

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY JULY 27, 2023 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE RICHMOND TIMES-DISPATCH JULY 17, 2023 AND JULY 24, 2023.**
6

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

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

21
22 **Mr. Johnson -** Good morning. Welcome to July. 27th meeting of the Henrico
23 **County Board of Zoning Appeals.** For all that are able, will you please stand and join us
24 **in the pledge of allegiance? The flag is to our right.**
25

26 **[Recitation of Pledge of Allegiance]**
27

28
29 **Mr. Johnson-** Mr. Blankinship will be reading our rules.
30

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

43 **So, acting as Secretary, I will call each case, and then we will ask everyone in the room**
44 **who intends to speak to that case to stand and be sworn in.**
45

46 The first two cases on this morning's agenda are appeals that were deferred from last
47 month. For those, the Assistant County Attorney will speak on behalf of the Planning
48 Director and then the appellant will present their case. Each side will have a limit of 10
49 minutes. Then anyone else who wishes to speak will be given the opportunity with the
50 time limit of three minutes. We'll hear from citizens in the room first and then from those
51 on Webex.

52
53 After we get through the appeals, we have a number of conditional use permits and
54 Variances on the agenda. And for those cases, a member of the Planning Department
55 staff will give a brief presentation. Then, the applicant will speak, and then anyone else
56 who wishes to speak will be, given the opportunity. Again, we'll hear from citizens in the
57 room first, then from those on Webex. After everyone has had a chance to speak the
58 applicant and only the applicant will have an opportunity for rebuttal.

59
60 This meeting is being recorded, so for those in the room, we'll ask everyone who speaks,
61 to please speak directly into the microphone on the podium there in the back of the room.
62 Please state your name and please spell your last name. So, we get it correctly in the
63 record. And, of course, once your cases over, you're free to leave the room, there's no
64 reason for you to stay until the end of the meeting.

65
66 With that Mr. Chair we do have two, well one request for deferral. and one other case that
67 may need to be deferred at the pleasure of the Board.

68
69 **CUP2023-00026 - Shania M. Johnson: conditional use permit to operate a large**
70 **family day home at 111 St Claire Lane, Montezuma Farms, Fairfield. Parcel 800-729-**
71 **8528. Zoning: R-4, One-Family Residence District. Code Section: 24-4402.**

72
73 Mr. Blankinship- The first request is Conditional Use Permit 2023 number 26,
74 Shania M. Johnson, a Conditional Use Permit to operate a Large Family Day Home at
75 111 St. Claire Lane, in Montezuma Farms, in the Fairfield Magisterial District.

76
77 Is Ms. Johnson on Webex? Staff, do we have Ms. Johnson on Webex? I'm not getting a
78 response.

79
80 **CUP2023-00040 - Allison Franken: conditional use permit to allow short-term rental**
81 **of a dwelling at 8724 Holly Hill Road, Ridgecrest, Tuckahoe. Parcel 752-743-3620.**
82 **Zoning: R-3, One-Family Residence District. Code Section: 24-4431.A.**

83
84 Well, let me tell you the other, the other question then is Conditional Use Permit 2023
85 number 40, Alison Franken, a conditional use permit to allow short term rental of a
86 dwelling at 8704 Holly Hill Road in Ridgecrest, this was advertised as being in the Fairfield
87 Magisterial District, the case is actually in the Tuckahoe Magisterial District. It is a
88 technicality that could be raised on appeal. So, it'd be up to the Board, whether you want
89 to defer that case in order to readvertise, or do you want to go ahead and hear.

90

91 While you're thinking about that Ms. Johnson is now available on Webex. So, if you'll go
92 ahead and connect Ms. Johnson staff. Ms. Johnson?

93

94 Ms. Johnson- Yes sir.

95

96 Mr. Blankinship- Good morning. You'd like to request deferral of your case?

97

98 Ms. Johnson- Yes, please.

99

100 Mr. Blankinship- Mr. Pollard, any questions or ...

101

102 Mr. Pollard- Good morning. Ms. Johnson. I'm interested to hear why we
103 need to defer. You came before us in May and in an attempt to give you more time to
104 shore up some of the violations, we decided to defer. And at the time you were against
105 that because it was a kind of a time crunch. So, I was curious what changed why you
106 needed to defer.

107

108 Ms. Johnson- From the last meeting, I had things that were not good. Since
109 then, I've corrected those violations, but my license inspector has not had a chance to
110 come back and reinspect and rather than, you know, get a decision from you guys on the
111 conditional use permit based off of my old inspection findings. I was trying to give my
112 inspector some more time to actually come out and do the new inspections. And in
113 addition to that, my landlord has since done everything that he needed to do for the
114 inspection from Henrico County, like on the actual house, but there's something else that
115 they're asking him for and now he says that he needs to do that before they can approve
116 the, um, approve the house inspection. So, I just need a little bit more time for both of
117 those things. You guys requested pictures from me last meeting, and I do have those
118 pictures of my actual daycare, but I wasn't able to make the meeting today. My
119 grandmother recently passed away and I, I just have a lot going on. I wasn't, I'm not able
120 to come to. I wasn't able to come and bring the flash drive today to show you guys like
121 the inside of my actual daycare looks like. So that's why I'm requesting a deferment. It
122 took me months to save up for this conditional use permit. It was 600 dollars, like, it literally
123 took me months to save up for it. I really prefer not to have to try to regather that money
124 together, because I don't have everything that you guys are asking for at the moment. My
125 landlord has done everything, you know, they're asking for something, you know, different
126 now, which is completely understandable. He just needs time to fix it and I just need a
127 little bit more time. That's all.

128

129 Mr. Pollard- Ms. Johnson, I'm sorry to hear about your loss. In the interest
130 of, because it's the daycare you're tending to youth. And so there were a lot of violations
131 and so I think we need to hear the case today to explore that. So, I'm going to make a
132 motion that we deny the deferral and hear the case today.

133

134 Ms. Johnson- So, so I thought I was able, I'm allowed to request a
135 deferment.

136

137 Mr. Blankinship- Your allowed to request it ma'am, but it is at the Board's
138 discretion.

139
140 Mr. Johnson- Okay, I haven't gotten any recent license inspections, so I
141 don't want my conditional use permit to be denied based off of the license inspection from
142 a month ago. My daycare since then has been on point, which is why I got pictures and
143 stuff for you guys. And, yeah, I call to see if I can email those pictures over this morning.
144

145 Mr. Blankinship- We understand Ms. Johnson, you've made your request clear.
146 Mr. Pollard has made a motion and it's time for the Board to consider his motion.

147
148 Mr. Green- Given that...

149
150 Mr. Blankinship- If there is a second.

151
152 Mr. Green- Given he's made motion, I'll second.

153
154 Mr. Johnson- It's been motioned and seconded. All in favor, say, Aye.

155
156 Board- Aye.

157
158 Mr. Johnson- All opposed?

159
160
161 **Affirmative:** Broadway, Green, Johnson, Lawrence, Pollard 5
162 **Negative:** 0
163 **Absent:** 0
164

165
166 Mr. Blankinship- So, that case will be heard in its proper order then.

167
168 **CUP2023-00040 - Allison Franken: conditional use permit to allow short-term rental**
169 **of a dwelling at 8724 Holly Hill Road, Ridgecrest, Tuckahoe. Parcel 752-743-3620.**
170 **Zoning: R-3, One-Family Residence District. Code Section: 24-4431.A.**
171

172 Mr. Blankinship- The other is Conditional Use Permit 2023 number 40, as I
173 mentioned. Is the applicant here for that case. Is there anyone here in opposition to
174 number 40?

175
176 Mr. ???- I am.

177
178 Mr. Blankinship- You're in opposition? Okay, well, I apologize, sir, my
179 responsibility, there was a clerical error. The advertisement was inaccurate and normally,
180 when that happens in order to keep all the i's dotted and t's crossed for the attorneys, we
181 readvertise and rehear. So, I beg your pardon, but...
182

183 Mr. ???- I sent a letter into the board, would that carry over?
184
185 Mr. Blankinship- Yes. That'd be fine.
186
187 Mr. ???- Thank you.
188
189 Mr. Blankinship- Alright, I guess a motion is in order to defer. Mr. Broadway if
190 you're in agreement with that?
191
192 Mr. Broadway- Yes sir, I would move that we defer this request to our August
193 24th meeting and that will give us a chance to hear from additional concerns from any
194 neighbors. And any other information that we might need.
195
196 Mr. Pollard- Second.
197
198 Mr. Johnson- It's been motioned and seconded. All in favor...
199
200 Board- Aye.
201
202 Mr. Johnson- All opposed? All in favor, motion passed.
203
204
205 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**
206 **Negative: 0**
207 **Absent: 0**
208
209
210 Mr. Blankinship- Alright, now we will take up the two appeals.
211
212 **APL2023-00002 - Duncan MacPherson: appeal of an administrative decision**
213 **regarding the property at 10798 Greenwood Road, Fairfield. Parcel 777-768-9356.**
214 **Zoning: A-1, Agricultural District. Code Section: 24-2320.**
215
216 Mr. Blankinship- The first is Appeal 2023 number two, Duncan MacPherson,
217 appeal of an administrative decision regarding the property at 10798 Greenwood Road in
218 the Fairfield Magisterial District. Would everyone who intends to speak to this case,
219 please stand up and be sworn in?
220
221 Yes, right. Raise your right hands please. Do you swear the testimony you're about to
222 give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you.
223 Mr. Lawrence?
224
225 Mr. Lawrence- Yes, sir. Mr. Chairman, Mr. Secretary, pursuant to the
226 requirements of Virginia Code sections 2.2.3112 and 2.2.3115, I declare my personal
227 interest in two transactions, Appeal number 2023-00002 and Appeal number 2023-00003

228 considered by the Board of Zoning Appeals of Henrico County Virginia on July 27, 2023,
229 as follows;

230
231 First transaction APL2023-00002 is a consideration of an appeal by Mr. Duncan
232 MacPherson from an administrative decision that accessory uses or structures do not
233 directly serve a principal use or structure and that appellant is also storing trailers and
234 parking commercial trucks or vehicles on the appellant's property at 10798 Greenwood
235 Road, Parcel ID 777-768-9356, in violation of County Zoning Ordinance.

236
237 Second transaction APL2023-00003 is a consideration of an appeal by Mr. Patrick
238 Johnson from an administrative decision that the appellant has expanded, enlarged, or
239 changed a non-conforming use on the appellant's property at 11 and 21 Early Avenue,
240 Parcel ID 824-716-4850 and 5762, in violation of County Zoning Ordinance.

241
242 My personal interest in these transactions consists in my part-time seasonal employment
243 with the Henrico County Planning Department during General Assembly sessions, which
244 involves monitoring and reviewing proposed legislation. The Planning Department
245 administers the Zoning Ordinance. As an employee of Henrico County, within the Henrico
246 County Planning Department, I was a member of a business, profession, or occupation
247 the members of which are affected by the transactions. I'm able to participate in both
248 transactions fairly, objectively, and in the public interest, nevertheless, let the record
249 reflect that I am not participating in either transaction, including any vote, out of an
250 abundance of caution and to avoid any appearance of impropriety.

251
252
253 Mr. Blankinship- All right, Mr. O'Hara.

