

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, JULY 25, 2013 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JULY 8,**
6 **2013, AND JULY 15, 2013.**

7
Members Present: R. A. Wright, Chairman
James W. Nunnally, Vice Chairman
Greg Baka
Gentry Bell
Helen E. Harris

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

8
9 Mr. Wright - Ladies and gentlemen, welcome to the July meeting
10 of the Board of Zoning Appeals for Henrico County. I ask you to please stand
11 and join me in pledging allegiance to the flag of our country.

12
13 Mr. Blankinship, would you please read our rules.

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

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

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

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

Mr. Blankinship - There are none from this morning's meeting that I'm aware of. We do have one deferred case from last month.

Mr. Wright - All right. Since that case was deferred from last month—I think a computer glitch put it at the end of the docket, but I think we should take that one first.

Deferred from Previous Meeting
VAR2013-00004 BAKER HEATING & AIR CONDITIONING, INC. requests a variance from Section 24-9 of the County Code to build a one-family dwelling at 1420 Crystal Spring Lane (Parcel 804-679-1842), zoned R-2A, One-Family Residence District (Varina). The public street frontage requirement is not met. The applicant has 0 feet public street frontage, where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Wright - Will the applicant please come forward? Will all persons who desire to speak either for or against this case please stand and be sworn.

Mr. Blankinship - Raise your right hands, 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?

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

Mr. Martin - My name is David Martin—M-a-r-t-i-n. I represent the applicant, Miles Baker, Baker Heating and Cooling.

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

Mr. Martin - The applicant purchased a property and a separate lot probably six months ago. The applicant is a builder. He bought it because the lot faces a sixteen-foot right-of-way—it fronts the right-of-way. And it appears to meet all the requirements to be a buildable lot except for the variance request that we have—because there's only a sixteen-foot right-of-way.

We've had the lot perked. The lot does perk. We've checked title to make certain that it does front on the right-of-way. There's another home directly across the street from it. And the applicant is requesting it to be a buildable lot.

83 Mr. Wright - Have you read the conditions that are suggested for
84 this case?
85
86 Mr. Martin - Yes we have.
87
88 Mr. Nunnally - You say the title states that you have right-of-way to
89 that property?
90
91 Mr. Martin - The title shows and the survey shows that there is a
92 sixteen-foot right-of-way in front of the property, eight feet being on either side.
93 Yes.
94
95 Mr. Blankinship - Does the title state whether or not the owner of this
96 property has the right to use that easement?
97
98 Mr. Martin - The title does not state that he does not. It was
99 searched. Randy Cook did search it, and it shows no reason that he could not
100 use the right-of-way. The plat shows it directly across the lot.
101
102 Mr. Blankinship - There's no reason that he could not use it?
103
104 Mr. Martin - Correct.
105
106 Mr. Wright - But number six of the conditions, if this were
107 approved, says the applicant shall present proof with the building permit
108 application that legal access to the property has been obtained. We've had some
109 testimony—you weren't here last month.
110
111 Mr. Martin - We were not.
112
113 Mr. Wright - And we had some testimony that in effect this right-of-
114 way is owned by other persons who will not grant the right of this property owner,
115 your applicant, to use this as an access.
116
117 Mr. Martin - I don't really understand.
118
119 Mr. Wright - Maybe we'll hear further testimony.
120
121 Mr. Martin - The applicant actually owns the home across the
122 right-of-way.
123
124 Mr. Wright - Yes, but he doesn't own the right-of-way.
125
126 Mr. Martin - Who does own the right-of-way?
127

128 Mr. Wright - Well, we've had testimony, it's in our record. These
129 folks are here today; we'll hear further from them.
130
131 Mr. Martin - I mean I would assume that each lot holder—
132
133 Mr. Wright - If they own the right-of-way, then they have a right to
134 grant the use of that right-of-way to whomever they please. It's their legal right to
135 do that. You don't acquire that just because you own the land, that parcel of real
136 estate, unless there is something of record granting you an easement to access
137 it. Do you have any proof, a legal document granting you access to the property?
138
139 Mr. Martin - I don't have a legal document, no, and this actually
140 seems like a legal matter.
141
142 Mr. Wright - Do you have anything further to say?
143
144 Mr. Martin - Only that the home across the road is actually being
145 sold. They have expressed interest in actually purchasing this lot, to actually
146 have, I guess, more land around them. But we are trying to make it buildable. If
147 they do not buy it, we were actually going to offer it to the other people there, the
148 other homeowners.
149
150 Mr. Wright - If you don't have anything further, we'll hear from the
151 opposition.
152
153 Mr. Martin - I have nothing further.
154
155 Mr. Baka - A question for the applicant. This is not a public road;
156 this is a private right-of-way?
157
158 Mr. Martin - Correct.
159
160 Mr. Baka - So have you contacted the other landowners and
161 requested whether you would be able to share in the joint maintenance of the
162 cost of maintaining such a right-of-way?
163
164 Mr. Martin - We would be glad to share in the cost of the
165 maintenance. But from what we have heard from one of the homeowners is that
166 there was no road maintenance agreement currently on the private road.
167
168 Mr. Baka - There is no maintenance agreement. So prior to this
169 meeting, did you offer to pay into some type of joint maintenance agreement?
170
171 Mr. Martin - I don't believe so, but I mean we would be more than
172 glad to do so.
173

174 Mr. Baka - Thanks.
175
176 Mr. Wright - All right. Well, we'll hear from the opposition then you
177 will have an opportunity to rebut.
178
179 Mr. Wright - Anyone here in opposition to this request? Please
180 come forward.
181
182 Female - [Speaking off microphone.] Do you want us all to
183 come down?
184
185 Mr. Blankinship - Yes, please.
186
187 Mr. Wright - All please come down so we'll save a little time.
188 Please state your name for the record.
189
190 Ms. Anderson-Ellis - My name is Nicole Anderson-Ellis. I live at 1431
191 Chaffins Bluff Lane, which is directly east of this property.
192
193 I thank you again for taking the time to hear from the citizens on this issue. I've
194 been doing a lot of studying since the last hearing. I recognize that most
195 applicants—not all—but most applicants are represented by legal council and the
196 community rarely is. So I feel like sometimes there are two different languages
197 being spoken here, so I'm trying to develop a better understanding of your job,
198 and your standards to which you're being held. So I'm here today to ask—I am
199 not a lawyer. But I'm here today to ask that you deny this variance request
200 because it fails to meet three legal requirements. There's no undue hardship.
201 The variance requested is so common and general that granting the exception
202 amounts to a de facto change in legislation. And the property has already met
203 the standard for beneficial use.
204
205 There are other people here to speak on the same issue, so I'm going to limit my
206 personal comments to this idea that it's already met the beneficial use. And
207 that's because I teach writing and this has to do with language and the definition
208 of *whole*. And so I feel most comfortable with this in my area of expertise.
209
210 The Virginia Supreme Court decision of Cochran versus Fairfax County Board of
211 Zoning Appeals states that, quote "The Board of Zoning Appeals has no
212 authority to grant a variance unless the effect of the zoning ordinance as applied
213 to the piece of property under consideration would, in the absence of a variance,
214 interfere with all reasonable beneficial uses of the property taken as a whole."
215 Henrico Planning Department addresses this point in its staff report stating that
216 you should consider the property as a whole to include the original property from
217 which this parcel was carved out—excuse me, *if* you were to do that. I'm sorry. *If*
218 you were to do that. As a whole. To include the original property from which this
219 parcel was carved out. Quote. "There is not need for a variance because the

220 property is already improved with two dwellings, constituting the beneficial use of
221 the property.

222
223 *Whole* means, by definition, all of the parts. So I see no other reasonable or
224 logical way to interpret this—the term *as a whole* in this case. Again, quoting the
225 staff report, both the subject lot and the adjoining undeveloped 1.06-acre lot
226 were established by deed in 1964. Originating from a 6.6-acre parcel that fronted
227 on Osborne Turnpike. And this subdivision of the whole took place after the road
228 frontage requirement was created. So if I take an apple, and I cut it into slices,
229 and I lay out on the table, I cannot point to one slice and say that is a whole. And
230 no matter how much time passes, I still can't say that slice is a whole. Such is
231 the case with this parcel. It's illogical to ignore the rest of the parts, all of which
232 are right there on the table, and pretend a single part is in fact the whole.

233
234 Therefore, I ask that in keeping with the Cochran decision you examine this
235 property as a whole with all of its parts and their beneficial uses, and
236 acknowledge no authority to grant a variance. Thank you.

237
238 Mr. Wright - Any questions from members of the Board? Thank
239 you very much.

240
241 Ms. Anderson-Ellis - You're very welcome. Now I would like to gracefully
242 step away. But my husband, who spoke last month, was unable to be here this
243 morning, and he's ask me to read his statement as well. So if you'll indulge me. I
244 wish I could do voices.

245
246 Mr. Wright - It's very interesting, the approach you've taken.

247
248 Ms. Anderson-Ellis - Well, thank you. His name is Joseph Cates.

249
250 Mr. Wright - Have you read the Cochran case?

251
252 Ms. Anderson-Ellis - I have many interpretations of the Cochran case,
253 more than I ever dreamed I would.

254
255 Mr. Wright - Have you read it?

256
257 Ms. Anderson-Ellis - No.

258
259 Mr. Wright - Okay. We won't get into all of that.

260
261 Ms. Anderson-Ellis - My husband's name is Joseph Cates—C-a-t-e-s. He
262 also conventionally lives at 1431 Chaffins Bluff Lane.

263
264 I'd like to begin by stating that I'm surprised this variance request actually made it
265 before this Board. The first question on the application asks how does the

266 Zoning Ordinance prohibit or unreasonably restrict the use of this property. Is
267 there a hardship so severe that it keeps you from using this property. And then,
268 in all caps and in bold, it says, if not, do not continue.

269
270 This critical question was answered by the applicant with seven words: Allow for
271 single home to be built. That is not an explanation of hardship; it is a request to
272 build on an unbuildable lot. The State Code of Virginia clearly states that
273 variance shall be granted only if, quote, "the granting of the variance will alleviate
274 a clearly demonstrable hardship as distinguished from a special privilege or
275 convenience sought by the applicant." This is clearly not a case of undue
276 hardship. The applicant bought this property in April. They were not forced to buy
277 it. They made that choice, and they did it with full knowledge that this land was
278 not buildable. In fact, to quote the staff report, the subject lot was not buildable
279 when it was created because the public street frontage requirement was already
280 in effect.

