of that driveway was on somebody else's lot?  
2924  
2925 Ms. Brown- No. Like a year or two in, after we had some issues with like  
2926 survey stuff and everything, we found out way later. Or I think they were trying to sell the  
2927 lot. We were like, hold on, you can sell it or something? It even had an address that it  
2928 was tied to. We didn't know.  
2929  
2930 Mr. Green- Yeah, this is interesting. This is very, you know...  
2931  
2932 Mr. Blankinship- It is interesting.

2933

2934 Mr. Green- Yes sir.

2935

2936 Mr. Smith- This will be my last comment. The reasons that we initially  
2937 talked, me and Mr. Blankinship, was because of the complication of their driveway  
2938 situation, okay? We resolved that. That's not an issue any further.

2939

2940 Mr. Blankinship- Wait, that's not an issue any further?

2941

2942 Mr. Smith- What I'm saying is we came up with a plan that if we were to  
2943 agree to how it's set up, they could continue to use their driveway, in and out access. No  
2944 problem with them getting in and out of their garage based on the plan that me and you  
2945 sat down and came up with.

2946

2947 Mr. Massie- I understand that Mr. Smith.

2948

2949 Mr. Smith- So, the only thing I was going to say is, you know, because of  
2950 that part, we can work on that, and figure it out. I would much rather go ahead and get a  
2951 ruling today from the board on this because, again, there are options where they can get  
2952 in and out of their driveway. As far as, you know, them using it, don't want them to use  
2953 the driveway, I don't want to wait around and defer to, you know, figure that part out. The  
2954 original thing that me and the Henrico talked about, you know, we, we got options there.  
2955 So, I would like it ruled... I ask that the board will go ahead and make a ruling today.

2956

2957 Mr. Green- But what about the gentleman that's there? Would you be  
2958 willing to have him in the discussion? Because, you know, I guess.

2959

2960 Mr. Blankinship- He doesn't want a discussion. He wants a decision right now.

2961

2962 Mr. Green- No. No, I'm talking about the gentleman that's sitting there.  
2963 Because what I'm hearing is what is the house going to look like? I don't like your house.  
2964 Whoever owns that land, that's their choice, you know. It's too big. I don't like the white,  
2965 you know, we're not getting into that. We're just getting into the driveway. And then, you  
2966 know, what I don't understand, Mr. Gidley, is I asked the question if they sold their house,  
2967 all these agreements were in place. Why wasn't that in place when they bought that, they  
2968 knew that driveway was sitting on someone else's property? Who, where was that?  
2969 Somebody dropped the ball somewhere.

2970

2971 Mr. Massie- Yeah, it got lost somewhere.

2972

2973 Mr. Blankinship- It was lost when it went through foreclosure. You know what  
2974 the foreclosure process is like.

2975

2976 Mr. Green- Yeah, but what is the county's responsibility?

2977

2978 Mr. Gidley- The county's not involved in that.

2979  
2980 Mr. Green- But I'm just helping these folks understand because I can see  
2981 the Browns' situation. I bought this house, I think it's mine, and now you're telling me part  
2982 of my driveway belongs to somebody else. That's problematic.  
2983  
2984 Mr. Blankinship- I agree a hundred percent.  
2985  
2986 Mr. Massie- It is.  
2987  
2988 Mr. Green- You know...  
2989  
2990 Mr. Gidley- You have realtors and title companies who should've...  
2991  
2992 Mr. Massie- Exactly.  
2993  
2994 Mr. Blankinship- There should've been an attorney at the table. I don't know if  
2995 there was or not.  
2996  
2997 Mr. Green- So, you know, I'm sympathetic to the Browns. But I also  
2998 recognize that Mr. Smith is just trying to close on a piece of property and seems like he's  
2999 amenable to working something out. Both of y'all need to get together and sue somebody.  
3000 Then you got you a free house. Mr. Massie will handle it!  
3001  
3002 Mr. Smith- Okay. I think you asked if I would be willing to speak with the  
3003 gentleman here? I don't even know how he's involved in this.  
3004  
3005 Mr. Green- Oh, he's in a house behind that lot. He just identified himself  
3006 as the house behind that lot.  
3007  
3008 Mr. Smith- Yeah, but there's no complication with the property that I'm  
3009 purchasing and him, you know, being behind me, I don't know what we have to work out.  
3010  
3011 Mr. Green- You know, folks see things come, they don't understand the  
3012 size and scope, they just like to know, you know, what you're doing because you got to  
3013 remember something is behind you and has been wooded for so long and all of a sudden  
3014 something else is coming. I guess what he wants to make sure is that it doesn't interfere  
3015 with his line of sight and he's looking at a big, colossal white thing that's sitting there. It's  
3016 just being...  
3017  
3018 Mr. Massie- Cordial.  
3019  
3020 Mr. Green- Yeah. And we tend not to do that, you know. You'll find that  
3021 when you just ask people and talk to them, you get more accomplished than not. So that's  
3022 all.  
3023  
3024 Mr. Massie- Well, I guess it's my motion.