254
255 Mr. O'Hara- Good morning. Mr. Chairman and members of the board. My
256 name is Sean O'Hara. I'm not Ryan Murphy. I'm filling in today on this matter. I'm a Senior
257 Assistant County Attorney. This matter concerns the property at 10798 Greenwood Road.
258 It is owned by Mr. MacPherson, and it is registered to, or he has a registered business on
259 that property, which is a trucking company that is upon --- believed owned by Mr.
260 MacPherson. It's noteworthy that there is not a residence on this property. It does have
261 a, I'll call it a barn. He actually also owns the adjoining property, and we believe that that
262 is his residence. And so the question is, it really turns on what is the principal use and
263 what are the accessory uses that are currently ongoing at the property. We're here today
264 concerning the presence of a number of trailers that are being used for outside storage.
265 There's also, have been commercial vehicles, tractor trailers, that were stored on the
266 property. And also, just sort of miscellaneous outside storage of doors and sort of building
267 materials and the like. So, I'm actually going to skip around in this a little bit. First, to give
268 the Board an idea of what exactly we're talking about here. There are photos that are now
269 up on the screen. The date is listed thereon as November of 2022. And you can see sort
270 of in the middle there, we have one of the subject tractor trailers being stored outside and
271 you can also see what I'll term a barn there in the middle to the right of that semi-trailer.
272 You can also see on that first picture to the right that there are a number, there's at least
273 one, two, I think three trailers visible. This is the same property, and you can see again,

274 there's kind of another sort of barn structure. There's miscellaneous storage of doors and
275 things. And a couple of what appear to be horse trailers, in addition, what appears to be
276 sort of an open trailer. Moving forward in time we're now in March of 2023. There are now
277 two, semi-trailers, an ordinary truck, which is in no way problematic. And then also again,
278 a number of trailers being used for that sort of accessory, outdoor storage. Again, now
279 we're in May of 2023. this is a trailer that obviously has not been moved in some time;
280 you can see those grass grown up around it. If there are wheels attached to it, they're so
281 far into the ground that they're not visible. And again, you can see this sort of outdoor
282 storage of what appear to be RV Windows. And I think that's a trailer door. And again,
283 now in May of this year, and we have this outdoor trailer here, some miscellaneous tires
284 and things and I believe three trailers visible here on the left side. The department issued
285 a notice of violation and as an initial matter, the present appeal has a procedural defect
286 to it, and that is that under Virginia Code, 15.2311, the appellant, Mr. MacPherson, is
287 required to state the grounds of his appeal. You know, we don't require anything that is
288 exceptionally specific, but his current appeal just told us incorrect factual conclusions and
289 conclusions of law. That doesn't give me any opportunity to understand what the nature
290 of his appeal is and frankly, perhaps engage in a dialog to try to resolve it ahead of this
291 hearing. Be that as it may, the Board could, if it is so inclined, find him in default for failing
292 to provide any legitimate grounds for his appeal and basically order that he is only allowed
293 to present the bases that were listed in his notice of appeal, which are effectively none.
294 Moving forward to more substantive issues at hand, it's actually relatively simple. The
295 principal use appears to be outdoor storage at one point, and we have Mr. Mollen here,
296 he was the inspector that issued the N.O.V. Mr. Mollen, also in the packet that was
297 provided to the Board, swore out an affidavit and one of the key factual issues in that
298 affidavit is that Mr. Mollen engaged Mr. MacPherson and asked about the presence of
299 the semi-trucks, the commercial vehicles that were on the property. And basically said,
300 what are these things doing here? They're too large. They're over 10,000 pounds and
301 they're not allowed to be here. His response was, "I fix them here. I repair them. I repair
302 and maintain them on this parcel." And that is not a permitted use under the Zoning Code
303 as either an accessory or a principal use. As to the outdoor storage, this property is zoned
304 A-1. And again, it's not entirely clear what the principal use might be. I suspect Mr.
305 MacPherson may touch on that during his part of the presentation, but the outdoor storage
306 is defined in the code as the keeping, in an open or roofed but unenclosed area, of any
307 goods, material, merchandise, or vehicles in the same place for more than 24 hours. And
308 then under the Virginia Code a trailer counts as a vehicle. It's a defined term. So, the
309 storage of the trailers is outdoor storage. If they were fully enclosed, say inside of a barn,
310 or what have you. That would be permitted, but outdoors it is not. And moving to the
311 presence of the semi-trucks themselves, in the A-1 district, the parking of any truck or
312 commercial vehicle in excess of 10,000 pounds, gross weight, or any commercial trailer
313 or wrecker on private land, or public roads, except while loading, unloading, or working
314 at, or near the location where it is parked is not permitted. And furthermore, commercial
315 vehicle repair and maintenance is not a permitted accessory use of the property under
316 our Zoning Code. And it is also not a permitted principal use in A-1 under our Zoning
317 Code. And so, for those reasons, the presence of the trailer, the presence of the semi-
318 trucks and the presence of the sort of miscellaneous other doors and things is simply not
319 permitted under the code.

320
321 Mr. Johnson- You mentioned that it should be inside a building...
322
323 Mr. O'Hara- It could be.
324
325 Mr. Johnson- ... and that would constitute what he was trying to do.
326
327 Mr. O'Hara- If the, if everything were moved into, say a barn, then that
328 would not be open. That would not be non-permitted outdoor storage. So that would be
329 permissible.
330
331 Mr. Johnson- Okay. Any other questions?
332
333 Mr. O'Hara- Okay. Thank you.
334
335 Mr. Johnson- Thank you. We will now hear from the applicant.
336
337 Mr. McPhearson- I can't hardly hear what y'all were saying.
338
339 Mr. Blankinship- It's your turn to speak Mr. MacPherson.
340
341 Mr. MacPherson- Duncan MacPherson, M.A.C.P. H. E. R. S. O. N. Owner the
342 property. I don't even know where to start at first. I wasn't made aware of a lot of those
343 issues, because evidently from the affidavit I got from the attorney, there was a complaint
344 in November of last year. November 4th. I believe. I wasn't actually written up and served
345 notice until March of this year. When I received the notice, I called the inspector and asked
346 him basically, what's the problem? We spoke for three days on the phone. Three
347 consecutive days and each day as we discussed it, and I was explaining my reasons and
348 my beliefs, you know, as far as the codes go. He would tell me that "I have to talk to my
349 supervisor Paul" or Robin or what have you. We'd speak the next day they come in from
350 left field with something completely different. So, I finally said after three days of trying to
351 discuss this with them and getting nowhere, I said, "Fine. There's an appeal process, I'll
352 go file the appeal process". As far as his statement that I didn't define what they did wrong
353 in my appeal. I feel that I did. I put down the codes, they cited me for and said that they
354 were improperly applied. If you want to address each issue. As far as the building goes
355 by using that building. First, the falsehood is my trucking company is not run out of that
356 building. It's a mailing address. SCC requires me to have a mailing address. All my mail
357 for all my properties whether it be a power bill or a sewer bill, even my credit cards,
358 anything I have that comes in the mail, goes to that mailbox. Even though there is no
359 longer a residence there it all goes to that mailbox. Because over the 25 years, well 24
360 years that I've actually been there, that's the only mailbox that doesn't get knocked down
361 on a regular basis. Plus, I've had roommates in all my other houses that I stay in and
362 when they move and change their address, it screws my mail up and whatnot. So, I've
363 used that address for 24 years for all my correspondence. If they had dug a little deeper,
364 as far as the trucking company SCC registration, they would have found that also all my
365 property is registered with the SCC as an LLC working farm. I also filed my federal taxes,

366 my state taxes, all under that LLC on all my properties right there as a working farm.
367 Which was determined that it was in an agriculture district and has been continually used
368 as an agriculture land purpose since 1960, and I did that in this forum in 2013, when they
369 had continually written me up from my livestock. So, we established it's a working farm.
370 So, I can jump either way. As far as the structure goes, using the garage without a primary
371 structure on that particular lot, that came into effect in 2021. In September if I'm correct.
372 That condition had come in. Under Article 6, I've been using that building in its current
373 nonconforming state, but it didn't become nonconforming until September of '21. Under
374 Article 6, I had been using it up to that point, it became nonconforming when the code
375 was changed. I have continued to use it since that point. Without enlarging or ... you know
376 how the code is written. So, in layman's terms that's grandfathered in. As far as me
377 bringing in my semi-trucks there. I don't keep them parked there. Like I told Mr. Mullen
378 there, I believe, I bring them home to repair. Sometimes, yeah, I'll let them sit overnight
379 or the next day. For one, every time that they've been observed there it doesn't mean I
380 haven't unloaded. Because in the County's own pictures I've got a hay shed. I run 60 rolls
381 of hay through there a year to feed my livestock. I'll bring it home with a commercial
382 vehicle. But all that being said, we can go back to Article 6 again. In 2008, long before for
383 the code was changed, it reads, the code was, trucks and commercial vehicles no area
384 in a residential district, except a farm may be used for parking any truck or commercial
385 vehicle, exceeding an empty weight, at that time it was 5,000 pounds. We determined I've
386 got a farm by the County standards, by Federal standards, by State standards. That's
387 already been determined before the code was changed. So, once again by the County's
388 own rule at the time, and I've been there since 99, actually December of '20 well,
389 December of '99, '20. Almost 24 years now, and I've been parking the trucks there since
390 then. Sometimes I kept them there longer, but because the County department was on
391 me so bad about it. It was easier to park them over at my yard because I have a yard off
392 at 301. A commercial lot over there that I keep. Trust me, a multitude of equipment over
393 there that runs daily and whatnot. And I've limited myself now just to calm things down
394 between myself and that department. I only bring the trucks home when necessary. And,
395 like I told him on the phone, I'll continue to do so because legally I can. Because I've never
396 had a gap more than two years of not doing it, which would break my nonconforming
397 clause. That's basically my argument. As far as my neighbors are concerned, it's been
398 stated from the Community Revitalization Department. That they're protecting my
399 neighbors from me. That they're protecting property values, protecting the equity of the
400 neighborhood and whatnot. I have neighbors here with me today. Also have 2 letters from
401 the adjacent neighborhoods from me, which are all my neighbors. Greenwood Glen and,
402 and the new one on Sharbell Lane... Court over there. Everybody's with me. I basically
403 have a petition from one neighborhood where everybody signed saying they don't know
404 what the problem is. And many of them stated the fact they moved there because I'm
405 across the street. Because they appreciate the agriculture across the street and the way
406 I maintain my property. Now I know a few of those photos did look... I didn't like them
407 either because I had some stuff outside around the shop. After that was brought to my
408 attention, which it was already on my attention, but once the county made an issue about
409 it, we rounded it up and got it cleaned up. I've got pictures of how it looks, you know, since
410 it became, since I was notified and March it was an issue. Another issue on some of those
411 pictures where the Commonwealth's Attorney pointed out numerous trailers on my

412 property, they're not all commercial trailers. They're horse trailers, their livestock trailers.
413 They're what I use to transport my livestock to and from market. I transport my horses to
414 and from riding events. To the vet, from the vet, there's going to be horse trailers on a
415 farm. There's going to be hay on a farm. I really don't even understand why we even
416 keep coming here, and why I keep getting written up for certain things because they
417 approach me like they don't know what's been going on there for the last, and I'm going
418 to say 24 years that I've been there, but it has been going on longer than I've been there.
419 Because, like I said, before in this form, right here, that on my last appeal I had to prove
420 back until 1960 that livestock had been kept and maintained, and an agriculture process
421 had been going on there nonstop since then. And I had people from the area that have
422 been there since the '50's come in and testify or write letters and affidavits and whatnot.
423 So, it's not like that department doesn't know the history of the property.
424

425 Mr. Blankinship- I'm going to ask you to summarize please.
426

427 Mr. MacPherson- Sir?
428

429 Mr. Blankinship- I'm going to ask you to summarize please. Your 10 minutes is
430 up.
431

432 Mr. MacPherson- That's about it. I believe, you know, by the own County's own
433 Articles those things have become nonconforming, but I don't have to cease being
434 nonconforming by the County's own Article.
435