281
282 Even with it unbuildable, the applicant still has opportunities to use this land. And
283 actually, they mentioned some earlier. They could link it with the parcel in the
284 adjacent land that they bought at the same time, and make that home more
285 valuable. They have other options too. The staff report reminds us that this part
286 of the County is used for residential farming and forestry. We're actually a tree
287 farm right behind them. Or they could lease it to hunters or they could try to sell it
288 to one of the adjacent landowners. They have options. But building a house is
289 not one of them. They bought an unbuildable lot. That's not undue hardship;
290 therefore, this request does not meet the minimum standard for a variance.

291
292 Again, I'm surprised it came this far, but I respectfully ask you to deny this
293 unfounded request. Thank you.

294
295 Mr. Wright - All right. Any questions?

296
297 Mr. Bell - Ms. Anderson-Ellis, if I remember right—and please
298 correct me if I'm wrong, because you testified last month as well. There is an
299 easement from Osborne Turnpike down the road sixteen feet, and that you and
300 your husband own half of that.

301
302 Ms. Anderson-Ellis - Actually, that's Jennifer McDonough.

303
304 Mr. Bell - I'm sorry.

305
306 Ms. Anderson-Ellis - We are—Chaffins Bluff Lane, which you see at the
307 top of slide, is how we access our home. We're that little block to the right of the
308 hand. Yes.

309
310 Mr. Bell - I picked the wrong arrow; excuse me.

311

312 Mr. Wright - Thank you very much.

313

314 Ms. Anderson-Ellis - Thank you.

315

316 Ms. Cousins - My name is Teresa Cousins—C-o-u-s-i-n-s. I was
317 here last month, as Mr. Baker was not.

318

319 You're being told that the applicant bought their land in good faith, but I don't see
320 how. They bought it on a hope and a prayer that they could get a variance. But a
321 variance requires a hearing, sometimes two, with public input. There was never
322 any promise that the County would let them build; it was just a gamble that they
323 took.

324

325 But my family, we actually bought our home in good faith, as did my neighbors
326 here today. We bought our land as a home and as an investment with the
327 knowledge that the adjacent lots were unbuildable. We knew that someone
328 might want to build on them, but we had faith that our County wouldn't change
329 the rules on a whim.

330

331 These men who bought this land are responsible adults who knew what they
332 were doing. They bought a landlocked parcel in hopes of getting the rules
333 changed. They took a gamble. Fine. But it is not the County's job to shore up
334 bad investments.

335

336 On behalf of my family, I ask that you recognize who is acting in good faith here
337 and to deny this request. And I'd also like to put another word in here. The
338 reason that I bought this home is my husband is a Vietnam veteran, and he has
339 post-traumatic stress disorder very, very bad. And it was peaceful and quite. We
340 looked for months. We had a beautiful home in Sandston, fenced-in yard, double
341 paved driveway—a beautiful home. But because we were near the airport and
342 the helicopters triggered his post-traumatic stress disorder, we searched for
343 months and months—actually, I did—and found this home on the assumption
344 that no one would build around us. That's why I bought the home.

345

346 Mr. Wright - All right, thank you very much. Any questions.

347

348 Ms. Harris - Ms. Cousins, what is your address?

349

350 Ms. Cousins - 1462 Crystal Spring Lane.

351

352 Mr. Blankinship - So you immediately about the subject property?

353

354 Ms. Cousins - There is a lot in between that is owned by Eddie
355 Winks who tried to sell it at one time, but it would not perk and he hadn't even
356 tried to get a variance either.

357

358 Mr. Wright - Thank you very much, Ms. Cousins.

359

360 Ms. Cousins - Thank you.

361

362 Ms. McDonough - Good morning, my name is Jennifer McDonough—
363 M-c-d-o-n-o-u-g-h. And I live at 8788 Osborne Turnpike. I appreciate y'all hearing
364 from us again and in my taking more time off from work.

365

366 Mr. Butler, who is unfortunately in California, owns half of the road, on the 1457
367 side. Ms. Cousins and I own our side with our boundary lines running roughly
368 down the center. The properties on this lane have all shared its upkeep. We
369 don't have a legal agreement. We've always been successful in working together
370 in sharing the work, and I'm happy to have my existing neighbors pass over my
371 property.

372

373 What I don't like is the idea that this variance would force a new use on us. It
374 would force to allow new residents to use this land. It would force further wear
375 and tear on the road in the short term during the construction, and forever. One
376 house might not seem like much, but it would increase the current usage by one-
377 quarter. And if this variance is granted, it won't be long before other quote-
378 unquote "unbuildable lots" are asking for permission to build.

379

380 In the sixties, perhaps the lane was sixteen feet wide, but I'd like to show you
381 today some photographs that I took. The first one is closest to Osborne Turnpike
382 and shows a tape measure across it. At its best, including a grassy area on
383 either side, it's ten feet wide. You'll see that there are thirty-eight dogwood trees
384 that line either side of this lane that were planted back in the sixties by my
385 grandfather. The second photo is closer up between Ms. Cousins' and Mr.
386 Butler's property. At best, that area is nine feet wide. And the final photo is
387 opposite of this, so it shows actually right here where you're seeing closest in, in
388 front of Mr. Butler's area. That area is eight feet wide. Okay. Just to give you
389 some perspective on what is reality in regard to that road.

390

391 As I mentioned, there's a second unbuildable lot on our lane. I've actually
392 counted, and in the aerial photograph that you show, there are seven lots without
393 houses and without road frontage visible just in our immediate area.
394 Approximately the three roads that include my road, Chaffins Bluff, and Aqua
395 Vista. And a few of those are multiple-acre lots.

396

397 This speaks to the requirement under Virginia law that in order for a variance to
398 be granted, the Board of Zoning Appeals has to find that the hardship is not
399 shared generally by other properties in the same zoning district and the same
400 vicinity. Clearly, that's not the case here. The situation faced by the applicant is
401 both common and general. The staff report says so plainly. Since 1960, the
402 Board has heard many similar requests for variances in the immediate area to
403 the point that they are of a general and recurring nature. Therefore, the law

404 clearly states that the variances cannot be made with such frequency that the
405 Board of Zoning Appeals is, in effect, rewriting the law, in this case rewriting the
406 63-year-old minimum road frontage requirement.

407

408 This reason alone is adequate cause for denying this request, but I'd like to echo
409 what my previous neighbors have mentioned. There is no case here for undue
410 hardship. A purchase made three months ago with full disclosure of limitations is
411 not undue hardship. The applicant has never stepped foot on my property to
412 discuss his intentions, to ask permission, to just be a neighbor and say hey,
413 would you consider. I didn't even know about this meeting because my property
414 does not abut this property, except through word of mouth in the community.
415 Would have thought that maybe if it was of such interest to him, he may have
416 come forth and talked to me, and maybe things would have been different; I
417 don't know. But he's not made one comment to any of us on the land.

418

419 Thank you. I ask that you deny the request.

420

421 Mr. Wright - Thank you. Wait a minute. Any questions? Thank you
422 very much for appearing. Anyone else?

423

424 Ms. Clay-Handy - Good morning. Thank you for listening to us today.
425 My property is right to the left of the yellow square.

426

427 Mr. Wright - Your name, please.

428

429 Ms. Clay-Handy - Oh, I'm sorry. You can tell I don't do this very often.
430 My name is Joyce A. Clay-Handy. I have owned all of that property on Aqua
431 Vista Lane. To be honest with you, I did try to get a variance to build on there
432 years ago—I think it as 1986. The County denied it, and then they relinquished it.
433 But I did not build on it.

434

435 If you look at that drawing, you can see how much of an area that is to be built
436 on. Varina is coming alive, and as you know of the various large areas that are
437 going to be developed, this is just a little drop in the bucket. But it is a beautiful
438 area of our community. And the way it is laid off now with laws that are sixty-
439 three years old, our properties are changing.

440

441 I must say that I do believe they could have gone down and talked to the
442 residents that live on the lane. I know them all. I've lived there longer than
443 anybody. And now I've moved into a retirement area. But I would like to see the
444 property developed in a way that is in fitting with the homes that are there.
445 They're lovely. The convenience of the road with half of it going to the center and
446 the what, northern area comes to the center also. I don't have any idea how
447 legally you can do this, but it is a beautiful area and people are coming to Varina.

448

449 So I wish that the folks who live there could get together. On Agua Vista Lane,
450 we have a road maintenance agreement and it works beautifully. Everybody
451 pays their share and it's done. Obviously, Chrystal Spring Lane is going to need
452 that also.

453

454 So just give us special consideration. Maybe some folks need to learn how to
455 work with the County and get things done properly. And I thank you very much.

456

457 Mr. Wright - Thank you. Any questions?

458

459 Ms. Harris - Yes. Ms. Handy? Did you get a copy of the staff
460 report? Did you get a copy when you came in?

461

462 Ms. Clay-Handy - Yes.

463

464 Ms. Harris - Okay. Did you notice the home that they propose to
465 build?

466

467 Ms. Clay-Handy - I know it's a single family.

468

469 Ms. Harris - Would you look at it? You were saying that if they
470 were going to build it should be in keeping with the other homes in the area. I
471 wanted you to see that particular home.

472

473 Ms. Clay-Handy - Okay. I have not seen that.

474

475 Ms. Harris - That is right. That's it.

476

477 Ms. Clay-Handy - This complements the house across the street. It
478 really complements the area. It would be a nice home to have there. It's not just
479 a flat little house with three bedrooms and one bath. I know the house across the
480 street, if you have a picture of that, you would realize this complements it
481 beautifully.

482

483 Now, you can't see because of everything, but that is a large house. It actually
484 has an English walkout basement, a first floor, three bedrooms, living room,
485 dining room, and a sensational foyer. And then upstairs it has more bedrooms. I
486 don't know—I was in that house when they own—the original owners many
487 times. And it had fallen into disrepair because it's been vacant. And I'm just
488 excited about the fact that somebody is going to live in it, and take care of it, and
489 enjoy it. And it will be something we can enjoy in the community.

490

491 Ms. Harris - Ms. Handy, are you pro or are you against this
492 application?

493

494 Ms. Clay-Handy - I guess I'm for it.

495
496 Mr. Wright - This was opposition. All right, we understand. Thank
497 you very much. Anyone else? I'd like to say one thing, and maybe the applicant
498 needs it. Mr. Butler was here last time. I understand he's out of town today. We
499 should have heard this case last time. It's not fair to people. You give notice,
500 people come, take time off from work and come here, and the applicant doesn't
501 show up. I don't think it's fair to those people. I have his testimony here, under
502 oath.