3025  
3026 Mr. Green- It is.  
3027  
3028 Mr. Massie- I think I've heard enough.  
3029  
3030 Mr. Green- Okay, yes sir.  
3031  
3032 Mr. Massie- I think I've heard enough, okay. Everybody has good points.  
3033 Mr. Smith, I think what you want to do is, is outstanding, is wonderful. I think you can  
3034 eventually get what you want. But these people bought the property not knowing the  
3035 situation with the parking situation. It was not their fault. This gentleman has some  
3036 concerns. As a member of this board, the main thing I want to make sure of, no matter  
3037 what decision I make in the long run, is that everybody will be able to say they were heard,  
3038 okay. I want you, everybody, to be able to say they were heard. I want you guys to get  
3039 together, try to come up with a solution. If you can't come up with a solution, we'll make  
3040 the decision. But I want everybody to be able to say they were heard. So, I want to defer  
3041 this.  
3042  
3043 Mr. Green- To?  
3044  
3045 Mr. Massie- To March. Isn't March the next meeting? Not too long for him.  
3046  
3047 Mr. Green- Mr. Smith, you can still purchase it and then you can talk to  
3048 everybody, and you all come back.  
3049  
3050 Mr. Massie- You mean we won't be able to purchase it? Is that what you're  
3051 saying?  
3052  
3053 Mr. Blankinship- Is there a second?  
3054  
3055 Mr. Green- No. No. No.  
3056  
3057 Mr. Blankinship- I'm sorry, if you're going to speak, you have to be on the  
3058 microphone.  
3059  
3060 Mr. Smith- Yeah, I would probably try to postpone the closing. I'm  
3061 probably still moved to close. I would rather just have this settled here. I don't know how  
3062 much there is to discuss in regards to a drive ...  
3063  
3064 Mr. Blankinship- What needs to be discussed is an agreement between you  
3065 and the Browns about how you're going to share the maintenance and access to the  
3066 driveway.  
3067  
3068 Mr. Smith- I get that. I get that part, but I'm agreeing today that we'll do  
3069 something where they can get in out of the garage with no problem.  
3070

3071 Mr. Blankinship- But they're not. They don't have enough information to say  
3072 yes, we agree to that too. And this is on me. I apologize. When we spoke in my office, I  
3073 was under the impression that y'all had already had that conversation. I misunderstood  
3074 that and I apologize for getting us to this point without having had this resolved. But you  
3075 need to work with them until you guys have an agreement in principle that you can all say  
3076 we agree to this and show it to the board and then the board can decide whether it meets  
3077 their needs.  
3078  
3079 Mr. Green- And I think that's just what the Browns are really looking for.  
3080 While the initial reaction is no, that would be mine until somebody really sits down with  
3081 me and talks to me. So is that a second to defer this to...  
3082  
3083 Mr. Lawrence- Second.  
3084  
3085 Mr. Green- It's moved and seconded. Any discussion? Any other further  
3086 discussion on that?  
3087  
3088 Mr. Blankinship- March 27<sup>th</sup> was the proposed...  
3089  
3090 Mr. Massie- Yes, March 27<sup>th</sup>. Next month. Suppose they wanted help with  
3091 the staff people?  
3092  
3093 Mr. Blankinship- Absolutely, yes.  
3094  
3095 Mr. Massie- So you guys can talk to the staff people, all y'all together.  
3096  
3097 Mr. Green- So, you will convene a meeting with all interested parties.  
3098 Because there may be another neighbor that might want to weigh in and just understand.  
3099 We don't have to see this, what the house is going to look like or do we?  
3100  
3101 Mr. Blankinship- We have some illustrations. Mr. Smith provided some  
3102 illustrations.  
3103  
3104 Mr. Green- Well, we didn't see that, did we?  
3105  
3106 Mr. Blankinship- No sir.  
3107  
3108 Mr. Green- Are you aware of the type of house that he... See, we didn't  
3109 even see. Yeah, that's what we need to do. We all need more information. So go back.  
3110 Go back to that picture. So, that house directly behind that is that the gentleman's house  
3111 that just spoke?  
3112  
3113 Mr. Gidley- No, sir.  
3114  
3115 Mr. Green- But you have a fence. Do you have a fence?  
3116