436 Mr. Blankinship- May I ask a question Mr. Chair?
437

438 Mr. Johnson- Yes. Go ahead.
439

440 Mr. Blankinship- So, you have both a working farm and a trucking company?
441

442 Mr. MacPherson- Yes sir.
443

444 Mr. Blankinship- And this property is zoned Agricultural.
445

446 Mr. MacPherson- Yeah.
447

448 Mr. Blankinship- So, the working farm is allowed in the Agricultural District.
449

450 Mr. MacPherson- I don't run the trucking company out of there.
451

452 Mr. Blankinship- But there are ...
453

454 Mr. MacPherson- My company's run out of Hanover County.
455

456 Mr. Blankinship- But do you store and maintain and work on trucks at this
457 property.

458
459 Mr. MacPherson- I bring a truck home from time to time and work on it.
460
461 Mr. Blankinship- Okay. That's just to cut through all of the other confusion.
462 That's the issue. The trucking company trucks, and the trucking company business cannot
463 be conducted at this property. It needs to be conducted on Route 301.
464
465 Mr. MacPherson- Okay.
466
467 Mr. Blankinship- That's really the crux of it.
468
469 Mr. MacPherson- So, even though before the code was changed.
470
471 Mr. Blankinship- It was not lawful before 2021 to do a trucking company in an
472 A-1 District. A farm, as you pointed out, a farm sometimes has trucks associated with it.
473 Any truck or trailer associated with the farm is allowed to be on the farm, but trucks or
474 trailers associated with the trucking business are not. And maintenance of trucks from a
475 trucking business is not a permitted use in the Agriculture...
476
477 Mr. MacPherson- That's where the line got blurred. That's not an issue. I won't
478 bring my trucking company trucks home. That's not a problem.
479
480 Mr. Blankinship- Are there are others who wish to speak to this case?
481
482 Mr. Johnson- One other question about that, is that on the, what you were
483 just reading a few minutes ago, it says five thousand, you have a truck that's ten thousand.
484
485 Mr. Blankinship- Yeah, that's been changed. He's looking at an old brochure.
486 It's not a copy of the code, it's an old brochure it doesn't have any legal problems at all.
487
488 Mr. Johnson- Okay.
489
490 Mr. Blankinship- Alright. Who wants to speak next.
491
492 Mr. Johnson- Can you go to the mic please?
493
494 Mr. Cogut- My name is Lawrence Cogut, and that's spelled C.O.G.U.T. I,
495 I'm really here on behalf of my fellow neighbors who, practically every day seeing his
496 property. And I understand that at the previous attempt at this hearing, which I understand
497 had to be rescheduled, our neighborhood had actually prepared a letter of support for Mr.
498 Duncan. It's, it's not addressed to so much the, the rules and regulations, and we believe
499 that there's good reason for rules and regulations. But more to the spirit of the community,
500 in what we see, because there is a part of the, this hearing we understand is to address
501 the perception, and the visibility of certain things. And I won't repeat what's already been
502 covered, but I do want to address the... I understand that you may all have received our
503 letter with all of our signatures. It's as many people as we could find that could sign and

504 have this ready for the earlier, attempt at this hearing, and the spirit of this is that, and if I
505 could tie it into what we've already heard, is that Mr. Duncan is not a person to resist
506 authority or what we think is good community common sense. But he is a person who will
507 respond if he's given the opportunity and the reasons, and I think that any person going
508 by his property, and we see it every day, would see that he's already taken to heart what
509 we thought was the perception that was substantial to this particular problem. I think he's
510 taken it to heart and understands that. But to us, to hear that there were photographs
511 taken in November and then May. And we have a hearing, and he needs to take time
512 from his work to come here, and we take some time from our work to come here. It seems
513 like a little too much if you might, you know, let's say, I just want to represent our letter
514 and our concern that we think he's always been a good member of our community as we
515 see it. And he does respond to reason, measured and timely, recommendations and
516 advice. And we are heartily behind every effort that he takes to work with you and to
517 improve the appearances if that is ever a problem. So that's all I wanted to say.

518
519 Mr. Green- I'd like to respond what you said. First, you know, you said it
520 is too much, well this is the process that we go through when we have to hear cases and
521 grant appeals and variances and all of that. That individuals are expected to come and
522 present their case because you hear one side, the other side and then we have to
523 adjudicate and come to a decision. But what I think is happened is, I think from what I
524 heard earlier, the issue has kind of resolved itself, because he basically has agreed not
525 to park his commercial trucks on farmland, which is a violation. To me that has resolved
526 it. Am I not, correct?

527
528 Mr. Blankinship- That's the way it seems to me, but we need to proceed, I
529 guess.

530
531 Mr. Green- Right. So, it appears, yes, he's, he's been responsive, so...
532 So, he's agreed, so I'm just trying to figure out what the issue is. I mean, you can see it.
533 You may like it, you know, but even with the commercial vehicles there that still could be
534 a violation that not everyone is aware of, because not everyone necessarily will read the
535 Code and pay attention to it. But I think we kind of have this resolved.

536
537 Mr. Blankinship- And someone is complaining, or we wouldn't be out there. So,
538 I know some of the neighbors may be comfortable with this, other neighbors are not.

539
540 Mr. Cogut- I'm sure that there was some concern, and they felt like...

541
542 Mr. Blankinship- We, we need to keep this moving.

543
544 Mr. Green- Yes.

545
546 Mr. Johnson- Thank you.

547
548 Mr. Blankinship- We got a lot to do this morning. So, thank you.

549

550 Mr. Loth I am Jerry Loth. L. O. T. H., and I'm a neighbor. Been there
551 since '79, right across the street from him, and my property is also agricultural. One thing
552 I would like to say, though, the tractor trailers, if it's for the farm, it'd be sitting there,
553 commercial tractor trailer, farm trailer, it doesn't matter, they're both the same. He has to
554 have that commercial vehicle to use to haul his hay and stuff. So, that's there... I'm not
555 going to go any farther with that. But anyway, I've been there since '79 and all I've seen
556 is improvement on that property, and that's basically all I have to say, thank you.

557

558 Mr. Pollard- Thank you.

559

560 Mr. Blankinship- Thank you sir.

561

562 Mr. Johnson- Thank you. Anyone else?

563

564 Ms. O'Shea- Hi, my name is Susan O'Shea. O apostrophe S.H.E.A., and I
565 am also a neighbor. I have been living in Sharbell Circle for about 5 years and just to give
566 a little preface; I lived in Northern Virginia. Very busy place. Move down to Richmond,
567 liked the Richmond area, smaller community. Lived in Chesterfield, felt they really didn't,
568 after years of raising our kids, felt they really didn't have an idea of how to blend the
569 busyness with, you know, a nice environment. So, we relocated to a more rural place. I
570 chose this area because it was more rural. It was accessible to downtown. Henrico
571 County, in the past it seemed to do a very good job of being able to balance the two. Have
572 the road systems infrastructure but not over developed. Since they have been here, I've
573 seen a lot of development and it's very disconcerting because I think in any area,
574 especially something that does have agriculture, and we, as a country as a city as a state,
575 whatever need to blend both. And there's a lot of development going on. It's just a little
576 concerning, because from what I have seen and read and talked to the discussions, this
577 is not the first time that Mr. MacPherson has been brought before the county for one
578 reason or another. And I just want to make sure that that there is not a push to develop
579 every area of agriculture, and allow rural to be blended in. It is great for the environment.
580 It is great for keeping peace. It is great for personal just, peace. I love the animals that
581 are there. I go visit them. It is just a wonderful blend and I really, really wish that the
582 County does not keep trying to push and get rid of every agricultural and rural area in the
583 county. Because that is why I moved here and that is why a lot of us, like being here
584 because of the blend. And being able to work where we have to work, but also feeling the
585 peace, seeing the eagles above us, the hawks that we have. All of the nature, not too far
586 from the city. So, I just felt that that was important to share. Thank you.

587

588 Mr. Pollard- Thank you.

589

590 Mr. Blankinship- Thank you.

591

592 Mr. Johnson- Thank you. Anyone else?

593

594 Mr. Blankinship- All right.

595

596 Mr. Johnson- Okay. Also, we just want to iterate that we have regulations in
597 the, for this, for the County as well.

598
599 Mr. MacPherson- I'm just going to move down, so I can hear a little better. I got
600 it. I don't hear it very well.

601
602 Mr. Johnson- Having things be let, you know, what we need and what is the
603 regulations here, that is what we want to keep and told here as well.

604
605 Mr. Pollard- Alright. Thank you for being here. Thanks for your comments.
606 Basically, we are here because Mr. MacPherson appealed the notice, the violation and
607 so, through everyone's discussion, it sounds like everyone agrees that a violation
608 occurred and will now be corrected. In terms of overdevelopment of the County, it sounds
609 like that's what the county is trying to do, make Mr. MacPherson stick to agriculture and
610 not have his commercial businesses. A portion of it be operated at the location. So, with
611 that said for the reasons stated on behalf of the director, the written submissions, and the
612 record at the hearing, I move that we affirm the decision of the Director.

613
614 Mr. Johnson- Okay,

615
616 Mr. Green- Second.

617
618 Mr. Johnson- It's been motion and second, all in favor say, aye.

619
620 Board- Aye.

621
622 Mr. Johnson- All opposed? None oppose all in favor. Motion passed.

623
624 On a motion by Mr. Pollard, seconded by Mr. Green, the Board **denied the appeal and**
625 **affirmed the decision of the Director of Planning.**

626
627

628	Affirmative:	Broadway, Green, Johnson, Pollard	4
629	Negative:		0
630	Absent:		0
631	Abstain:	Lawrence	1

632
633

634 Mr. Blankinship- All right, the next case is Appeal 2023 number three.

635
636 Mr. MacPherson- Can I ask a quick question.

637
638 Mr. Blankinship- We'll catch up with you later. We've got to move. We've got a
639 long agenda.

640

641 **APL2023-00003 - Patrick Johnson: appeal of an administrative decision regarding**
642 **the property at 11 and 21 Early Avenue, Varina. Parcels 824-716-4850 and 5762.**
643 **Zoning: R-3, One-Family Residence District. Code Section: 24-2320.**
644

645 Mr. Blankinship - Alright, Appeal 2023 number three, Patrick Johnson an
646 appeal of an administrative decision regarding the property at 11 and 21 Early Avenue in
647 the Varina Magisterial District. Would everyone who intends to speak to this case please
648 stand and be sworn in.

649
650 Mr. Johnson- Okay.

651
652 Mr. Blankinship- Raise you right hand please. Do you swear the testimony
653 you're about to give us the truth, the whole truth, and nothing but the truth, so help you
654 God? Thank you.

655
656 Can you guys work with Mr. MacPherson this week?

657
658 Mr. Green- Before we start. Yeah, hold on. Yeah. Could someone go help
659 the gentleman?

660
661 Mr. Blankinship- This is the inspector he's been working with for months, so
662 he's,

663
664 Mr. Green- We need to help him.

665
666 Mr. Blankinship- I'm sorry we're short staffed this morning. So. I can't send any
667 of our staff out there. All right.

668
669 Mr. O'Hara- Thank you to whoever was just using the mouse there.

670
671 Mr. Blankinship- Fred.

672
673 Mr. O'Hara- I'm sorry?

674
675 Mr. Blankinship- That's Mr. MacPherson. It's two. Okay. Here we are.