503
504 Mr. Butler says he—and I'm testifying for him. He owns the parcel at 1457. We
505 can see that right there. I asked Mr. Butler if he owned half of the road, Crystal
506 Lane. Under oath he says, "I do. Yes." Mr. Butler therefore has testified under
507 oath that he owns one-half of Crystal Lane. I asked him would you grant
508 permission to this applicant to use it to access his property. Mr. Butler says no.
509 No. Without Mr. Butler's consent or agreement, we wouldn't be able to grant this
510 thing because the applicant would have to prove to us—and that's one of the
511 conditions I've already read—that he has legal access to the property. And if
512 Mr. Butler owns half of it and he's opposed and he will not grant it, there's no
513 way that the applicant could get legal access to the property. This is in the
514 record. Mr. Butler's not here, but I'm testifying for him on his behalf.

515
516 Female - [Speaking off microphone.] Can I share one more
517 thing, please?

518
519 Mr. Wright - We give you one opportunity to speak, and the
520 opposition, and that's—

521
522 Female - [Speaking off microphone.] This is about Mr. Butler's
523 sale of his house at ten o'clock this morning.

524
525 Mr. Wright - I don't care about that. Mr. Butler testified that he
526 would not grant—if he still owns the lane or the road, that's not his house, he will
527 still own it.

528
529 Female - [Speaking off microphone.] This is just confusing.
530 Thank you.

531
532 Mr. Wright - Okay. Now the applicant has an opportunity to rebut.

533
534 Mr. Baker - Yes sir. I'm Miles Baker. I'm the fellow that bought
535 that property, and I bought it and fixed it up. It came with another lot. We were
536 just trying to get—we went to the zoning and they told us to do this, do this, do
537 this. Said get it perked. We got the paper that said it would perk, you know, for a
538 dwelling. I got Mr. Cook to title search it. He said he didn't see any reason why
539 we didn't have access. The lot fronts Crystal Spring Lane. Eight feet goes out to
540 the center of the lane. And it's like all the things that we've done, if you own out

541 to the middle of the road, the private lane coming in, you should have access to
542 Osborne Turnpike.

543

544 Mr. Wright - Eight feet is not enough.

545

546 Mr. Baker - It's a sixteen-foot easement.

547

548 Mr. Wright - Eight feet is not nearly enough to get a fire truck or—
549 that's what we're concerned about.

550

551 Mr. Baker - Sixteen feet? Okay.

552

553 Mr. Wright - Sixteen feet is enough, but you only have eight feet.
554 And I'm not sure—we had testimony about that too.

555

556 Mr. Baker - Okay. I bought the house from Mr. Crouch.
557 Mr. Crouch owned that 1421. And he also owned 1420, and I also acquired that.
558 I feel like I'm his successor, so whatever he had was handed down to me
559 because I bought it. And I just don't see if I bought a lot that I'm paying taxes
560 on—

561

562 Mr. Wright - Wait minute. When did he buy it?

563

564 Mr. Baker - 1959.

565

566 Mr. Wright - He bought what?

567

568 Mr. Baker - 1421 Crystal Spring. He built that house.

569

570 Mr. Blankinship - I believe the lots were divided in 1964.

571

572 Mr. Baker - But I think he bought that lot, 1421, in 1959 I believe.

573

574 Mr. Wright - I'm just curious.

575

576 Mr. Baker - And he built that house. So I think he was probably
577 the first one on that lane. And I acquired this from Mr. Crouch to me. So that
578 would, I would say, make me the successor. So what he had comes down to me.
579 That's the way I'm sort of seeing it. If everybody that fronts Crystal Spring owns a
580 part of the road, and you have a lot on that road, and you're meeting all the
581 building qualifications, I just don't see how you really could be—you could be
582 landlocked for the next 300 years. This lady right here, I don't know her name.
583 She came down there in a lawnmower and said, "Ain't no way you're ever going
584 to get it."

585

586 Female - [Speaking off microphone.] That's not true.

587
588 Mr. Baker - That's what you—
589
590 Mr. Wright - Wait a minute, wait a minute. Let's keep the
591 testimony—
592
593 Mr. Baker - And we would have went to these people, but we had
594 already heard through the grapevine that it wasn't going to happen. I planned—
595 my full intent is I've sold this. I haven't met them, but they offered to show
596 interest in buying this lot. I'm going to give them the very first opportunity to do it.
597 And if they didn't want it, I was going to offer it to everybody on Crystal Lane if
598 they wanted it. But I was just, as a businessman, covering my point. If I got a
599 buildable lot—I mean. Me and David went to Zoning. They said get it perked.
600 She said if it doesn't perk, water runoff would do this. It perks fine. It perks
601 perfect. And I got Randy Cook to research everything, and he said he didn't see
602 any problem. We have access to Osborne because we own to the middle of the
603 right-of-way, which is Crystal Spring. Crystal Spring is sixteen feet. Each owner
604 owns eight feet to the center of the road. So how can somebody keep you from
605 going out of it? If you have a lot, what am I going to do with a lot that I'm paying
606 taxes on every year and I can't do anything with it but look at? But, like I said, I
607 was going to offer it to the—the new people that I haven't met have contacted
608 the real estate man who said they have shown interest in buying it. But as a
609 businessman, I'm just covering my basis. If it did come to that, I would build a
610 nice house, as nice as any house down there. Probably nicer. Maybe that could
611 help the County. More revenue for the County. That's all. I'm not a real big talker.
612
613 Mr. Wright - Let me say this, sir. If we grant this, that condition
614 would be in there.
615
616 Mr. Baker - Oh yes sir.
617
618 Mr. Wright - Before you get a building permit, you would have to
619 satisfy the Planning Office that you have legal access. So either way, if you can
620 do that, you can do it. If you can't do that, you could not build on it.
621
622 Mr. Baker - How do you get legal access?
623
624 Mr. Wright - I think you have to get a lawyer or somebody to come
625 forth. We have to have proof that you have legal access. Right now, you don't
626 have that.
627
628 Mr. Baker - Yes sir, that's right. I understand. That would be the
629 next step. I would acquire an attorney to show that we have legal access. He
630 took it through a title company, and he researched it, and he said Miles, I have a
631 paper, but it doesn't say that. It was his bill. But he said he does not see how we
632 can be kept out of there.

633
634 Mr. Wright - Well he's not here.
635
636 Mr. Baker - No, he's not here, no sir.
637
638 Mr. Wright - All I'm saying is if we were to approve this, you would
639 still have to prove to the Planning Office that you have legal access.
640
641 Mr. Baker - Yes sir. And the Planning Office didn't say anything
642 about that. They told us to get—to make sure that the lot perked. I paid an ASOE
643 to go out there; I have the paper here.
644
645 Mr. Wright - The Planning Office said a lot about it because that's
646 why you're here. They said they would not approve your building without—
647
648 Mr. Baker - They gave us a list of requirements.
649
650 Mr. Wright - Yes, but you have to—
651
652 Mr. Baker - [Speaking off microphone; inaudible.]
653
654 Mr. Wright - You have to have legal access to the property. We're
655 not going to get into all of that.
656
657 Mr. Baker - We thought—I mean I really thought I had legal
658 access because if you have Crystal Spring Lane that's sixteen feet wide, each lot
659 runs to the center of the road, why don't you have access? Is it just two people or
660 three people keeping you out of that? That could go on for the next 300 years.
661
662 Mr. Wright - The County would require more than eight feet.
663
664 Mr. Baker - Well how did these other houses get in there?
665
666 Mr. Wright - We take each case on its own, and I'm not going to
667 get into all of that.
668
669 Mr. Baker - Okay. Yes sir. I understand.
670
671 Ms. Harris - I have a question. What's your name, sir?
672
673 Mr. Baker - Miles Baker.
674
675 Ms. Harris - Mr. Baker, when Mr. Butler was here at the last
676 meeting, the question was asked "has the applicant ever asked you for such
677 permission", and that was permission to have access to the property. Mr. Butler
678 said, "No, no one ever approached me about it at all."

679
680 Mr. Baker - That's true.
681
682 Ms. Harris - Okay. I was just wondering if you could have
683 approached Mr. Butler maybe the results would have been different this morning.
684 I know you said through the grapevine you heard that there would be a negative
685 response, but you did not approach Mr. Butler.
686
687 Mr. Baker - Would you have to have everybody's permission on
688 that road?
689
690 Ms. Harris - If you notice how much land he owns, he owns quite
691 a segment of this right-of-way.
692
693 Mr. Blankinship - You'd have to have permission from everyone whose
694 property you cross.
695
696 Mr. Baker - Exactly. This woman right here, she told me it wasn't
697 going to happen. So that's why we didn't pursue it.
698
699 Ms. Harris - Yes, I heard that. I heard that testimony.
700
701 Mr. Wright - Is that everything?
702
703 Ms. Harris - Yes.
704
705 Mr. Baker - Yes.
706
707 Mr. Wright - We appreciate you—
708
709 Mr. Baker - Yes sir.
710
711 Mr. Wright - All I'm saying is what the legal situation is.
712
713 Mr. Baker - I understand.
714
715 Mr. Wright - We can't resolve that here today.
716
717 Mr. Baker - Yes sir. I understand. Okay.
718
719 Mr. Wright - Thank you. That concludes the case.
720
721 **[After the conclusion of the public hearings, the Board discussed the case**
722 **and made its decision. This portion of the transcript is included here for**
723 **convenience of reference.]**
724

725 Mr. Wright - Do I hear a motion on this case?
726
727 Mr. Nunnally - Do you think it would be proper to give him an
728 opportunity? I don't know if he has an attorney or not, but he said somebody said
729 he wouldn't have any problems, but he didn't get anything in writing. Do you think
730 we should give him a chance to get a lawyer to see if he has legal access?
731
732 Mr. Wright - We have two options, I think. We could approve it
733 because he would have to prove to the Planning Office he has legal access. If he
734 didn't have it, he couldn't actually proceed. Correct?
735
736 Mr. Blankinship - That is correct, yes sir.
737
738 Mr. Baka - If we were to approve, we would looking at Cochran. I
739 had some concerns about whether this case rises to the level of Cochran taken
740 as a whole.
741
742 Mr. Wright - If you look at Cochran, that issue was not addressed.
743 The Cochran case, if you read it carefully it says the property that was affected
744 by this application. You could argue taken as a whole back and forth. My
745 question is, Mr. Blankinship, he said that property was acquired in 1959.
746
747 Mr. Blankinship - There are two properties. Paul, for the purpose of this
748 discussion, could you put up maybe the aerial photo. This is what I was looking
749 at if you saw me flipping around on my computer during some of that testimony.
750 You see the line of the road itself, Crystal Spring Lane. The subject property,
751 which is outlined in yellow, is on the north side of Crystal Spring Lane. The
752 house that they acquired at the same time is on the south side of Crystal Spring
753 Lane. That house was divided off the property to the east, which runs out to
754 Crystal Spring Lane.
755
756 The vacant lot that is the subject of this application was a part of a long narrow
757 strip that also ran out to Osborne Turnpike on the north side of Crystal Spring
758 Lane. So he is correct. The house on the south side was built in 1959, but it was
759 never part of this property. At the time that the public street frontage requirement
760 was put into place, everything from 1420—which is the subject property—all the
761 way out to Osborne Turnpike was one lot. And that lot had public street frontage
762 on Osborne Turnpike. That's why we wrote what we did in the staff report. If you
763 take 1960 as your snapshot moment, what was the property taken as a whole
764 when that requirement was put in place. That six-acre lot, more or less, had
765 frontage on Osborne Turnpike. And two dwellings had been built on that six
766 acres.
767
768 But as you say, you can argue back and forth what exactly is meant by the
769 property taken as a whole. I mean, every lot in the County was divided off
770 something at some point.