3117 Unknown Speaker- All the way around...  
 3118  
 3119 Mr. Green- Well, because the motion is made and seconded, we're going  
 3120 to defer this for a month, all in favor, say aye.  
 3121  
 3122 Board- Opposed? It's deferred. It's not dead, it's just deferred. It's not  
 3123 dead, it's just deferred.  
 3124  
 3125 On a motion by Mr. Massie, seconded by Mr. Lawrence, the Board **deferred case VAR-**  
 3126 **2025-100104 until the March 27, 2025 hearing.**  
 3127

3129	<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Massie</b>	<b>5</b>
3130	<b>Negative:</b>		<b>0</b>
3131	<b>Absent:</b>		<b>0</b>

3132  
 3133  
 3134 Mr. Blankinship- Next item on the agenda is the minutes from the January  
 3135 meeting. Mr. Lawrence has provided some commentary, but no substantive changes, is  
 3136 that correct?

3137  
 3138 Mr. Lawrence- Correct. Very minor.

3139  
 3140 Mr. Blankinship- Is there a motion?

3141  
 3142 Mr. Green- Is there a motion to approve the minutes with the necessary  
 3143 changes?

3144  
 3145 Mr. Broadway- So, moved.

3146  
 3147 Mr. Green- Is there a second?

3148  
 3149 Mr. Johnson- Second.

3150  
 3151 Mr. Green- Motion is made and seconded. Done.

3152  
 3153 On a motion by Mr. Broadway, seconded by Mr. Johnson, the Board **approved the**  
 3154 **minutes of January 23, 2025 as corrected.**  
 3155

3157	<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Massie</b>	<b>5</b>
3158	<b>Negative:</b>		<b>0</b>
3159	<b>Absent:</b>		<b>0</b>

3160  
 3161  
 3162 Mr. Green- Mr. Blankinship, you had a letter for all of us to sign.

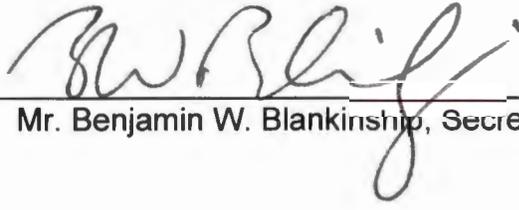
3163  
 3164 Mr. Blankinship- Yes, the last item on the agenda is, if everyone is in  
 3165 agreement with the letter that was drafted and presented to you last month, we do have  
 3166 a signature copy with all five signature lines, as was requested. And this is to notify the  
 3167 Board of Supervisors of the issue that this board has run into regarding rear yard  
 3168 setbacks, particularly for screened porches and sunrooms.  
 3169  
 3170 Mr. Lawrence- Are there any changes other than adding the names on here  
 3171 from what we've reviewed last month?  
 3172  
 3173 Mr. Blankinship- No, sir.  
 3174  
 3175 Mr. Green- We'll give it to you to review.  
 3176  
 3177 Mr. Blankinship- I'll give you copies after they're all signed.  
 3178  
 3179 Mr. Green- Spellcheck. We got our spellchecker.  
 3180  
 3181 Mr. Lawrence- I haven't signed my name in so long, I almost forgot how to do  
 3182 it.  
 3183  
 3184 Mr. Green- That's what rich retired people do.  
 3185  
 3186 Mr. Blankinship- With that Mr. Chair, can we have a motion to adjourn.  
 3187  
 3188 Mr. Green- Is there a motion to adjourn?  
 3189  
 3190 Mr. Lawrence- So moved.  
 3191  
 3192 Mr. Massie- Second.  
 3193  
 3194 Mr. Green- Done.

3195  
 3196 On a motion by Mr. Lawrence, seconded by Mr. Massie, **the Board adjourned.**  
 3197

3198  
 3199 **Affirmative: Broadway, Green, Johnson, Lawrence, Massie 5**  
 3200 **Negative: 0**  
 3201 **Absent: 0**  
 3202  
 3203  
 3204  
 3205  
 3206  
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 3209

  
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 Mr. Terone B. Green, Chair

210  
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3212  
3213  
3214  
3215



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Mr. Benjamin W. Blankinship, Secretary