676
677 Mr. O'Hara- Okay, good morning again. Mr. Chairman and members the
678 Board. My name is Shawn. O'Hara, Senior Assistant County Attorney. We are here for
679 the appeal of Mr. Johnson. This is the second appeal that we've heard this year regarding
680 Mr. Johnson's properties. Perhaps you will recall there are two parcels, 21 and 11 Early
681 Avenue. They are adjoining parcels. It is zoned residential now but there was an existing
682 agricultural use on the property and so that is a grandfathered use that continues to be
683 permitted. Obviously, that is constrained in that it cannot be enlarged in its scope. And
684 so, the issues that we're here to deal with today are the recent erection of a high tunnel,
685 which is sort of like a greenhouse, but different. A different iteration thereof and also a
686 series of what all call tented structures. It's not entirely clear exactly how those are

687 constructed because essentially all we can sort of see is a, a skeleton that has sort of a
688 tarp or tent structure around it. And again, we get to the aerial here. And so there were a
689 number of structures that were existing on the property, prior to the revision in our code
690 that that made the agricultural use. not permitted, but grandfathered in. In particular, if
691 you see here in the southern portion, there's a height, a high tunnel there. That is not the
692 focus here today. That was an existing structure. And in addition, there's another building
693 here that I'm circling that was existing, and there was also the, the structure just north of
694 that, that was existing. And so, the area that we're talking about is sort of in the middle
695 here where there has been a new high tunnel erected and then also the sort of a series
696 of tented structures. And so here, to try to sort of orient the Board, we have the fence that
697 was the subject of the previous appeal here. And then this was the structure that I circled
698 that was towards the northern end of the properties. And now, this is basically in the
699 middle, this is the high tunnel that's the subject of today's appeal. Though, it doesn't have
700 any plastic tarping on it at the moment. Another photo of sort of the same area and now
701 here on the left, you can see an existing high tunnel, again not the focus of today's appeal
702 and then that existing building to the north and the high tunnel, that is a subject of today's
703 appeal in the middle. And finally, we have one of the tented structures here in the middle,
704 there are sort of a series of these. It's not entirely clear whether they are a bit transient,
705 i.e., they move around, or if they're more permanent in any event, they would be an
706 expansion of the existing use, which is not permitted under the Code. There are photos
707 that were submitted with the package to the board and those photos show pretty clearly
708 what was existing and what was not and it's somewhere in between... bear with me a
709 second here, somewhere in between March of '22, and March of '23 that the new high
710 tunnel was erected, and the various tented structures started to pop-up. Mr. Johnson has
711 submitted a notice of appeal with several grounds for that appeal. The first is the Right to
712 Farm Act, which Board may remember we covered last time with the fence. So, I'll touch
713 on that, just very briefly. The Right to Farm Act does protect agricultural use. However, it
714 does so only, and I'm quoting from the statute here, in an area that is zoned as an
715 Agricultural District or classification. As we know that these two parcels are zoned R-3,
716 that's residential. Therefore, the Right to Farm Act simply is not applicable. There's also
717 an opinion from the Attorney General's office on point that that says, comes to basically
718 that same conclusion. Mr. Johnson also cites the due process clause of the 5th and 14th
719 amendments. And there are two iterations of due process. There's substantive due
720 process and procedural due process. Not clear which Mr. Johnson was pointing to, so I'll
721 address both. Substantive due process essentially asked the question of, did the
722 government have any legitimate purpose for its action here and it's a particularly high
723 hurdle in the zoning context. And the case law says that it must be clear that the State's
724 action quote "has no foundation in reason and is a mere arbitrary or irrational exercise of
725 power having no substantial relation to the public health or public safety." In this case,
726 however, we really don't even reach those kinds of considerations, because the
727 appellant's purported interest in the property is unfettered use of it as an agricultural
728 parcel. But that's simply not a protected property right that would trigger the protections
729 of substantive or procedural due process. We all live in a circumstance where zoning can
730 and does change. That happened to occur to Mr. Johnson's property. And so, he is able
731 to continue his prior use, but not enlarge it, and that's simply sort of a risk that we all live
732 with as property owners in a county, a city, wherever we happen to live. And it is not

733 protected by either procedural or substantive due process. As to the procedural due
734 process claim, that's essentially what we're doing here today. This is the procedural due
735 process to which he is entitled. However, we go back to the same point. Step one is you
736 have to have a protected right to trigger procedural and substantive due process
737 protections. That's not, that doesn't, that's not in question here today. If we came in and
738 said, you're no longer allowed to use this agriculturally at all, then we might have
739 something to talk about. But again, his grandfathered use is still permitted. He's just not
740 allowed to enlarge it. Finally, Mr. Johnson alleges an Equal Protection claim under the
741 14th amendment. The nature of that claim isn't entirely clear to me. He has made some
742 allegations with regard to the fence that we treat him differently from other folks in the
743 county. In any event, there is a very strong presumption of validity when it comes to the
744 acts that the Director and the Board take. If there were some arbitrary use of the power
745 here, it's simply not sufficiently clear that I can argue for or against it. But it is a rational
746 basis review, which is very, very difficult to overcome. And so, we're, we're back to sort
747 of the same argument that this was a conforming use. It is now non-conforming. He is not
748 permitted to enlarge it since the agricultural use became nonconforming. He erected both
749 this high tunnel in the middle of the properties. And also, the tented structures thereon.
750 That's a non-permitted expansion of the agricultural use and for those reasons the notice
751 of violation should be affirmed. Thank you very much.

752

753 Mr. Johnson- Okay. Thank you. Any questions?

754

755 Mr. O'Hara- Okay, thank you.

756

757 Mr. Johnson- Oh, okay. Now we'll hear from the applicant.

758

759 Mr. P. Johnson- Thank you Board of Zoning Appeals. I appreciate you allowing
760 me to speak to this issue of this violation that was issued by the zoning administrator.
761 First of all, I want to object to Mr. O'Hara's presentation because he did not, I did not get
762 a mail copy of his presentation as I did prior when I came before the Board before. I never
763 got a copy of his presentation, so I was unable to prepare or know what he was even
764 going to speak on. So, I like to object to his entire presentation as out of procedure. I don't
765 know your exact procedure, but I think I was supposed to get a copy of his presentation.
766 And I never got that. I'm saying right here, I've already been sworn in, that I never got
767 copy of his presentation.

768

769 Mr. Blankinship- Last month did you get a copy of the letter?

770

771 Mr. P. Johnson- I got a copy of the letter, but I can't say that his presentation
772 was in there, that one he just presented.

773

774 Mr. Blankinship- And this month you got a copy of the letter again and the
775 agenda packet, that I emailed to you, not the presentation, but the letter setting out the
776 argument. The email that I sent you a week ago that had the agenda packet attached to
777 it contained the same letter from last...

778

779 Mr. P. Johnson- It had the agenda in it? I got an email from you, was it in there?
780
781 Mr. Blankinship- The presentation was not, no.
782
783 Mr. Pollard- Basically the presentation and the argument is the same. The
784 presentation is a different...
785
786 Mr. P. Johnson- But wasn't I supposed to get a copy of it? I got one before.
787
788 Mr. Pollard- You're supposed to know the argument.
789
790 Mr. Blankinship- All the information was included in the packet. Well, let's go
791 ahead and proceed. I'm going to restart the clock.
792
793 Mr. Johnson- Go ahead.
794
795 Mr. P. Johnson- All right, well, I still want to raise that as an objection. Just in
796 case this moves forward to another venue.
797
798 Mr. Johnson- Okay.
799
800 Mr. P. Johnson- So, the parcels were purchased in 2013, after research by me
801 determined that the parcels could be used for agriculture. And, you know, it's critically
802 important for especially a small farm to be able to use government programs, and the
803 high tunnel that I had previous to constructing a new one, was purchased under a program
804 by the Natural Resource Conservation Service, the NRCS. Those programs are intended
805 to help farmers be more profitable and also be more environmentally friendly. So, some
806 of the benefits that the NRCS says that high tunnels provide the farmers include extending
807 the growing season, so small farmers like me can grow longer during the year, and, you
808 know, obviously sell longer and make us more ecologically, economically viable. Improve
809 the plant quality and the quantity of plants that have grown in it, reduce the nutrient and
810 pesticide transportation. So, basically confining whatever you put on these plants to the
811 structure, not their surrounding environment. Improve air quality through the reduction of
812 transportation inputs, so you don't have to travel as far. People don't have travel too far
813 to get your food because it's local. Reduce energy use by producing, by providing
814 customers with a local source of fresh produce. So those are some of the reasons why
815 the government is actively promoting small farmers and larger farmers, getting these
816 types of structures. So again, it was purchased under an agreement with the United
817 States Department of Agriculture. It was a grant that they are giving to small, and large,
818 producers of produce and vegetables for those stated reasons. So, the legal arguments
819 that I am putting forward today, is that I believe that the parcels are covered by the Virginia
820 Right to Farm Law. So, the Right to Farm Law says that no locality shall add zoning
821 ordinances that would unreasonably restrict the and regulate farm structures, or farming
822 on a, farming and forestry practices in agricultural district or classification. So, Mr.
823 O'Hare?
824

825 Mr. Blankinship- O'Hara, yeah.

826

827 Mr. P. Johnson- O'Hara. Mr. O'Hara's argument, his whole argument is, one of
828 his arguments, in terms of why it's not covered by the Right to Farm Act is because he
829 says it's not in an agricultural district, or in a classification. Well, you know, I saw the
830 document from Henrico County, which I presented as an exhibit entitled Henrico Vision
831 2026. It clearly lays out the vision for Rural Residential Zoning. And it says Rural
832 Residential Zoning (RR) are areas intended for detached single-family residences and
833 agricultural uses that maintain rural characteristics. So, right there, a document from
834 Henrico County stating that rural residential zoning is, in fact, promoting agricultural use.
835 And so, one of the decisions by the Attorney General, that Mr. O'Hara points to states
836 that if there's the promotion of... one reason why the Attorney General made the opinion
837 is that residential zoning does not point or promote agriculture. Well, in fact, this
838 explanation of what Rural Residential zoning says, it does promote, you know, rural
839 character and agriculture in that zoning. So, agriculture is given equivalency in that
840 zoning, in a Rural Residential zoning. So, in fact, in Henrico County, Rural Residential
841 zonings are agricultural districts, is what I'm arguing under the Right to Farm Act. So, I
842 believe it is covered by the Right to Farm Act, thus, I am certainly entitled on the Right to
843 Farm Act to erect those structures, because no local government can impinge on the right
844 to construct structures or uses in an agricultural district, which I believe R is a Rural
845 Residential district. Okay. Agricultural district okay. Then, the next one, in terms of due
846 process arguments. So, I claim both substantive and procedure due process has been
847 violated by the County. With the passage of this ordinance which greatly restricts my use
848 it. I don't believe a consideration was given to the economic harm that not being able to
849 participate in Federal programs, like the one I just pointed to, would do. It is doing and
850 has done great harm to my ability to farm on that piece of property. And that's why, that's
851 really the only reason I bought that property is because that I found, doing my research,
852 I found that I was able to use it as an agricultural piece of property. So, I didn't want a
853 large farm. I never wanted a large farm. I want a small, a small urban farm. It's why I
854 purchased that property. And that's what that was. So yeah, these restrictions, even
855 saying that, you know, that you can still farm is really, you can't, I mean, you can, but you
856 can't. Because, you know, I will never be able to increase the production to the level that
857 I can by using structures like that high tunnel that I erected. Now, a high tunnel, according
858 to some research that I've done, a high tunnel is equal to about 1.5 extra acres. Just that
859 one structure is equal to the entire production that I can get out of that farm if I didn't have
860 that structure. Okay. So that's according to research. Okay. So, if I have two of those
861 structures, it's equal to me having the equivalency of three to five acres. So, does that
862 makes sense? Because of the season extension and because of the quality and quantity
863 of produce that I can get out of those structures. So, that's a detriment if I can't use those
864 types of structures on my farm, or I can't expand the use of the structures on my farm like
865 that. Also, I was taken to court in 2022, and the District Court made a ruling, has already
866 made a ruling in this case about me being able to build structure. In fact, the tented
867 structures that were listed on the Notice of Violation as violations. The District Court
868 actually encouraged me to build those. I asked the District Court when I was in court about
869 building materials. I asked the District Court directly. I told him that I had met, I had talked
870 to Mr. Alexander, and I suggested that I build those tented structures that Mr. O'Hara,

871 said, you know, are in violation. I asked him, Mr. Alexander, if I build those structures and
872 I put the building materials inside those structures, would that be okay. And Mr. Alexander
873 told him that I couldn't. When I went to District Court, I bought the point that I had brought
874 up with Mr. Alexander to the District Court, and the District Court said go ahead and build
875 those structures. Okay, and he told me, and he also encouraged me to build other
876 structures. So, I interpret that as the District Court obviously knows the law. He knows
877 that, knows that that property had been designated as an un-conforming use, non-
878 conforming use under your, the new ordinance. And he told me to go ahead and build the
879 structure. So, I interpret that as, a tacit acknowledgement that the Right to Farm law is
880 protecting that particular property. My rights have been continuously violated by these
881 Notice of Violations I receive. Even before you changed, before the law was changed, I
882 was receiving notice of violations about building structures, like that white, the first
883 building that I built was that small greenhouse that's to the right of the larger building. I
884 received a Notice of Violation, a Stop Work Order, in 2015 on that structure, because they
885 said it violated the code in terms of the size of the structure. And there was, at that time,
886 certainly there was no question that it was designated as an agricultural structure, so this,
887 these Notice of Violations have gone on despite the law, despite it, you know, not being
888 a question of whether or not it was agriculture. Now it is a question about expansion. This
889 has been going on since I bought that property because we have some neighbors,
890 unfortunately, who don't understand the importance of agricultural land. And, like, the lady
891 said in the previous presentation, how important it is to keep agricultural land, even in
892 developed areas. Because, you know, we have a, there's a food shortage in this country
893 people ...