771
772 Mr. Wright - You can't take Cochran as authority for that position.
773 Cochran didn't deal with that issue. So that issue is still up in the air, as far as I'm
774 concerned. The way Cochran says it, it applied to that parcel which was before
775 the Board of Zoning Appeals. If you read it carefully, that's what it says.
776
777 The other issue is Spence. That is whether the property was acquired in good
778 faith. Now, that lot, if they could have built on it before, if it were divided before
779 1960, then they would have been technically grandfathered, correct?
780
781 Mr. Blankinship - That's correct.
782
783 Mr. Wright - That's what I was getting at. Since it was divided
784 after 1960, it was not a lot that could have been built on under the ordinance.
785
786 Mr. Blankinship - Right. At the time it was created it was not a buildable
787 lot.
788
789 Mr. Wright - Yes. So therefore it's not in good faith because the
790 owner at that time couldn't build on it. The Spence case dealt with this issue.
791 Somebody acquired some property from an owner a couple years after they had
792 applied unsuccessfully for a variance. Spence said the fact that the owner of this
793 property, back at its beginning, could have built on it at the time, means that he
794 was in good faith because you can't deny him that opportunity. So I think it's
795 distinguishable.
796
797 Mr. Baka - So if it's distinguishable from Cochran, it's still a
798 question of deeded access.
799
800 Mr. Wright - Whether it's in good faith.
801
802 Mr. Baka - There's no proof of deeded access prior to this
803 perceived—prior to the verbal comments that it was okay to have access. But
804 there has never been any deeded access presented before this meeting or
805 before last month's meeting when all the neighbors came and spoke at the other
806 meeting, too.
807
808 Mr. Wright - He was claiming that—the owner of 1462, that was
809 Ms. Cousins? Is that—
810
811 Mr. Baka - Yes.
812
813 Mr. Wright - And I believe she testified that she would not grant
814 permission.
815
816 Mr. Blankinship - Yes.

817

818 Mr. Wright - So if Ms. Cousins who owns half of that Crystal
819 Spring Lane and Mr. Butler who owns the other half would not grant him
820 permission, how is he going to get access?

821

822 Mr. Baka - Agreed. My concern is the case is almost premature
823 when someone comes in and applies without the deeded access.

824

825 Mr. Blankinship - And after last month's hearing, staff contacted the
826 applicant and said you need to come back next month, and you need to be
827 prepared to demonstrate conclusively to the Board's satisfaction that you have
828 deeded access. So he had a month to work on that.

829

830 Mr. Wright - He said *in his opinion* he had. That doesn't cut it in
831 my book.

832

833 Mr. Blankinship - He said there was nothing to prevent him from using
834 the road. He fronts on the road, and he couldn't see any reason why he wouldn't.
835 In my mind that didn't rise to what staff had recommended to him that he come in
836 with.

837

838 Mr. Wright - That's the whole issue. That's why we had the
839 ordinance to begin with, to ensure that you had access for emergency vehicles
840 or whatsoever to get down to the property. Okay. Mr. Nunnally, that's all I can
841 say to enlighten the situation.

842

843 Mr. Nunnally - I don't know what to do on this.

844

845 Mr. Wright - I tell you what, there's another option. We could defer
846 it until next month and give him an opportunity to come in and present legal basis
847 for his access.

848

849 Mr. Baka - I'm concerned about a deferral because they had two
850 months to do this, and there has been no written documentation of deeded
851 access prior to the meeting and nothing presented at closing. At this point, I'd be
852 prepared to make a motion to deny this variance request, VAR2013-00004, on
853 the grounds that it does not constitute the bare minimum reasons for granting a
854 variance

855

856 Mr. Wright - Is that your motion, to deny?

857

858 Mr. Baka - Yes sir.

859

860 Mr. Wright - Okay. Is there a second?

861

862 Mr. Nunnally - Second.

863
864 Mr. Wright - Motion's made and seconded. Is there any further
865 discussion?

866
867 Ms. Harris - Yes. We've had cases back several years ago if the
868 person did not have legal access we could not very well grant the request.

869
870 Mr. Wright - You can't.

871
872 Ms. Harris - As far as easements go. And I don't see deferring it
873 for another month. I don't think that's going to do any good.

874
875 Mr. Wright - Okay. Motion's made and seconded. If there's no
876 further discussion, all in favor say aye. All opposed say no. The ayes have it; the
877 motion passes. It's denied.

878
879 After an advertised public hearing and on a motion by Mr. Baka, seconded by
880 Mr. Nunnally, the Board **denied** application **VAR2013-00004, Baker Heating**
881 **and Air Conditioning Inc.'s** request for a variance from Section 24-9 of the
882 County Code to build a one-family dwelling at 1420 Crystal Spring Lane (Parcel
883 804-679-1842), zoned R-2A, One-Family Residence District (Varina).

884
885
886 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
887 Negative: 0
888 Absent: 0

889
890
891 **[At this point, the transcript continues with the public hearing on the next**
892 **case.]**

893
894
895 **CUP2013-00015** **CHRIS CLINE** requests a conditional use permit
896 pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the side
897 yard at 10900 Branch Raod (LAKEVIEW) (Parcel 773-773-7942), zoned A-1,
898 Agricultural District (Brookland).

899
900 Mr. Wright - Anyone desiring to speak on this case, please stand
901 and be sworn.

902
903 Mr. Blankinship - Does anyone else intend to speak to this case?
904 Would you raise you right hand, please? Do you swear the testimony you're
905 about to give is the truth, the whole truth and nothing but the truth so help you
906 God?

907
908 Mr. Cline - Yes sir.

909
910
911
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953

Mr. Wright - Please state your name for the record and present your case.

Mr. Cline - My name is Christopher Cline. Last name is spelled C-I-I-N-E. A little bit different than normal, but that's the way it's spelled.

I actually had a pool built in my backyard. I had never done that before so I went through a reputable pool dealer. It's my understanding from my general contractor that he should have obtained a permit to do so. He did not obtain a permit to do that. I did not know that I needed a permit to do that until he came to actually build the deck itself. He then came up here to do that. I went through several different steps. I came up to the office several times myself. I spoke with Miguel and a couple of other people, and they explained to me the situation.

Basically, to my knowledge, what the situation is, is because my property is on a corner lot, even though my house faces Branch Road, the County considers my front yard to be Greenwood Road. Therefore, technically, where I'm putting this pool is in my backyard—I mean technically it's in my side yard instead of in my backyard. However, I did read through the evaluation that they had put forth and so forth, and I agree with everything that it said. Basically, there's a six-foot privacy fence on the front and on the side that has a neighbor on it. You cannot see any of the pool or any of the deck area from any other direction where anybody would be living or from the road itself. It's a residential area. My closest neighbor is on the right-hand side in this picture that's showing right here, and they're pretty far away. I very rarely even hear anything from them.

Basically, I think it's just—I mean I understand the Board and the County is following the letter of the law, and they're doing what they're supposed to be doing. And that's why I'm here because I want to follow the letter of the law and do what I'm supposed to do as well. I think it's more of just a technical matter in the sense that technically that's my side yard, but as you can see, it's clearly my backyard. And it shouldn't really be—I don't see that it imposes any type of negative consequence on anybody.

Mr. Wright - All right, sir. Anything further?

Mr. Cline - No sir.

Mr. Wright - Any questions?

Ms. Harris - Mr. Cline, your deck is already installed, right?

Mr. Cline - Yes.

954 Ms. Harris - So the plans that we have in our packet have already
955 been completed.
956
957 Mr. Cline - Correct. Everything was built to the specifications of
958 this. My builder did this, and he built the deck.
959
960 Mr. Wright - All right.
961
962 Mr. Baka - Any objections from any neighboring property
963 owners?
964
965 Mr. Cline - No, no. In all honesty, I have not spoken directly to
966 them. I have met my neighbors, but it's pretty much—because it's a wide-open
967 community, it's pretty much a situation where we all pretty much keep to
968 ourselves. They've never approached me about anything, and I've only talked to
969 them in passing when they came by or I was mowing my grass or whatever.
970
971 Mr. Wright - Any further questions?
972
973 Ms. Harris - Yes. The picture that we see, 10900 Branch Road,
974 street view of home.
975
976 Mr. Cline - Yes ma'am.
977
978 Ms. Harris - Can we see that picture, please? It said street view of
979 home.
980
981 Mr. Blankinship - Southwest view.
982
983 Mr. Cline - It's probably the front view.
984
985 Ms. Harris - This is fine. I can—
986
987 Mr. Blankinship - Oh yes, front facade.
988
989 Mr. Cline - It's probably the front view is what she's looking at
990 because that's the direct street view.
991
992 Ms. Harris - Okay. The street that's directly in front that's asphalt,
993 what road is that?
994
995 Mr. Cline - That is Branch Road.
996
997 Ms. Harris - Okay. And where is Greenwood Road?
998

999 Mr. Cline - Greenwood Road is—if you're looking at that picture,
1000 to the left probably 200 yards or so. See, Greenwood Road, the house is all the
1001 way down here on the right. Greenwood Road is all the way down there. If you
1002 stepped out to the edge of the driveway you can see the road, but standing—it's
1003 such a heavily wooded lot that if you stand in my backyard you can't see the
1004 road.

1005
1006 Mr. Wright - Any further questions? Hearing none, that concludes
1007 the case. Thank you very much for appearing, Mr. Cline.

1008
1009 Mr. Cline - Thank you very much.

1010
1011 **[After the conclusion of the public hearings, the Board discussed the case**
1012 **and made its decision. This portion of the transcript is included here for**
1013 **convenience of reference.]**

1014
1015 Mr. Wright - Do I hear a motion on this case?