894
895 Mr. Blankinship- We need you to wrap up.

896
897 Mr. P. Johnson- Yeah, people may not notice but, but we have a food shortage
898 in this country. You know, places like California, which gets, we get 80% of our produce
899 from. Those places are dealing with fires, they're dealing with droughts, they're dealing
900 with shortage of labor...

901
902 {gavel}

903
904 Mr. Pollard- Thank you sir.

905
906 Mr. Blankinship- Mr. Johnson.

907
908 Mr. P. Johnson- ... So, we need local agriculture, so we need to support this.

909
910 Mr. Pollard- Thank you.

911
912 Mr. Johnson- Mr. Johnson. Thank you. Is there anyone else who wants to
913 speak in support?

914
915 Mr. Green- I had a question.

916

917 Mr. Johnson- Yes.

918

919 Mr. Green- She wants to speak.

920

921 Mr. Johnson- We have one more. Speaking in support?

922

923 Mr. Blankinship- Support or opposition?

924

925 Mr. Johnson- Support?

926

927 Mr. Blankinship- Opposition.

928

929 Mr. Pollard- I had a question.

930

931 Mr. Johnson- Okay. Yes. Go ahead.

932

933 Mr. Pollard- Did you understand the limitations that the County put on you

934 before erecting the new structure?

935

936 Mr. P. Johnson- What's that?

937

938 Mr. Pollard- You were grandfathered in for agriculture, but that would limit

939 the growth of it. Did you understand that before you erected the new structures?

940

941 Mr. P. Johnson- No, I didn't, they never, no. That's one of my due process

942 arguments, is that I never got a notice about the changes that they made to the code, you

943 know, in terms of... Even when I went to court, they still didn't say directly that they had,

944 they had this non-conforming structure. As a matter of fact, it was brought up in District

945 Court, when Mr. Alexander gave me the notice about the fence. When I was, when I was

946 in court, the first notice about the fence, you know, the fence was in violation. I bought

947 that up in court as a point to countermand, the fact that they were not giving me timely

948 notices about things and the judge ruled in my favor. And he said that covering, that

949 covering the fence was a violation. The covering that was on the fence was a violation.

950 So, I bought that up. You know, and saying that entire, and in all of Henrico County,

951 coverings on fences is a violation. And Mr. Alexander said on my property it was. Which

952 I bought up as an issue of due process and, you know, and fair treatment, equal

953 protection, which the judge in that case ruled in my favor.

954

955 Mr. Pollard- Thank you.

956

957 Mr. P. Johnson- So...

958

959 Mr. Johnson- Also, you know, ...

960

961 Mr. P. Johnson- ... I did not know that it was a, a violation to put those

962 structures up...

963
964 Mr. Pollard- Thank you.
965
966 Mr. P. Johnson- ... because they never told me. They never informed me.
967
968 Mr. Johnson- And you are also in a residential area, even though you have
969 agricultural for that one lot. Now, there are regulations that the Residential District has,
970 and that would also cover that, and that should be taken in consideration as well.
971
972 Mr. Blankinship- He's also, by the way, he was referring to a Comprehensive
973 Plan designation of Rural Residential. He is also not in a Rural Residential area on the
974 Comprehensive Plan, so.
975
976 Mr. Johnson- Okay.
977
978 Mr. P. Johnson- That's not Rural Residential?
979
980 Mr. Blankinship- No sir.
981
982 Mr. P. Johnson- What is it?
983
984 Mr. Blankinship- It's actually Commercial Concentration.
985
986 Mr. P. Johnson- Where I'm at is Commercial Concentration?
987
988 Mr. Blankinship- Yes.
989
990 Mr. P. Johnson- When, when was that changed?
991
992 Mr. Blankinship- That was done in 2009, it has not changed since 2009.
993
994 Mr. Johnson- Thank you. Is there any other...
995
996 Mr. Green- The young lady.
997
998 Mr. Johnson- Yes, anyone wants to speak in opposition, you may do it now.
999
1000 Mr. Blankinship- Yes, ma'am.
1001
1002 Mr. Johnson- Will you go to the mic please.
1003
1004 Mr. Blankinship- If you wish to speak. Yes, ma'am.
1005
1006 Mr. Johnson- Go to the mic.
1007

1008 Ms. Stewart- My name is Faye Stewart. S. T. E. W. A. R. T. And just really
1009 as one of the residents on Early Avenue, have, ever since this property became what it
1010 is now. We just had to pass it every day. I've been looking at it for years and everything
1011 and I guess I just had questions. I understand that Mr. Johnson's speaking about the
1012 farming, and for all the years I've been going by, I've never seen anything farming before
1013 the fence came up, or after it did. And I just, I guess, I just don't understand. I haven't
1014 seen farming or vegetables or anything coming and going. Being transported in and out
1015 of the property or anything like that. It's just been, the only thing you see is just the bushes
1016 coming over the fence, and just overgrown all through the years. And there is still some
1017 of the orange tarp is still ... to. And then the slats have been put up. And let me see ...
1018

1019 Mr. Blankinship- We're here really to discuss whether he can expand the farm
1020 use.
1021

1022 Ms. Stewart- Well, I do know that. I think something he mentioned a couple
1023 of times we didn't need or, or someone wasn't here. Or someone was ... last month. But
1024 the second form for greenhouse, you know, has come up since that time and everything
1025 that has been added on, you know, in the last few months or so. And I just can't remember
1026 the last thing I was saying.
1027

1028 Mr. Blankinship- That is quite all right. Thank you very much.
1029

1030 Mr. Johnson- Thank you. Anyone else wish to speak in opposition. None?
1031 Then I move this case is closed. Public hearing is now closed, and a motion would be in
1032 order. What's your favor, pleasure of the Board?
1033

1034 Mr. Blankinship- It's in Varina.
1035

1036 Mr. Green- That's you.
1037

1038 Mr. Johnson- I move that we confirm that the Director's decision and uphold
1039 the Notice of Violation for the reason presented by the County Attorney. And I think that
1040 the Director correctly determined that Mr. Johnson has expanded the nonconformity use
1041 and it is a violation of the Zoning Ordinance.
1042

1043 Mr. Green- Second.
1044

1045 Mr. Blankinship- That second was by Mr. Green.
1046

1047 Mr. Johnson- It has been motioned and seconded. All in favor say, Aye.
1048

1049 Board- Aye.
1050

1051 Mr. Johnson- All opposed say Nay.
1052

1053 Mr. Johnson- Motion Passed.

1054
 1055 Mr. Lawrence- Mr. Chair, please show where my vote is an abstain.
 1056
 1057 Mr. Johnson- Yes, one vote has been abstained.
 1058
 1059 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **denied the appeal and**
 1060 **affirmed the decision of the Director of Planning.**
 1061

1062			
1063	Affirmative:	Broadway, Green, Johnson, Pollard	4
1064	Negative:		0
1065	Absent:		0
1066	Abstain:	Lawrence	1
1067			
1068			

1069 Mr. Blankinship- All right, that concludes the appeals portion of this morning's
 1070 agenda. Moving on to conditional use permits, we have seven. The first, we heard the
 1071 request to defer and the request to defer was denied, so we will now take it up.
 1072

1073 **CUP2023-00026 - Shania M. Johnson: conditional use permit to operate a large**
 1074 **family day home at 111 St. Claire Lane, Montezuma Farms, Fairfield. Parcel 800-**
 1075 **729-8528. Zoning: R-4, One-Family Residence District. Code Section: 24-4402.**
 1076

1077 Mr. Blankinship- Conditional use permit 2023 number 26. Shania M. Johnson
 1078 a conditional use permit to operate a large family day home at 111 St. Claire Lane, in
 1079 Montezuma Farms, in the Fairfield Magisterial district. Is there anyone else, Ms. Johnson
 1080 is still on Webex, is there anyone else in the room to speak to this case? All right. Mr.
 1081 Gidley, you haven't been sworn in I noticed.
 1082

1083 Mr. Gidley- No sir, I haven't.
 1084

1085 Mr. Blankinship- Do you swear that the testimony you are about to give is the
 1086 truth, the whole truth, and nothing but the truth, so help you God?
 1087

1088 Mr. Gidley- Yes sir. I do.
 1089

1090 Mr. Blankinship- Thank you. Proceed.
 1091

1092 Mr. Gidley- Good morning members of the Board. Please bear with me, I
 1093 actually had gum surgery yesterday, so I'm going to try to get through some of these the
 1094 best I can.
 1095

1096 The subject property is located off Saint Clair Lane, east of Mechanicsville Pike. The
 1097 applicant currently takes care of five children, but would like to expand to 12 children,
 1098 which requires the conditional use permit. This case was initially deferred during the May
 1099 meeting to allow the applicant time to address Building Code violations and deficiencies

1100 known to the Department of Social Services, now, the Department of Education. During
1101 last month's meeting the Building Code violations remained and the Department of
1102 Education that conducted another inspection on Tuesday, June 6, which revealed
1103 numerous violations. These included a room adjacent to where the children were being
1104 kept having feces and urine present, and that's this picture here. And as I said, this is in
1105 a room right next to where the children were being kept. This obviously concerned the
1106 Board, so, at that point, the applicant decided to ask for deferral due to one of the
1107 members being gone and so we have a full board today. Fast forward to today, most of
1108 the Building Code violations have been addressed with one item remaining. That's as of
1109 Tuesday. With regard to the situation with the dog waste, the applicant told this Board
1110 when she found out from the inspector about it, she claimed she did not know this was in
1111 her house. Was what she claimed. That she learned about it from the inspector. But when
1112 the inspector told her, she said, quote, "I closed my day care immediately and immediately
1113 had that room professionally cleaned and sanitized" unquote. She also stated quote, "I
1114 took measures to make sure this never, ever, ever happens again" unquote. Unknown to
1115 staff at the time, eight days after this picture was taken, another inspection was conducted
1116 by the state. And again, the dogs were present. And although not as bad, once again you
1117 can see the room is still soiled. To me, it doesn't look like it was cleaned. Mr. Green was
1118 concerned about this being allowed to fester for two days from the weekend to the
1119 Tuesday. Well, now this is eight days further. So, this is 10 days now this would have
1120 been allowed to exist like this. I'm going to have to cut out part of my report here. I
1121 personally spoke to a state inspector earlier this week about a new inspection.
1122 Unfortunately, those results have not been posted to the State's web site. And I can't
1123 really testify because they're not there. I'll just say at this point staff has no information
1124 indicating these concerns have been addressed and I'll just leave it at that. Again, I'm not
1125 really able to go into it in depth here.

1126

1127 Mr. Johnson- Okay.

1128

1129 Mr. Gidley- I would note that the applicant this morning talked, like, "hey,
1130 I just need a deferral, it's been 30 days since I've had an inspection, and I'm looking
1131 forward to it, everything's going to be clean". Again, staff has no information that these
1132 have been addressed, and she is under review now. The local office has... There's an
1133 overseeing board that decides on discipline, and as noted in your staff report she is facing
1134 potential discipline, including losing the ability to care for the existing five children that she
1135 has now as one of the options. From staff's perspective these issues, as noted here,
1136 present serious health, safety, and welfare concerns, particularly since, you know, even
1137 eight days after the one picture was taken this is still going on. I mean, that's just not
1138 good. Particularly when you're dealing with a very vulnerable population like young, young
1139 children. So, staff obviously recommends denial of giving this daycare still more children
1140 to have. So, our recommendation is denial. Thank you.

1141

1142 Mr. Johnson- Thank you.

1143

1144 Mr. Pollard- I have a quick question. What was the one violation, building
1145 violation that remains.

1146
1147 Mr. Gidley- It was a matter of glazing of a window that was improperly
1148 done.
1149
1150 Mr. Pollard- Thank you.
1151
1152 Mr. Johnson- Thank you. Any other questions. Alright. Thank you.
1153
1154 Mr. Blankinship- Alright Miss Johnson, we will hear from you on Webex now.
1155 Ms. Johnson are you there? Staff, we cannot hear Ms. Johnson. Can you confirm that
1156 you can hear us in the Webex room?
1157
1158 Ms. Johnson- Hello.
1159
1160 Mr. Blankinship- Ah, yes, yes. Good morning.
1161
1162 Ms. Johnson- --- for a deferment.
1163
1164 Mr. Blankinship- I think you're cutting in and out Ms. Johnson.
1165
1166 Mr. Johnson- Can you speak again Ms. Johnson?
1167
1168 Ms. Johnson- Can you hear me now?
1169
1170 Mr. Blankinship- Yes, that's better. Thank you.
1171
1172 Ms. Johnson- Okay. I asked for a deferment this morning because my
1173 license specter has not been able to come back and reinspect for, I mean, after
1174 everything...
1175
1176 Mr. Blankinship- Was the license inspector there on July 20th?
1177
1178 Ms. Johnson- Yes. She was, but my daycare was closed, because again,
1179 my grandmother passed away. So, my daycare was closed. And she's to come back
1180 anytime now. My daycare has been open. She knows. So, that's the reason why I asked
1181 for the deferment. Obviously, this decision is up to you guys. I'm just asking for a
1182 deferment today.
1183
1184 Mr. Johnson- Has anything been done to the facility since we last talked?
1185
1186 Ms. Johnson- Yes, and I called this morning to see if I could email in pictures
1187 in my defense, because I really wanted to show you guys that the room has been
1188 professionally cleaned and I'm getting the room professionally cleaned every two weeks
1189 now actually. I have someone who is doing it on a rotation, that is billing me for it. So that
1190 way it always stays clean in addition to that. I also get up an hour early. I get up at 5:00
1191 am in the morning to make sure that everything is done in the daycare, and also to check

1192 the dog's room and clean it up before the daycare even starts. I do that daily, so that's on
1193 my daily checklist to make sure that they can't use the bathroom overnight or anything.
1194 Shed any hair or any of that so it doesn't interfere with my license. What I can say is my
1195 license is up for renewal. My license instructor has to come back within the next two
1196 weeks, which is why I'm asking for the deferment. Because, either they're going to renew
1197 my license, or they're not. Hopefully they do once they find that I have done everything
1198 that they have asked me to do, and it's maintained on a regular basis. All I can say is, I
1199 am an extremely good provider. Um, I'm in school now as well, full time for early childhood
1200 education. I do my best at this daycare and although those findings were extremely
1201 disturbing. I have made every single day and ... ensure that everything stays up to date
1202 and ... including all of my paperwork, everything. I just ... when she comes back.... to
1203 that, ... if not, then I won't have a license to need the conditional use permit for, which is
1204 ... rather than me having to try to save up again for another three and a half months for
1205 this. If I do get my license renewal. I will, I won't have anything to need a conditional use
1206 permit for come next month, if they don't renew this license. And if they do renew my
1207 license, it will be because they have found, you know, that I am keeping everything
1208 maintain on a regular basis. I'm doing everything that I need to do. ... that's all I can say,
1209 guys. I really enjoy having a daycare and ... That's all. So, yeah, I'm asking for a
1210 deferment, if you guys can, until August. Just to see if I even get renewed for my license,
1211 because I know that I've done everything. I know I can, you know, so I'm just ... waiting
1212 to see in.

1213
1214 Mr. Green- Ms. Johnson, first, and foremost, we denied your request for
1215 a deferment, so that's not going to happen. We're moving forward with this case today.
1216 The second thing that I remember and this case, because of the concerns I had with the
1217 dog. And I remember what you said early on. You said early on that your brother had the
1218 dogs were there. You didn't know that the dogs were there. Your brother left the dogs
1219 there and you came, you discovered that. Okay, and I remember that that was a holiday
1220 period. So, the assumption, and I may be wrong, but the assumption I made, I looked at
1221 the timeframe, is that you probably were not occupying the house. When you came to the
1222 house after holiday that's when all of that was discovered. The second thing that I'm
1223 hearing now, that is very disturbing to me and your explanation to us, just now you refer
1224 to that, as the dogs room. The last time you spoke to us, you clearly articulated and stated
1225 that, once you found that those dogs were there, you had your brother remove those
1226 dogs, which gave us the impression that the dogs should never have been there all along
1227 and now you're referring to as the quote, unquote dog's room. The other thing, even if
1228 you look at that, there's no bedding. There's nothing there that would, that would, to me,
1229 that, that any person is caring for a dog would have because they don't have any bedding
1230 or anything, or dishes. And I'm just gravely concerned that the dog, you have a dog room
1231 and a daycare. I'm sorry, but I don't hear people having dog rooms. I have people having
1232 dogs and, and they may be in the house or around. But a room that's dedicated to the
1233 dog? So clearly what I'm hearing you say, and these are your words, that there is a dog
1234 room and I just have a problem with that. That's it. Thank you.

1235
1236 Mr. Johnson- Ready?

1237

1238 Mr. Green- He's ready to make a motion.
1239
1240 Mr. Johnson- Alright, Is anyone for or against this?
1241
1242 Mr. Blankinship- There's no one else.
1243
1244 Mr. Pollard- ...no one else.
1245
1246 Mr. Johnson- Then this case is closed. Is there a motion?
1247
1248 Mr. Pollard- A quick comment. Ms. Johnson, you were giving the benefit
1249 of the doubt. It was deferred back in May. I'm even more concerned now than I was then.
1250 It sounds like you have too much going on. You may want to focus on school and work in
1251 someone else's day care or work somewhere else. I'm not here to give advice, but it
1252 sounds like there's a lot going on, especially with dogs in there with the children. So, our
1253 decision is to see where you are currently and make a decision on whether you can
1254 handle more. It doesn't sound like you are able to handle what you have? With that I move
1255 that we deny the conditional use permit. The state licensing inspector has expressed
1256 serious concerns. This case has already been deferred and the situation has not
1257 improved.
1258
1259 Mr. Green- Second.
1260
1261 Mr. Johnson- It has been motioned and seconded. All in favorite say Aye.
1262
1263 Board- Aye.
1264
1265 Mr. Johnson- All opposed? All in favor, none opposed. Thank you.
1266
1267 On a motion by Mr. Pollard, seconded by Mr. Green, the Board **denied** case CUP2023-
1268 00026.
1269
1270
1271 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**
1272 **Negative: 0**
1273 **Absent: 0**
1274
1275
1276 **CUP2023-00028 - Rachel Harris: conditional use permit to keep more than four**
1277 **dogs at 19 A.P. Hill Avenue, Confederate Terrace, Varina. Parcel 820-727-5121.**
1278 **Zoning: R-2, One-Family Residence District. Code Section: 24-4420.C.3.**
1279
1280 Mr. Blankinship- All right, the next case is conditional use permit 2023 number
1281 28, Rachel Harris, a conditional use permit to keep more than four dogs at 19 A P Hill
1282 Avenue, in Confederate Terrace, in the Varina Magisterial District. Will everyone who
1283 intends to speak to this case please stand and be sworn in. Raise your right hands please.

1284 Do you swear the testimony you are about to give is the truth, the whole truth, and nothing
1285 but the truth, so help you God? Thank you. Mr. Gidley.

1286
1287 Mr. Gidley- Yes, sir, this case was deferred from the May meeting to allow
1288 the applicant time to rehome some of the animals on the property and to address
1289 Community Maintenance violations. The subject property is just over a third of an acre in
1290 size and contains a 1,480-square-foot dwelling with an attached one-car garage. The rear
1291 yard is enclosed by a four-foot-tall chain link fence. The applicant purchased the property
1292 in 2001 and several complaints have been filed against the property since 2009,
1293 pertaining to trash, debris, and inoperative vehicles. This is the front yard here, the front
1294 driveway. The most recent complaints include an old sofa stored in the front since last
1295 year. Along with trash and debris, and the keeping of too many animals. Earlier this year,
1296 the Animal Control Officer counted 16 adult dogs, eight puppies, and seven adult cats.
1297 The applicant evidently acquired several animals when she previously lived in Prince
1298 George County and worked with a dog breeder. She needed time to rehome some of
1299 these in order to get the number down for her request. As of May, she was requesting
1300 permission to keep a total of 14 dogs and several cats on the property. Staff emailed her
1301 since to clarify this remains the case, as far as the numbers requested. We have not
1302 heard back from the applicant. In evaluating this case, the property is zoned R-2, which
1303 allows a single-family dwelling. The keeping of up to four animals is an accessory use
1304 that is allowed by right. More than four requires a conditional use permit. This is an
1305 established residential neighborhood of roughly one third acre lots or larger. Although the
1306 applicant has a larger yard, the keeping of 14 dogs and several cats on the property is
1307 too intense to be compatible with the neighborhood. The applicant's request, the last we
1308 heard, was four or five times what is permitted by the Zoning Ordinance, and this leads
1309 to noise concerns and the potential to attract unwanted pests. I did have a call from a
1310 neighbor who was two or three doors down who was concerned about the noise from the
1311 dogs. The property has a history of other complaints, as I noted. Including trash and
1312 debris, and inoperative vehicles. And the sofa that's there. As you can see, the other
1313 violations remain. And as noted, the number of animals far exceeds the number permitted
1314 by the Zoning Ordinance. As a result, staff recommends denial of this request. If you have
1315 any questions, I'll be happy to answer those. Thank you.

1316
1317 Mr. Johnson- Thank you. Any questions? Is the applicant...

1318
1319 Mr. Blankinship- Yes.

1320
1321 Ms. Harris- Good morning.

1322
1323 Mr. Johnson- Go ahead. Are you the applicant?

1324
1325 Ms. Harris- My name is Rachel. Harris. H. A. R. R. I. S. Good morning,
1326 thank you for giving me the opportunity to be here and talk about my pets and this
1327 conditional use permit. At the time the complaint was made, the complaint was not for the
1328 number of pets that I have, or for noise violations, or odor violations, or anything of that
1329 nature. The complaint was made to Henrico Police that I don't take care of the animals

1330 that I have, which is a false allegation. I believe that Henrico County produced evidence
1331 for you guys in way of a bodycam that the police officer, Drinkwater took when he met
1332 with me. Which, by the way, was a surprise visit. So, I had no idea anyone was coming. I
1333 met him at my home; did not know he was going to be there. I was at work.

1334
1335 Mr. Blankinship- Ma'am, I'm going to interrupt you. I don't think there is any,
1336 any bodycam footage like that in in our record.

1337
1338 Ms. Harris- Yes sir. There ...

1339
1340 Mr. Blankinship- Not in our record.

1341
1342 Mr. Johnson- We never received anything like that.

1343
1344 Ms. Harris- I'm aware that the folks that work for the County in the Zoning
1345 Department have viewed.

1346
1347 Mr. Blankinship- They may have, but it's not in this Boards...

1348
1349 Ms. Harris- I was told that it was going to be submitted as part of the
1350 packet for this hearing today.