1016
1017 Mr. Bell - I make a motion that it be approved.

1018
1019 Ms. Harris - Second.

1020
1021 Mr. Wright - Okay. Do you want to give a little idea about the
1022 grounds?

1023
1024 Mr. Bell - Yes. I don't think it's a safety hazard to the area. I
1025 don't think that it is out of line with the area in which he lives. I don't think there
1026 will be any noise or additional traffic that would create a problem.

1027
1028 Mr. Wright - All right. Any further discussion? Hearing none, all in
1029 favor say aye. We did get a second, didn't we?

1030
1031 Mr. Blankinship - Yes sir. Ms. Harris seconded the motion.

1032
1033 Mr. Wright - Okay, that's approved.

1034
1035 After an advertised public hearing and on a motion by Mr. Bell, seconded by
1036 Ms. Harris, the Board **approved** application **CUP2013-00015, Chris Cline's**
1037 request for a conditional use permit pursuant to Section 24-95(i)(4) of the County
1038 Code to allow a pool in the side yard at 10900 Branch Road (LAKEVIEW)
1039 (Parcel 773-773-7942), zoned A-1, Agricultural District (Brookland). The Board
1040 approved the conditional use permit subject to the following conditions:

1041
1042 1. This conditional use permit applies only to the placement of an above
1043 ground swimming pool and deck in the side yard of an existing residentially

1044 developed lot. All other applicable regulations of the County Code shall remain in
1045 force.

1046
1047 2. Only the improvements shown on the plot plan and
1048 building design filed with the application may be constructed pursuant to this
1049 approval. Any additional improvements shall comply with the applicable
1050 regulations of the County Code. Any substantial changes or additions to the
1051 design or location of the improvements shall require a new conditional use
1052 permit.

1053
1054
1055 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1056 Negative: 0
1057 Absent: 0

1058
1059
1060 **[At this point, the transcript continues with the public hearing on the next**
1061 **case.]**

1062
1063
1064 Mr. Baka - Due to a potential conflict of interest in this case, I'm
1065 going to recuse myself from the next three cases, the Verizon Wireless cases.

1066
1067 Mr. Blankinship - Mr. Chairman, the next three cases are companions.
1068 They're all three applications of Verizon Wireless. What I don't know is if we
1069 have opposition to any or all of these cases. We were going to call the three
1070 cases together, but if opposition wants to speak to any particular case, then I
1071 guess we'll just have to make that clear as we go along.

1072
1073 Mr. Wright - Is anyone here in opposition to any one of these three
1074 cases, Verizon Wireless cases?

1075
1076 Mr. Blankinship - Oh, well that simplifies it.

1077
1078 Mr. Wright - Anyone in opposition to any of these? Verizon
1079 Wireless desires to put up a temporary tower. I think we can do them all at one
1080 time.

1081
1082 Mr. Blankinship - Yes.

1083
1084
1085 **CUP2013-00016 VERIZON WIRELESS** requests a temporary
1086 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
1087 allow a temporary communication tower at 3810 Meadowbridge Road (Parcel
1088 794-737-7079), zoned B-3, Business District (Fairfield).

1089

1090 **CUP2013-00017 VERIZON WIRELESS** requests a temporary
1091 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
1092 allow a temporary communication tower at 5209 Wilkinson Road (Parcel 794-
1093 745-8161), zoned B-3, Business District (Fairfield).
1094

1095 **CUP2013-00018 VERIZON WIRELESS** requests a temporary
1096 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
1097 allow a temporary communication tower at 4447 Carolina Avenue (Parcel 797-
1098 743-5757), zoned C-1, Conservation District, M-1, Light Industrial District and M-
1099 2, General Industrial District (Fairfield).
1100

1101 Mr. Wright - Anyone desiring to speak on this case, please stand,
1102 whether for or against, and be sworn.
1103

1104 Mr. Blankinship - Raise your right hands, please. Do you swear the
1105 testimony you're about to give is the truth, the whole truth and nothing but the
1106 truth so help you God?
1107

1108 Mr. Wright - All right, sir, please state your name for the record
1109 and present your case.
1110

1111 Mr. Theobald - Good morning, Mr. Chairman, gentlemen, Ms. Harris,
1112 my name is Jim Theobald, and I'm here this morning on behalf of Verizon
1113 Wireless. We have our Verizon Wireless team with us over here today in the
1114 event that you should have any technical questions. Ben, might I have that slide
1115 that shows the three sites? Might be the last one. Perfect. Thank you.
1116

1117 This is a request for temporary conditional use permits to allow temporary
1118 communication towers in support of the NASCAR race at RIR that will occur
1119 September 6th through the 8th. These temporary towers not only provide service
1120 to the 100,000+ fans that attend these races, but as importantly ensure that area
1121 residents maintain service for the duration of that event.
1122

1123 Reliable service ensures the consistency of service in that area, particularly for
1124 emergency communications by residents, the fans, and Henrico's first
1125 responders who are on that system.
1126

1127 These temporary towers consist of 120-foot telescoping or retractable type lattice
1128 structure. The antennas mounted on these match the color of the tower.
1129 Equipment is housed in a box truck that sits at the base of the tower, and there's
1130 an emergency power generator also located at the base of the three towers.
1131

1132 As to the specific sites, we've done an aerial here just to show you the
1133 triangulation involved in terms of the three locations. You can see the first case,
1134 #16, down below the racetrack, which is in the center. Case #17, up directly to
1135 the north. And then #18 over off Carolina Avenue there to the right.

1136
1137 With regard to case #16, that's what we call the Crawley Funeral Home site. It
1138 was formerly used as a funeral home. That site is zoned B-3. It's designated as
1139 Commercial Arterial as an appropriate use in the 2026 Land Use Plan. It's at
1140 least 250 feet from the closest dwelling. It will be erected in a grassy area, which
1141 is surrounded by mature trees, partially screening the view.

1142
1143 Site #17 up there to the north is what we call the flea market site, as it often
1144 houses flea market activity. That site is zoned unrestricted B-3. It's shown as
1145 being appropriate for the Office Service District in your Land Use Plan, and it is
1146 at least 485 feet from the nearest dwelling, and is in the middle of a large
1147 generally vacant parking lot.

1148
1149 Case #18 is off Carolina Avenue in an area known as the Fairgrounds
1150 Distribution Center, originally developed by the Lingerfelt's and Liberty
1151 Properties. That site is zoned M-2. The tower would exist in a parking lot
1152 between the two warehouses. The one that it is adjacent to is currently vacant.
1153 That site would be 2,000+ feet from any residences. And the building would
1154 screen the view in substantial fashion.

1155
1156 These requests meet all of Henrico County's requirements for approval. The
1157 sites are appropriately zoned and, in fact, zoned for uses more intense on a
1158 permanent basis. They're all consistent with your Land Use Plan designation.
1159 This request promotes health, public safety, and welfare with the enhancement
1160 of emergency communication services, and with the appropriate siting of the
1161 towers. These temporary uses will not unreasonably impair an adequate supply
1162 of light and air, will not generate any independent traffic or congestion nor impact
1163 property values in the area. The impacts, in fact, are caused by the race, not the
1164 towers that would be there in support of the race, an event that Henrico County
1165 has admirably supported for many, many years. The race is a big event in the
1166 County. It has many resulting economic benefits.

1167
1168 At least one of these sites has been the subject of a prior request that was
1169 approved by you. With that I would respectfully request that you grant these
1170 temporary conditional use permits. I'd be happy to answer any questions.

1171
1172 Mr. Wright - One question that staff has raised is that you
1173 requested that these towers be put on the site no sooner than July 27th.

1174
1175 Mr. Theobald - We've tried to realistically build in the time it takes to
1176 mobilize, get these on site in the three different locations, actually erect them,
1177 secure them, and then there's a process of tuning them, if you will, so that they
1178 work with one another to benefit the site. We wanted to tell you exactly how long
1179 it would take. In fact, if this is approved, we would intend to start this afternoon, if
1180 not tomorrow, because that's how much lead time it takes to do this right and get
1181 them ready.

1182
1183 Mr. Wright - When would the towers actually be put up?
1184
1185 Mr. Theobald - The towers would begin to go up in the next few days
1186 or week.
1187
1188 Mr. Wright - So you would require this much lead time, six weeks?
1189
1190 Mr. Theobald - Yes. It's a little bit of a process to get the equipment
1191 in, placed down on the site, store it, build necessary fencing, and then—
1192
1193 Mr. Wright - That's what I'm saying. How long does that take,
1194 getting prepared for it?
1195
1196 Mr. Theobald - Stewart?
1197
1198 Mr. Wright - The actual tower itself going up. That wouldn't start—
1199
1200 Mr. Theobald - That's a retractable tower that just extends—
1201
1202 Mr. Wright - Shoots it up.
1203
1204 Mr. Theobald - Yes, exactly.
1205
1206 Mr. Wright - But when would that go up?
1207
1208 Mr. Theobald - I'm going to let Stewart Squire answer that for you.
1209
1210 Mr. Squire - Good morning, Board members. Stewart Squire. I'm
1211 the applicant on behalf of Verizon Wireless. The tower construction would begin
1212 as soon as next week. We need a full six-week period in order to—as Jim was
1213 saying—tune the antennas and integrate them into the existing cellular network
1214 in the area.
1215
1216 Mr. Wright - So the tower would go up pretty soon.
1217
1218 Mr. Squire - Yes sir, it would.
1219
1220 Mr. Wright - And it takes six weeks for you to tune it and so forth,
1221 get it ready?
1222
1223 Mr. Squire - Because of the size of the project, we would like that
1224 window of time. Because it's not one single tower, but three. We just need the
1225 additional time in order to schedule delivery of the materials, the construction
1226 teams and so forth. We just don't want to be in violation of the ordinance should
1227 our schedule not fit a shorter time period.