1351
1352 Mr. Blankinship- No, man, we have the photos that you've seen. And I'll just tell
1353 the board, I do have some more recent photos of the site. That I just received late
1354 yesterday, so they didn't make it into the presentation.

1355
1356 Ms. Harris- And I was also informed by Captain Shawn Sears that a
1357 statement would be provided from his office in regard to this matter.

1358
1359 Mr. Blankinship- I haven't received anything other than the, what you've
1360 already stated from Mr. Sears, Captain.

1361
1362 Ms. Harris- Captain Shawn Sears. In lieu of the fact or now that I realize
1363 that the evidence has not been submitted to the Board. I would like to ask for a
1364 continuance so that I can get the Board that bodycam footage and the statement from
1365 Henrico Animal Protection.

1366
1367 Mr. Blankinship- So you're in favor of having that information.

1368
1369 Ms. Harris- Absolutely sure.

1370
1371 Mr. Blankinship- It sounded like you were in opposition.

1372
1373 Ms. Harris- No, no, no, no, sir. The officer walks through my property,
1374 through my house. He visually inspected every animal. He visually inspected my backyard
1375 where the animals stay when it's nice weather. He said that I have the cleanest dwelling

1376 for the number of pets he's ever seen. He said that my animals were well loved, well cared
1377 for, and in great shape. All the food dishes and water dishes were clean. Properly. I keep
1378 the feces picked up in my backyard. I am diligent. My animals do not live in cages. They
1379 don't live in... they don't live outside. They all live in the house with me. And when Officer
1380 Drinkwater came, I did have more animals. I have since rehomed three Poodles and a
1381 Great Pyrenees.

1382
1383 Mr. Blankinship- Let's talk about how many you have rather than ... How many
1384 are you requesting to keep?

1385
1386 Ms. Harris- I am, let me do it. Let me do some math. I apologize.

1387
1388 Mr. Blankinship- Just count them off.

1389
1390 Ms. Harris- At the moment I have 11 small dogs; two of which are under
1391 18 pounds, eight of which are under 10 pounds. When I say under 10 pounds, four of
1392 them are only five pounds. Or excuse me three of them are five pounds. They're very
1393 small dogs. I have a German Shepherd who is reaching her life expectancy. She's an
1394 elderly dog. She's not, she's not going to be with us much longer. And I have a Rottweiler.
1395 Again, they all live in the house. I have rehomed three of the cats, so I'm down to four
1396 cats. And I take very good care of my pets. I take care of my yard. There's no feces,
1397 except for normal. I clean up multiple times a day. I don't leave feces in my yard for the
1398 dogs to step in. Or for me to step in. I keep the grass cut. You know, animals don't come
1399 in my yard because of the dogs. So, the last time I saw any animals in my yard was 10
1400 years ago.

1401
1402 Mr. Green- So how many animals...

1403
1404 Mr. Pollard- 17.

1405
1406 Mr. Green- 17.

1407
1408 Ms. Harris- ... cats, 13 dogs, and I'm in the process of rehoming three of
1409 the small dogs to reduce, excuse me to reduce that number. But all the, all of the, the
1410 shelters and all of the rescue organizations are overwhelmed with animals that people
1411 can't take care of.

1412
1413 Mr. Blankinship- Do you intend to obtain any more animals?

1414
1415 Ms. Harris- No, sir.

1416
1417 Mr. Blankinship- When your shepherd sir is no longer with us. You do not
1418 intend to go and...

1419

1420 Ms. Harris- I will not be replacing any. I'm getting no more animals. And
1421 I'd like to mention the picture from the previous case, that's appalling. My animals don't
1422 use the bathroom in the house. Obviously, cats do, they have a litter box.
1423
1424 Mr. Green- Excuse me. Point of clarification? I thought I heard you say
1425 you wanted to defer this. It seems like, you act like we want to defer, but we're discussing
1426 it. So, are we going to defer or hear it?
1427
1428 Ms. Harris- If, if you guys decide against me? I guess I'm going to have to
1429 appeal, but I want the Henrico APO's evidence, I would like you guys to see that if you're
1430 going to rule against me. I mean, if you rule in my favor, it's immaterial, because that
1431 evidence helps me.
1432
1433 Mr. Green- You've asked for evidence; you can't have it both ways.
1434 You've asked, you've asked what?
1435
1436 Ms. Harris- Let's just move forward...
1437
1438 Mr. Green- So we're not going to...
1439
1440 Ms. Harris- Don't defer...
1441
1442 Mr. Blankinship- Oh. Don't defer.
1443
1444 Mr. Green- Don't defer.
1445
1446 Ms. Harris- Don't defer. You've already had me give my spiel.
1447
1448 Mr. Blankinship- I think we can stipulate that the inside of your house is clean...
1449
1450 Ms. Harris- Absolutely.
1451
1452 Mr. Blankinship- And I'll repeat it's in the staff report that when staff visited, the
1453 rear yard, there was no odor or anything unpleasant.
1454
1455 Ms. Harris- Yes sir. That's correct.
1456
1457 Mr. Blankinship- Staff did not raise concerns regarding the issues that she
1458 wants the evidence to question.
1459
1460 Mr. Johnson- But you are, but you do have regulations on pets.
1461
1462 Mr. Blankinship- The number.
1463
1464 Mr. Johnson- On the number.
1465

1466 Mr. Blankinship- And the number is the question.
1467
1468 Mr. Green- Question.
1469
1470 Ms. Harris- Yes, sir. I understand that I have more pets than the average
1471 person would be comfortable dealing with or managing. I've had a large number of pets
1472 my entire life. For me, it's just part of the day. I get up, I take care of my pets before I do
1473 anything else. When I get home from work, I don't even use the bathroom. I'd go straight
1474 to letting my dogs out to relieve themselves. Scoop the litter boxes and picking up feces
1475 in the yard. I care about my myself and my neighbors. I don't want my neighbors to have
1476 to smell feces because I'm too lazy to pick it up.
1477
1478 Mr. Pollard- I think your sincerity is evident. And I think it's clear that, uh,
1479 it's clean and it lends to being well taken care of. I think that the primary question is should
1480 you have over four times as many animals as the Code says.
1481
1482 Mr. Blankinship- And is property large enough to accommodate 17 pets?
1483
1484 Mr. Green- Well, no, I have a question. Do you have a breeder's license
1485 or are you...
1486
1487 Ms. Harris- No sir, I'm not breeding. I had moved to Prince George to start
1488 a breeding program. Well, I moved to Prince George to start, to engage in a breeding
1489 program with a friend and that didn't work out. So, in Henrico County, in my residence,
1490 I'm single. I don't have help. So, I can't, I can't have a breeding program without help. You
1491 can't have pregnant dogs or cats, and not be around to observe them. And, you know,
1492 dogs and cats while there's a gestation period of approximately 63 days, you can't mark
1493 that on a calendar. So okay. You're going to have babies on this day. So, I'm going to
1494 take off work to be here. That's, that's not feasible. It's not doable. And you can't have
1495 dogs. If I were going to have pregnant dogs, I'd have to find somebody to watch them,
1496 until they delivered and then they have to be there to make sure the delivery...
1497
1498 Mr. Pollard- Okay. It's too much got it.
1499
1500 Ms. Harris- It's just, you know, I'm not ready.
1501
1502 Mr. Lawrence- I have a question Mr. Chairman.
1503
1504 Mr. Johnson- Of course.
1505
1506 Mr. Lawrence- Ms. Harris. The staff report indicated that you are or have
1507 been storing cat food and litter on the side stoop of the house. Is that still the case?
1508
1509 Ms. Harris- No sir.
1510

1511 Mr. Lawrence- I bring that up because I applaud your efforts to rescue
1512 animals. We've brought in rescue animals ourselves, but only one at a time. Maybe two
1513 on one occasion, but we took pity on a neighborhood cat some years ago and started
1514 putting cat food down on our stoop. Unfortunately, I walked out one night and there were
1515 a couple of opossums on the front porch.
1516

1517 Ms. Harris- And raccoons. The only reason that stuff was on the porch is
1518 because I moved it from the car to the porch and hadn't moved it from the porch to the
1519 house. There is no storage of food or litter outside the residence.
1520

1521 Mr. Lawrence- Thank you.
1522

1523 Mr. Johnson- Okay, any other questions, anyone else wants to speak in
1524 support. Alright, you may go to the mic.
1525

1526 Mr. Sellis- Good morning.
1527

1528 Mr. Johnson- Good morning.
1529

1530 Mr. Ellis- My name is Mike. E. L. L. I. S. I live directly beside, I have
1531 lived beside her for 20 years. I've known her with her animals for the entire time. Ms.
1532 Harris is very responsible. You folks keep calling them animals. I know she did too, but
1533 that was probably to appease you. She doesn't treat them as animals. They're family. I
1534 have animals, I have family. Actually, I'm retired now. The wife and I, we enjoyed our time
1535 together with Miss Harris. I would like to kind of point to the noise complaint I heard about.
1536 Could we go to the aerial sitemap? So, yeah, that, that one's good. I can talk to the noise
1537 of dogs in that neighborhood, and they're not coming from my next-door neighbor. If I had
1538 to say, I would say it is the bottom portion where, you don't see the entire lot there, that
1539 little corner. I'm pretty sure that's where the dog noise is coming from because I hear it
1540 every day. Back to Ms. Harris, she does what I call the "Poo Walk". She goes every
1541 afternoon in her backyard, and she gets up every piece because I don't smell it and I live
1542 right next door to her. And when rain comes if there's stuff in on grass, you'll smell it, and
1543 you'll know it, and it will affect my property because I'm downhill from her.
1544

1545 Mr. Pollard- Thank you.
1546

1547 Mr. Green- Thank you.
1548

1549 Mr. Ellis- And I never had a problem. That's pretty much all I got.
1550

1551 Mr. Johnson- Okay. Thank you very much. Okay.
1552

1553 Ms. Thatcher- Good morning. My name is Sandra Thatcher. T. H. A. T. C. H.
1554 E. R. I've lived next door to Ms. Harris since 2012. I have to say she takes very, very good
1555 care of her animals. She gets up early in the morning. She feeds them. She cleans up
1556 after them. If she has to go out of town on her job, I go over there and take care of them

1557 for her. She comes home from work, first thing she does like she says she goes out there
1558 and she takes care of her animals. They eat better than she does. I'm going to be honest
1559 with you. I've never smelled her dogs. I don't hear her dogs unless my dog starts up at
1560 the fence. I got three. If mine starts up at the fence, then hers will go to the fence and talk
1561 with them. Other than that. She's very good with her animals. I don't have no complaints
1562 with her animals, and it shouldn't be nobody else complained about her animals. Because
1563 they're her children. She doesn't have children, they are her children, and she takes very
1564 good care of her children.

1565
1566 Mr. Pollard- Thank you.

1567
1568 Mr. Green- Thank you.

1569
1570 Mr. Johnson- Thank you.

1571
1572 Mr. Green- Is there somebody in opposition?

1573
1574 Mr. Hatchett- It's Mike Hatchet H. A. T. C. H. E. T. T. I just want to say, I
1575 think all these folks are good neighbors, but good intentions don't always equal good
1576 decisions. I'm sure Ms. Harris takes good care of her dogs. I hear her dog sometimes; it
1577 doesn't bother me. But the point is, if we set the precedent of letting Ms. Harris have more
1578 than 14 dogs. Somebody else moves into the neighborhood, maybe they don't take as
1579 good care of their dogs, but we've already set the precedent by letting somebody else
1580 have that number of animals. In my mind it's almost like a kennel or a foster home
1581 situation. Again, I think it's very admirable, but I just don't think we need to have a kennel
1582 in the middle of residential area. That's all I have to say, thank you all for your time. I
1583 appreciate it.

1584
1585 Mr. Johnson- Thank you.

1586
1587 Mr. Pollard- She has a rebuttal.

1588
1589 Mr. Johnson- Yes, you can go.