1228
1229 Mr. Blankinship - I don't think staff objects to the longer time period,
1230 Mr. Wright. We used to have these things set up on Monday, the race would be
1231 Friday, Saturday, Sunday, and they'd come down the next Monday. And we just
1232 weren't sure why the change. If there are technical reasons why they need it up,
1233 then we are certainly not opposed to that.
1234
1235 Mr. Wright - When is the race?
1236
1237 Mr. Theobald - It's the sixth through the eighth.
1238
1239 Mr. Wright - Okay. So—
1240
1241 Mr. Blankinship - First weekend of September.
1242
1243 Mr. Wright - So the eighth. So you've allowed eight days to take it
1244 down. That's why you have the sixteenth there.
1245
1246 Mr. Theobald - Yes sir.
1247
1248 Mr. Wright - Okay, I see. We're just curious. Staff raised the
1249 question, so I wanted to explore the need for that.
1250
1251 Mr. Theobald - And apparently when this first started there was less
1252 demand for capacity. Now the demand is primarily related to data as opposed to
1253 voice. So with people taking movies, pictures, etcetera, in the area, and the
1254 increase of the races, we need much more capacity. These things used to be
1255 known as cows—cell on wheels. Those were a much simpler thing. You stuck a
1256 pole in the air not even to this height. You could roll those things in a day or two
1257 and be ready to roll. But with the 4G network—
1258
1259 Mr. Wright - This is different.
1260
1261 Mr. Theobald - It is a little different.
1262
1263 Mr. Wright - That was one of the other questions. You used to
1264 have one tower, and now you have three.
1265
1266 Mr. Theobald - Yes, right.
1267
1268 Mr. Wright - I guess the use of cell phones has surged.
1269
1270 Mr. Theobald - Yes. And importantly, the people in the area are used
1271 to a level of service. You bring in 100,000 people and drop them in the middle,
1272 and the people who are already there have expectations that their service—
1273

1274 Mr. Wright - And you don't want it to interfere with their service.
1275
1276 Mr. Theobald - No.
1277
1278 Mr. Blankinship - I hadn't thought about that.
1279
1280 Ms. Harris - I have some questions. Okay. During the last racing
1281 event, did you have transmission problems or capacity problems? I noticed you
1282 tripled what you were requesting.
1283
1284 Mr. Theobald - Do you know?
1285
1286 Mr. Squire - Yes. Yes we did. The single tower was not sufficient
1287 to provide adequate service during the event.
1288
1289 Ms. Harris - Do you foresee tripling towers even after this event?
1290
1291 Mr. Squire - Are you asking would we potentially have nine towers
1292 in the future?
1293
1294 Ms. Harris - Yes.
1295
1296 Mr. Squire - I couldn't really speak to that. We want to provide
1297 Verizon Wireless subscribes with the best possible service. We'll do the testing
1298 after this event and see what the results were, and just keep trying to provide the
1299 best level of service. I couldn't really say.
1300
1301 Ms. Harris - With the Crawley tower, you really are tying up that
1302 property for about four months out of the year, right, of 2013.
1303
1304 Mr. Square - Yes.
1305
1306 Ms. Harris - Four months out of 2013. And will that be the same
1307 thing with these other two towers, the one at the flea market and the one on
1308 Carolina Avenue?
1309
1310 Mr. Blankinship - It would be half as much because they didn't use
1311 those in May.
1312
1313 Ms. Harris - Right. Will you continue this trend to have that tower
1314 there for four months out of a year after you initiate the use at the flea market
1315 and on Carolina Avenue?
1316
1317 Mr. Wright - That's only two months.
1318

1319 Ms. Harris - Two months per thing. This is the second time they've
1320 been forced to—
1321
1322 Mr. Wright - Yes, yes.
1323
1324 Ms. Harris - So that's four months.
1325
1326 Mr. Theobald - Yes, which has been nice revenue to the property
1327 owners. Those are basically unused sites.
1328
1329 Mr. Wright - I think that would be up to the property owner,
1330 wouldn't it?
1331
1332 Ms. Harris - Well, it's also up to the neighbors.
1333
1334 Mr. Theobald - We haven't had any opposition. Sometimes it
1335 depends on the race. As you know, there are different levels of NASCAR races.
1336 Sometimes they do different events that don't attract quite as many people. So I
1337 think it's a little bit of a case-by-case determination as to the need, to solve that
1338 need in providing the service in the least obtrusive manner possible to the
1339 neighbors. We're not aware of any opposition.
1340
1341 Ms. Harris - Okay. The flea market situation. In looking closely,
1342 will you have any fencing? I notice that you said a compound area will be kind of
1343 behind the house. I call it a house. Will you have any fencing there?
1344
1345 Mr. Theobald - Yes ma'am.
1346
1347 Ms. Harris - Where will the fencing be?
1348
1349 Mr. Theobald - There is fencing around the mobile unit and the base
1350 of the tower. We also put a little fencing around the base of the anchors for the
1351 guy wires that stabilize the tower just so that they're safe. They go up at a pretty
1352 steep angle, and if you put just a small amount of fencing around there it makes
1353 sure that it's safe if there's a car driving through, etc.
1354
1355 Ms. Harris - So what about vegetation? I know we don't have the
1356 problem with the Crawley property, but this is going to be right in the middle of
1357 open space with the flea market and also Carolina Avenue. Well I know you can't
1358 have any vegetation in the parking lot like on Carolina Avenue. But with the flea
1359 market, will there any type of vegetation? Because, I'm thinking that if you don't,
1360 do you foresee some type of complaint?
1361
1362 Mr. Theobald - I wouldn't expect any complaints at the flea market
1363 site. If we get some, then I guess if we come back and ask for it again we would

1364 try to address it. It's a truck and it's a tower. It's secured for safety and it's there
1365 in this case for no longer than six weeks, perhaps a little shorter.
1366

1367 Ms. Harris - Okay, my last question. I think this is my last
1368 question. On Carolina Avenue, I noticed in the staff report that you're going to
1369 place the tower in the center of the drive aisle. Is there is nowhere else on that
1370 property that you could have placed it other than causing drivers to have to drive
1371 around it?
1372

1373 Mr. Theobald - Well, it was placed next to a warehouse that was
1374 vacant, and that was done on purpose to minimize the amount of traffic that
1375 might go through there. The owners, given the lack of a user in that adjacent
1376 warehouse, did not foresee this being a problem. And again, we're taking steps
1377 to secure it to make sure that it's not—that it doesn't interfere with traffic flow. It's
1378 not one of the main distribution areas with trucks unloading and active
1379 warehouses. That's why it was chosen.
1380

1381 Ms. Harris - Okay. So if you get complaints, you will address that
1382 the next time.
1383

1384 Mr. Theobald - Oh sure. We'll have to. Yes, absolutely. I'm sure the
1385 owner wouldn't be happy if we were interfering with anybody else out there.
1386 We've worked with Liberty previously.
1387

1388 Ms. Harris - Those are my questions.
1389

1390 Mr. Wright - Any other questions?
1391

1392 Mr. Bell - Yes, I have one. These cellular towers, I'm sure their
1393 frequency is different than the landline phones. By adding the additional towers,
1394 will it affect the services that people have from their landline phones?
1395

1396 Mr. Theobald - I wouldn't expect so, no. It's not a conflicting
1397 technology. I think what it's designed to ensure is that people who currently need
1398 cellular phone service at their homes, who just happen to live in the vicinity of the
1399 racetrack, will still be able to make calls for their personal use, including
1400 emergency calls, rather than all that capacity being sucked up by the fans at the
1401 race. It should have absolutely no interaction with a landline.
1402

1403 Mr. Wright - All right. Any further questions?
1404

1405 Ms. Harris - Yes. I thought that was my last question; it wasn't.
1406

1407 Mr. Theobald - Yes ma'am.
1408

1409 Ms. Harris - Okay. I know we're going to put a fence around some
1410 of the towers. Are we going to put fencing around all of the towers?

1411
1412 Mr. Theobald - Yes ma'am.

1413
1414 Ms. Harris - Okay, that was it. Thank you.

1415
1416 Mr. Wright - All right. That concludes the case. Anyone here in
1417 opposition? We've already asked that and I don't see any. Thank you very much.

1418
1419 Mr. Theobald - Thank you so much.

1420
1421 **[After the conclusion of the public hearings, the Board discussed the**
1422 **Verizon cases and made its decision. This portion of the transcript is**
1423 **included here for convenience of reference.]**

1424
1425 Mr. Wright - Let's vote on each one of these separately.
1426 CUP2013-00016, Verizon Wireless. Do I hear a motion?

1427
1428 Ms. Harris - I move that we approve this conditional use permit. I
1429 think that it will really enhance services to the community, especially during the
1430 racing season. And it will not adversely affect the health, safety, or welfare of any
1431 concerned.

1432
1433 Mr. Wright - All right. Is there a second to that motion?

1434
1435 Mr. Bell - Second.

1436
1437 Mr. Wright - Any discussion? Hearing none, all in favor say aye.
1438 All opposed say no. The ayes have it; the motion passes.

1439
1440 Mr. Baka - Recused.

1441
1442 Mr. Wright - Yes.

1443
1444 Mr. Blankinship - Four zero.

1445
1446 Mr. Wright - Four zero.

1447
1448 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1449 Mr. Bell, the Board **approved** application **CUP2013-00016, Verizon Wireless's**
1450 request for a temporary conditional use permit pursuant to Section 24-116(c)(1)
1451 of the County Code to allow a temporary communication tower at 3810
1452 Meadowbridge Road (Parcel 794-737-7079), zoned B-3, Business District
1453 (Fairfield). The Board approved the temporary conditional use permit subject to
1454 the following conditions:

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1. Only the temporary cellular tower and accessory equipment shown on the plans filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new use permit.

2. The height of the temporary cellular tower shall not exceed 120 feet.

3. The temporary cellular tower shall be removed from the property on or before September 16, 2013, at which time this permit shall expire.

Affirmative: Bell, Harris, Nunnally, Wright 4

Negative: 0

Absent: 0

Abstain: Baka 1

Mr. Wright - CUP2013-00017. Do I hear a motion?

Ms. Harris - I move again that we approve this conditional use permit for the same reason that I gave in case 16 that it will not adversely affect the health, safety, or welfare of the community. In fact, it will enhance community services.

Mr. Wright - All right. Is there a second?

Mr. Nunnally - Second.

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

Mr. Baka - Recused.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Nunnally, the Board **approved** application **CUP2013-00017, Verizon Wireless's** request for a temporary conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a temporary communication tower at 5209 Wilkinson Road (Parcel 794-745-8161), zoned B-3, Business District (Fairfield). The Board approved the temporary conditional use permit subject to the following conditions:

1. Only the temporary cellular tower and accessory equipment shown on the plans filed with the application may be constructed pursuant to this approval. Any

1501 additional improvements shall comply with the applicable regulations of the
1502 County Code. Any substantial changes or additions to the design or location of
1503 the improvements will require a new use permit.

1504

1505 2. The height of the temporary cellular tower shall not exceed 120 feet.

1506

1507 3. The temporary cellular tower shall be removed from the property on or before
1508 September 16, 2013, at which time this permit shall expire.

1509

1510

1511 Affirmative: Bell, Harris, Nunnally, Wright 4

1512 Negative: 0

1513 Absent: 0

1514 Abstain: Baka 1

1515

1516

1517 Mr. Wright - CUP2013-00018. Do I hear a motion?

1518

1519 Ms. Harris - Again, I move that we approve this conditional use
1520 permit for the same reason that I gave the other two cases.

1521

1522 Mr. Wright - All right. Second?

1523

1524 Mr. Bell - I'll second.

1525

1526 Mr. Wright - Second. Any discussion? Hearing none, all in favor
1527 say aye. All opposed say no. The ayes have it; the motion passes.

1528

1529 Mr. Baka - Recused.

1530

1531 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1532 Mr. Bell, the Board **approved** application **CUP2013-00018, Verizon Wireless's**
1533 request for a temporary conditional use permit pursuant to Section 24-116(c)(1)
1534 of the County Code to allow a temporary communication tower at 4447 Carolina
1535 Avenue (Parcel 797-743-5757), zoned C-1, Conservation District, M-1, Light
1536 Industrial District and M-2, General Industrial District (Fairfield). The Board
1537 approved the temporary conditional use permit subject to the following
1538 conditions:

1539

1540 1. Only the temporary cellular tower and accessory equipment shown on the
1541 plans filed with the application may be constructed pursuant to this approval. Any
1542 additional improvements shall comply with the applicable regulations of the
1543 County Code. Any substantial changes or additions to the design or location of
1544 the improvements will require a new use permit.

1545

1546 2. The height of the temporary cellular tower shall not exceed 120 feet.

1592 part of my successful personal business. Your consideration of me will be greatly
1593 appreciated.
1594
1595 Mr. Wright - All right. Any questions?
1596
1597 Ms. Harris - Yes. Ms. Watson? How long have you had Crafty
1598 Kids? You just started in 2013?
1599
1600 Ms. Watson - April of 2013.
1601
1602 Ms. Harris - Okay. And before then you did not have a family care
1603 of daycare in your own home?
1604
1605 Ms. Watson - No.
1606
1607 Ms. Harris - Okay. How many children do you have now in Crafty
1608 Kids?
1609
1610 Ms. Watson - I'm only licensed for five.
1611
1612 Ms. Harris - Five, okay. And you wanted to increase that to twelve.
1613
1614 Ms. Watson - Yes.
1615
1616 Ms. Harris - Okay. Why do you want to increase it to twelve? We
1617 had a case similar to this a couple months ago. The lady was saying that she
1618 likes to keep it small. Why are you going to expand it? Why do you want to
1619 expand it?
1620
1621 Ms. Watson - Well, one thing, I have so many requests to have
1622 more kids. For some reason, the parents just like the grandma atmosphere. And
1623 also I just love kids. This is my dream to own my own business and to help
1624 children, nurture children, to give them the love. And also the parents,
1625 sometimes they just love to sit down and to talk with me.
1626
1627 Ms. Harris - How many employees do you have?
1628
1629 Ms. Watson - Right now I don't have any employees, no more than
1630 my husband and I because of five kids.
1631
1632 Ms. Harris - Okay. But you're going to expand that?
1633
1634 Ms. Watson - Yes.
1635
1636 Ms. Harris - Should this use permit be approved.
1637

1638 Ms. Watson - Yes.
1639
1640 Ms. Harris - All right. Thank you.
1641
1642 Mr. Bell - Mr. Chairman, I have a question.
1643
1644 Mr. Wright - Yes.
1645
1646 Mr. Bell - So you're going to have five to twelve children there
1647 plus you want to expand to two employees, and then there's you and your
1648 husband. Do y'all have any children?
1649
1650 Ms. Watson - No. My children are grown.
1651
1652 Mr. Bell - Okay. So then we're looking at a maximum of about
1653 fourteen people there at any given time.
1654
1655 Ms. Watson - Fourteen?
1656
1657 Mr. Bell - Twelve plus—
1658
1659 Ms. Watson - Twelve, thirteen, fourteen—oh, okay.
1660
1661 Mr. Bell - In a house that's 1,230 square feet. Is that correct?
1662 Thank you.
1663
1664 Mr. Gidley - [Speaking off microphone.] Six, Mr. Bell.
1665
1666 Mr. Bell - Pardon?
1667
1668 Mr. Gidley - [Speaking off microphone.] It is six at any one time.
1669
1670 Mr. Bell - Six at any one time? All right. So that reduces it down
1671 to eight or ten.
1672
1673 Ms. Harris - It's Condition #3.
1674
1675 Mr. Bell - Yes, I see it. Thank you.
1676
1677 Mr. Baka - Question, Mr. Chairman.
1678
1679 Mr. Wright - Ms. Watson, have you read the conditions proposed
1680 for this case?
1681
1682 Ms. Watson - Yes.
1683

1684 Mr. Wright - Are you in accord with the conditions?
1685
1686 Ms. Watson - Sir?
1687
1688 Mr. Wright - Do you agree to the conditions? If this is approved,
1689 the staff has proposed these conditions for the Board to attach to this approval.
1690
1691 Ms. Watson - Yes.
1692
1693 Mr. Wright - You'd have to comply with all of these conditions. I
1694 just want to ensure that you understand the conditions and you're willing to
1695 comply with them.
1696
1697 Ms. Watson - Number 3 is—
1698
1699 Mr. Wright - Number 3 says no more than twelve children
1700 exclusive of the provider's own children, which you have none, may receive
1701 daycare services on any day. In addition, no more than six children, exclusive of
1702 your children, may receive daycare services at any one time. So what this says is
1703 you can only have six children at one time in your home. Do you understand
1704 that? Do you have any problem with that? You have a problem with that?
1705
1706 Ms. Watson - Yes sir.
1707
1708 Mr. Wright - Well let's talk about it. How many do you propose to
1709 have at one time?
1710
1711 Ms. Watson - Twelve.
1712
1713 Mr. Wright - Twelve. That's a problem.
1714
1715 Ms. Watson - Sir? I feel like I have enough space. The children
1716 have enough—six in each room. The requirement by Social Services, as long as
1717 we have—when they lay down, they have a foot of space between each other.
1718 And they have that, and they have room enough to play without bumping into
1719 each other.
1720
1721 Mr. Wright - How many rooms will you have for them?
1722
1723 Ms. Watson - I have two separate rooms. A hallway separates the
1724 other room.
1725
1726 Mr. Wright - And six would be in each room?
1727
1728 Ms. Watson - Yes sir.
1729

1730 Mr. Wright - And how old are these children?
1731
1732 Ms. Watson - Toddlers and preschool.
1733
1734 Mr. Wright - So all of them are no more than five or six years old.
1735 Small children.
1736
1737 Ms. Watson - Yes. Two to four and then maybe—in one room. And
1738 then another room I'd have preschoolers. But the toddlers would be in one room.
1739
1740 Mr. Wright - So these are small children.
1741
1742 Ms. Watson - Yes sir.
1743
1744 Mr. Wright - You don't have any large rambunctious ones?
1745
1746 Ms. Watson - No sir.
1747
1748 Mr. Blankinship - How large are the two rooms that you're describing?
1749
1750 Ms. Oliver - [Speaking off microphone.] The measurements are
1751 right there on each page.
1752
1753 Mr. Wright - The toddler room is 224 square feet. Is that 12 by 12?
1754
1755 Mr. Blankinship - No, that would be 144. It's almost 15 by 15
1756
1757 Mr. Wright - So that's a pretty good size room then.
1758
1759 Ms. Oliver - That picture is just indicating children in play and then
1760 actually sleeping on their mat.
1761
1762 Ms. Harris - Could you identify yourself, please?
1763
1764 Ms. Oliver - Yes. My name is Sharon Oliver, and I'm a
1765 representative. I'm also her daughter. And I, too, have fourteen years in early
1766 childhood education. Mrs. Watson, my mom, has already taken the necessary
1767 steps. As you know, in the County of Henrico you do not have to get registered
1768 to keep five children. However, to be professional, she has stepped up, as you
1769 can see on the very first page, and obtained volunteer permission through the
1770 Department of Social Services.
1771
1772 She currently has five children. Most of them are inner city kids from Gilpin
1773 Court, etc. One of the reasons why she's requesting to extend that is because
1774 we have parents who are—one of them is a nurse. Some of the current clients
1775 that she serves from Gilpin Court are trying to better themselves. So therefore

1776 some of them are working varied shifts, etc., through a program that the City's
1777 proposing. So the twelve children, when they came out and gave her this
1778 volunteer registration, they only license up to five children. Now I've spoken with
1779 the Department of Social Services who's scheduled to come out to license her
1780 on July the 30th. I've also spoken to the issuer of this particular license because I
1781 was there during that time. And I spoke with her the other day and said enter the
1782 first room that you licensed, which you're looking at, the toddler room. She said
1783 no problem with six children in that room.

1784
1785 Now, when [distorted audio; unintelligible] came out, the room that you see right
1786 there that's the preschool room, which is 196 square feet, was a storage room.
1787 So when they came out, they saw that room packed with stuff. And the reason
1788 that that was packed with stuff is if you look at the very back—or the front of the
1789 page, you will see that we were doing a fence. My dad was putting in a fence,
1790 which is this page. So since that time, because she's getting ready to be
1791 licensed, she has since cleared out that room, as you can see. It's cheerfully
1792 decorated to expose the children. So there you use what was a storage room is
1793 now a room that shows six children actively engaged in play and sleep. Now are
1794 these all her children? Only five of them are. The reason is, is that we had to pull
1795 some neighborhood kids to stage to be able to show these kids sleeping and
1796 playing.

1797
1798 Like I said, I have fourteen years of experience. We understand that a crowded
1799 environment causes more infections, more arguments, bickering, etc. Also I have
1800 pictures with me showing children that are school-age children, because
1801 sometimes in a family home daycare you're going to have a mixture.

1802
1803 It states in here that she could have—now with Department of Social Services,
1804 you can have twelve children in addition to your own children, but they count in
1805 your point system. Okay. Mrs. Watson is not in the childbearing age. I am it,
1806 okay? So therefore had she—and we have some parents that have four and five
1807 kids. So I can certainly see if she had four or five kids of her own. But those little
1808 ones are not going to be running around. It's only going to be her and her
1809 husband. And it will only be one other employee when her husband or she are
1810 not there.

1811
1812 Now, there was some question—I spoke with Zoning as to why there are
1813 separate entrances. Basically, if you want to maintain an environment that you
1814 too can enjoy, you don't want those little sticky fingerprints all over your couch as
1815 people pass through. The other thing that Social Services really likes is a good
1816 exit plan, which she has an evacuation in place. She has met all of the
1817 standards. My mom has been working as an assistant director for over six or
1818 seven years. She has thirty-plus years of experience. So she is not trying to get a
1819 daycare center to lock herself on the other side. My father's a pastor; he just
1820 simply retired. And this is what they love to do. These parents that are coming
1821 from Gilpin Court and some of the others, they have issues, they want to talk,

1822 they need that pastoral counseling. So we have also talked to the neighbors, and
1823 they have welcomed this.

1824

1825 Mr. Blankinship - Since you're raised that question, could we focus for
1826 a second on Condition #2 that staff has recommended? We did have an
1827 extended discussion of how the physical separation of that space could relate to
1828 the use of the property. We're not as concerned about regulating the physical
1829 space as we are how the property is used. We just wanted to make sure that
1830 there wasn't any intent that you would have a separate part of the building that
1831 would effectively be rented out to somebody else to run a daycare in this home.
1832 So you're comfortable with the way this is worded in terms of you being personal
1833 responsible for the daycare on a day-to-day, hour-by-hour basis.

1834

1835 Ms. Oliver - Yes, absolutely. Because everything that you have
1836 requested is what the Department of Social Services says, except #3. Every time
1837 that she needs to leave, we have to document that. There is none of this
1838 business of—you are responsible and you are the primary caregiver, so there
1839 are no issues with this except the fact that that room that was storage is now
1840 very capable, as you can see, of housing those six children. So I'm not
1841 understanding why twelve would be an issue at all, unless she had other small
1842 children in that home. And, you know, when she has children in care—I have
1843 young kids, and mom is very, "You can't come over here." Older people are very
1844 by the book. "You can't come over here. They said I can only have five. You guys
1845 come back at 6:00." So she has already been meeting the standards.

1846

1847 Mr. Wright - Thank you very much. Any further questions? I take it
1848 you would request, then, that we increase #3 to twelve.

1849

1850 Ms. Oliver - Right. And all the other things stay completely in
1851 place.

1852

1853 Mr. Baka - I have a couple questions, sir. You mentioned the
1854 desire for 24-hour service for some folks that work late shifts or late nights. How
1855 do you anticipate a number on that, anticipate that each night there will be
1856 several children there overnight or is it pretty much twelve every night? How
1857 would you gauge that?

1858

1859 Ms. Oliver - Right now we currently—three of the children, their
1860 mother is a nurses aide, and she gets off—mom requires that she be there at
1861 five o'clock, but technically she actually works to about eleven. So she's actually
1862 having to—Social Services is paying for a portion of the daycare, and then she's
1863 having to find other care in order to accommodate. And this is a single mother of
1864 four kids. So right there that's already four kids that—I'm sorry—three kids that
1865 are having difficulty. So you may have as many as six or seven or eight kids that
1866 may have to stay overnight. But most parents leave at nine, etc.

1867

1868 Mr. Baka - What's the youngest age of a child that you would
1869 enroll?
1870

1871 Ms. Oliver - As you can see in one of the pictures, she has an
1872 infant and he's now six months old. We've had the Department of Social
1873 Services come out, and they would license her for infants. However, because of
1874 the space that the cribs take up, we are not allowing any more infants. When
1875 Jamari is old enough, that crib is out of there.
1876

1877 Mr. Baka - That's what I was going to ask you, the number of
1878 infants. All right. And then the last question is about drop off and pickup. If you
1879 look at the street view, if it increases to twelve then you have the possible conflict
1880 with this increased traffic on the road. So you've had no concerns about
1881 increased traffic in front of the house?
1882

1883 Ms. Oliver - Well, we thought about two different solutions. The
1884 young lady who lives in the gray home and the home right there to the left, we've
1885 also spoken with them. We technically have—the little car you see in the front is
1886 my dad's car. And we've gated in the fence in the back to allow three vehicles for
1887 back access, which would be for their cars and a car for an employee. They only
1888 have one car at the time. And we have enough space now with the new fencing
1889 to allow three vehicles to park, so that would be my mom, one employee, and if
1890 she has a visitor. We have two parking spaces out front. We've already spoken
1891 with the clients that there will be no double parking. So we've put some rules in
1892 place. If a neighbor's not happy, then there's no business.
1893

1894 Mr. Baka - Thank you. That's all.
1895

1896 Mr. Bell - I have a question. Do you have any neighborhood
1897 children that you take care of?
1898

1899 Ms. Oliver - No. Right now all of our clients come from Gilpin
1900 Court, and she has one other client I think is from Essex Village.
1901

1902 Mr. Bell - Have you had any complaints from any of your
1903 neighbors?
1904

1905 Ms. Oliver - No sir. In fact, we knew that this was coming up, so
1906 we walked around, and asked them, and said will we be seeing you at this
1907 hearing? And they said no. One guy say God speed, you know, you guys are
1908 fine. I mean we try to be an asset to the community. Not that we bake cookies
1909 and take them to everybody. Those neighbors are single women, so my dad,
1910 he's the husband/man to all of the single women right there. They're elderly. So
1911 he's cutting their grass and stuff. So they're very happy to assist them in having
1912 an income.
1913

1914 Mr. Bell - Thank you.

1915

1916 Mr. Wright - Any further questions? Is there anyone here in
1917 opposition to this request? Hearing none, that concludes the case. Thank you
1918 very much for appearing.

1919

1920 Ms. Oliver - Thank you.

1921

1922 **[After the conclusion of the public hearings, the Board discussed the case**
1923 **and made its decision. This portion of the transcript is included here for**
1924 **convenience of reference.]**

1925

1926 Ms. Harris - I move that we approve this 24-hour family care home
1927 for a conditional use permit. I think that Ms. Watson has covered all of the bases
1928 that are required here for this family day care facility. In fact, she's rendering a
1929 good service to the community and beyond.

1930

1931 Mr. Wright - Do you amend #3 to twelve?

1932

1933 Ms. Harris - Yes. And Condition #3 should be amended to twelve
1934 instead of six.

1935

1936 Mr. Wright - Is there a second?

1937

1938 Mr. Baka - Second.

1939

1940 Mr. Wright - All right, motion's made and seconded. Is there any
1941 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes
1942 have it; the motion passes.

1943

1944 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1945 Mr. Baka, the Board **approved** application **CUP2013-00019, Lois Watson's**
1946 request for a conditional use permit pursuant to Section 24-12(g) of the County
1947 Code to operate a 24-hour family day home with employees at 3604 Vawter
1948 Avenue (EAST HIGHLAND PARK) (Parcel 798-735-2276), zoned R-4, One-
1949 Family Residence District (Fairfield). The Board approved the conditional use
1950 permit subject to the following conditions:

1951

1952 1. This conditional use permit authorizes 24-hour operation of a large family day
1953 home seven days a week, with a maximum of two outside employees. All other
1954 applicable regulations of the County Code shall remain in force.

1955

1956 2. The Provider or Substitute Provider, who shall be a resident occupant of the
1957 dwelling, shall be on the site whenever care is being provided. Assistants shall
1958 not be left alone with children in care for more than two hours per day. The

1959 Substitute Provider shall record his or her arrivals and departures as required by
1960 the Commonwealth of Virginia.

1961
1962 3. [AMENDED] No more than twelve children, exclusive of the Provider's own
1963 children, may receive daycare services at any one time.

1964
1965 4. The home's residents shall park their personal vehicles in the detached
1966 garage at the rear of the property whenever outside employees are present.

1967
1968 5. There shall be no more than one sign, not exceeding one square foot in area,
1969 advertising the family day home. The sign shall not be illuminated.

1970
1971
1972 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
1973 Negative: 0
1974 Absent: 0

1975
1976

1977 Mr. Wright - Minutes.

1978

1979 Mr. Bell - I have one correction. Line #2910, page 64. It shows
1980 that my name as one of the four voters. The number of votes was four, but I
1981 recused myself, so my name should be removed, I think, from the affirmative.

1982

1983 Mr. Wright - It should be. Okay. And put down that you recused
1984 yourself. Three one.

1985

1986 Mr. Blankinship - I apologize for that. We'll get that corrected.

1987

1988 Mr. Wright - Any further corrections or additions to the minutes?
1989 Hearing none, do I hear a motion that we approve the minutes?

1990

1991 Mr. Nunnally - I move we approve them as corrected.

1992

1993 Mr. Wright - Is there a second?

1994

1995 Mr. Bell - Second.

1996

1997 Mr. Wright - Second. Motion made and seconded. Any
1998 discussion? Hearing none, all in favor say aye. All opposed say no. The ayes
1999 have it; the motion passes.

2000

2001 On a motion by Mr. Nunnally, seconded by Mr. Bell, the Board **approved as**
2002 **corrected the Minutes of the June 27, 2013**, Henrico County Board of Zoning
2003 Appeals meeting.

2004

2005

2006 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5
 2007 Negative: 0
 2008 Absent: 0

2009
 2010

2011 Mr. Wright - Anything else?
 2012

2013 Mr. Blankinship - We do have one other item of new business,
 2014 Mr. Chairman, on your agenda, the calendar of meeting dates and application
 2015 deadlines for 2014. As normal, all of the meetings will be on the fourth Thursday
 2016 of the month except for November and December. Where they conflict with the
 2017 holidays, we moved them to the third Thursday of the month. And the application
 2018 deadlines, as usual, are five weeks before the meeting date with the exception of
 2019 December and January where it's six weeks.

2020

2021 Mr. Wright - All right. Do I hear a motion that we approve the
 2022 calendar?
 2023

2024 Mr. Baka - We traditionally meet at the morning at 9 a.m. But this
 2025 type of meeting, the Planning Commission and the Board, meet at 6:30 or 7:00
 2026 at night. But we've never met at nighttime, correct?
 2027

2028

2029 Mr. Wright - No.

2030 Mr. Baka - Okay. Is that generally tradition?
 2031

2032

2033 Mr. Wright - Not in the last forty years I've been on the Board.

2034

2035 Mr. Baka - Yes sir. I make a motion that we approve it as drafted
 2036 by staff.

2037

2038 Mr. Wright - All right. Is there a second?

2039

2040 Mr. Bell - I'll second it.

2041

2042 Mr. Wright - All right. Any discussion? Hearing one, all in favor say
 2043 aye. It's approved.

2044

2045 On a motion by Mr. Baka, seconded by Mr. Bell, the Board **approved as**
 2046 **submitted the Calendar of Meeting Dates and Application Deadlines** for the
 2047 Henrico County of Zoning Appeals.

2048

2049


2050 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5

2051 Negative: 0

Absent: 0

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Meeting is adjourned.



R. A. Wright
Chairman



Benjamin Blankinship, AICP
Secretary