1590
1591 Ms. Harris- Because we are here for a conditional use permit, that's the
1592 purpose of this is to decide whether I am a responsible pet owner. And if anyone else
1593 wants to have more than four animals in their home, they would need to go through the
1594 same process. So, I think that's why we're here today. Is to keep everybody and their
1595 brother from acquiring as many animals as they want, and not taking care of them. Like,
1596 the previous case. Mention that again? That was appalling. Thank you.

1597
1598 Mr. Blankinship- Is there a number of fewer than 14 that would satisfy you?

1599
1600 Ms. Harris- Well, like I mentioned earlier, I'm in the process of placing
1601 three of the small dogs.

1602

1603 Mr. Blankinship- That brings us down to 14, dogs and cats. I'm counting dogs
1604 and cats.
1605

1606 Ms. Harris- Yes. If you guys come up with a number that you think is
1607 reasonable, I will put effort into rehoming them appropriately and I will abide by the board's
1608 decision, so yes.
1609

1610 Mr. Hatchett- If possible, I'd like to hear with that number is.
1611

1612 Mr. Blankinship- Well, you'll know in a minute.
1613

1614 Mr. Hatchett- Thank you.
1615

1616 Mr. Blankinship- If there is, I was just asking for...
1617

1618 Ms. Harris- I have no intentions of adding any other animals in my
1619 household. No more cats. No hamsters. I did entertain the thought of getting chickens,
1620 but maybe not.
1621

1622 Mr. Blankinship- All right. Thank you.
1623

1624 Ms. Harris- Thank you.
1625

1626 Mr. Johnson- Okay.
1627

1628 Mr. Green- I am a person who has a dog and but, you know, the County
1629 rules state that you can only have four dogs, and there have been times where we have
1630 granted an exception to the four dogs. But when you get beyond, when you're getting into
1631 six, seven, eight, nine, 10, I think well, you know, individuals should consider moving to,
1632 to a farm, or have more land where they can accommodate that, or the zoning will allow
1633 that, you know. If we grant the individual too have eight to ten dogs, then we open a
1634 floodgate of everybody coming in, and potentially using yours and others as the case.
1635 The County, when it made that decision to do four, I would assume any time they make
1636 those decisions, they do their due diligence in why they make those decisions. And so
1637 that's the rule and I personally want to stick to the rule of what the County's ordinance is.
1638 And while everyone loves their dogs. And loves dogs and cats, you know, we've got to
1639 be cognizant that this is applicable across the county, and we don't want to open up
1640 floodgates of everybody having the ability to have six, seven, animals. So, that's just my
1641 position. I mean the rule states what it states and, and then when we did make exception,
1642 I've noticed that they were in pens and not free roaming and they were, there was a
1643 purpose for that.
1644

1645 Mr. Pollard- I'll just add, I'm in favor of having a following as before. In the
1646 past we have allow people to exceed that. I think we capped it immediately and then gave
1647 them time, gave them a certain amount of time to get down to a certain number, and they

1648 still ended up a little, a little bit above the regulation. But it was an understanding that they
1649 wouldn't add to it. And, and if they ever through the...

1650
1651 Mr. Blankinship- Natural attrition.

1652
1653 Mr. Pollard- Thank you. That's the word I'm looking for, through that. They
1654 will get down to the four and stay on the four. Four or less.

1655
1656 Mr. Lawrence- That leads me to my questions as a newer member of the
1657 BZA. Have we ever approved an increase to 14 pets?

1658
1659 Mr. Green- No.

1660
1661 Mr. Pollard. No.

1662
1663 Mr. Blankinship- I can't think of a 14, can you?

1664
1665 Mr. Pollard- No.

1666
1667 Mr. Gidley- Not right off. There's been some people who had some
1668 acreage, as Mr. Green kind of was alluding to, who had hunting dogs, but I think that was
1669 like, maybe eight or 10.

1670
1671 Mr. Blankinship- Yeah, I remember 7 hunting dogs in one case and I'm sure
1672 there have been more than seven...

1673
1674 Mr. Pollard- That is more than double. I don't think I've ever seen anything
1675 more than double. This is four times what's usually allowed.

1676
1677 Mr. Johnson- And that's one of the things that we have regulations on. How
1678 many pets you could have in your home. And that is one of the things that we have to
1679 regulate as well. And make sure that we're not violating too much, and we also give an
1680 amount to, you know, if you have six, or seven, which is considerable, because they
1681 might... You may have one or two that passed that would also bring it down to where
1682 we're starting off with.

1683
1684 Mr. Green- Or service dogs, we've allowed folks to have service dogs
1685 because they may be suffering from some type of anxiety and those dogs serve a purpose
1686 for that. But I think we will open Pandora's box if we grant too many.

1687
1688 Mr. Lawrence- Last question I have is, that four dog limit in the ordinance,
1689 does that pertain to all the zoning districts in the county, or is there a different requirement
1690 for A-1?

1691
1692 Mr. Blankinship- It is different in A-1. That applies in the residential.

1693

1694 Mr. Lawrence- That applies to residential districts. Okay.
1695
1696 Mr. Blankinship- A-1, there's a distance requirement...
1697
1698 Mr. Lawrence- So, if Ms. Harris lived in an A-1 district, she could perhaps
1699 have 14. Is that correct?
1700
1701 Mr. Blankinship- Yes.
1702
1703 Mr. Green- In A-1 with acreage, right?
1704
1705 Mr. Blankinship- Yeah, there's a distance requirement rather than the total
1706 number.
1707
1708 Mr. Blankinship- So, actually, it's either way because some A-1 lots are only
1709 one acre. So, if you don't meet the distance requirements, then you're limited to the four,
1710 or you can apply for a conditional use permit.
1711
1712 Mr. Lawrence- Which is similar to the requirement we used to have for
1713 backyard chickens, right?
1714
1715 Mr. Blankinship- Yes.
1716
1717 Mr. Pollard- And we're talking about total number of animals. Not just
1718 dogs, right?
1719
1720 Mr. Blankinship- Yes, that's a total of domestic pets.
1721
1722 Mr. Pollard- All right, so the question is what's the number.
1723
1724 Mr. Johnson- And that's one of the regulations that we have here. So, we
1725 don't want to do something that would infringe on other things that we have already made
1726 regulations with as well. Okay.
1727
1728 Mr. Green- But we didn't set those regulations, those are the rules that
1729 the county established. So, we've got to follow the laws and rules that're established by
1730 the County. So, we can grant some exceptions, but, you know, I haven't heard any reason
1731 why we should open that door. So, Mr. Chairman.
1732
1733 Mr. Johnson- With 14, that's a whole lot, you know. So, if you had two or
1734 three more than the four, then we might could do something with that.
1735
1736 Mr. Pollard- So that sounds like seven.
1737
1738 Mr. Johnson- Six. Six or seven, if you want that, but other than that I'd have
1739 to deny it.

1740
1741 Mr. Broadway- We do have these rules for a reason, but the process does
1742 allow us to grant a conditional use permit.
1743
1744 Mr. Johnson- Right?
1745
1746 Mr. Broadway- And I just wonder if we couldn't compromise on a number
1747 between four and fourteen.
1748
1749 Mr. Pollard- Perhaps you have a suggestion.
1750
1751 Mr. Broadway- A few more maybe. Maybe eight.
1752
1753 Mr. Pollard- Like six, seven or eight.
1754
1755 Mr. Broadway- Well, there's no evidence that the animals are not well cared
1756 for.
1757
1758 Mr. Johnson- They all seemed really well taken care of.
1759
1760 Mr. Blankinship- I'm sorry. The public hearing is now closed. Thank you for
1761 hanging out.
1762
1763 Mr. Johnson- Okay.
1764
1765 Mr. Green- The problem I have is that we don't want to open Pandora's
1766 box and then someone can come in in another area and say you allowed eight in this
1767 area. They weren't service dogs. They weren't breeding, they didn't have this, these are
1768 just pets. The rule for the county is four and we, like to say we've made some exceptions
1769 because folks have come in because they needed the dogs. Because, like I said, for
1770 PTSD, anxiety, or other reasons, but I didn't hear that. I don't want my neighbor to have
1771 eight dogs, and if we do this, then you're saying my neighbor can come in and make an
1772 argument that they can have eight dogs and cats or whatever.
1773
1774 Mr. Blankinship- They can make an argument, but every property is unique.
1775
1776 Mr. Green- But the precedence would have already been set and it's
1777 going to be hard to say, you can't do it, but you can do it. I just I'm just not comfortable.
1778
1779 Mr. Pollard- My last question is a suggestion. And maybe there's a, if it
1780 isn't a time constraint, after so many months or year.
1781
1782 Mr. Blankinship- That's certainly a possibility. You could step it down over time.
1783
1784 Mr. Johnson- Yes.
1785

1786 Mr. Blankinship- A number of animals for the next six months, and then a
1787 number of animals for the six months following.
1788
1789 Mr. Pollard- Another comment.
1790
1791 Mr. Lawrence- I had a question, Mr. Chairman. A question for staff. Mr.
1792 Gidley, you noted in your staff report that there's been a number of Community
1793 Maintenance violations on this property over the years. Have those violations been
1794 corrected?
1795
1796 Mr. Blankinship- Let me answer that. I spoke to the Community Maintenance
1797 Inspector, late yesterday, and he is here this morning if you have questions specifically
1798 for him, but he emailed me these photos, which I'm sorry, we didn't get into the
1799 presentation. Go ahead and pass them on down there as well. It's four photos on one
1800 page. So, if you have one page, you have all four photos, and they do show that
1801 everything that remains on the property is under a cover. There is an inoperable vehicle,
1802 but it is under a cover. There are some other materials out there on the site that are under
1803 a cover. Community Maintenance will continue to work with her and make sure that the
1804 property remains in compliance.
1805
1806 Mr. Gidley- Is it in compliance now?
1807
1808 Mr. Blankinship- The inspector told me yesterday that he felt it was in
1809 compliance and we can continue to work with them, work with her, if there are any
1810 outstanding issues.
1811
1812 Mr. Lawrence- What about the sofa?
1813
1814 Mr. Blankinship- It doesn't appear in this photo, which was taken yesterday.
1815
1816 Ms. Harris- I didn't hear what the question was.
1817
1818 Mr. Lawrence- One of the violations on the property was a sofa that was in
1819 the driveway. Has that been removed?
1820
1821 Ms. Harris- It has been covered, so it is out of sight. I do not have access
1822 to a truck or trailer. To get it moved, I thought that Henrico County was going to have a
1823 Community Clean Up, but I understand that that's been postponed indefinitely, so as soon
1824 as I can get someone to come with a truck to remove it, it will be removed. I've asked, I
1825 have tried to hire eight or 10 people to help me. To pay them to remove some of those
1826 items and they just don't show up. I don't know what to do.
1827
1828 Mr. Blankinship- Our focus this morning is on the pets, but certainly, certainly
1829 Mr. Mollen can continue to work with her.
1830

1831 Mr. Lawrence- My point I guess I'm trying to make is, if we're talking about
1832 expanding the number of pets and we also have other Community Maintenance
1833 violations. Is this adding to or stressing the other neighbors? That's the point I'm trying
1834 to make.
1835
1836 Mr. Green- And then in reality, just because you covered that up doesn't
1837 mean rodents, and other animals, couldn't go in there and bury themselves up under that
1838 so I'm not even...
1839
1840 Mr. Gidley- Indoor furniture is not allowed outside.
1841
1842 Mr. Blankinship- Everything here needs to be removed, ...
1843
1844 Mr. Green- Right.
1845
1846 Mr. Blankinship- And she wants to remove it.
1847
1848 Ms. Harris- Yes, I do.
1849
1850 Mr. Johnson- Okay. Thank you.
1851
1852 Mr. Pollard- So, now we need a motion.
1853
1854 Mr. Green- I mean, ...
1855
1856 Mr. Blankinship- Yeah, we can word a condition, however you want to word it.
1857 Do you want to make a motion, or do you want to discuss the condition with the other
1858 members?
1859
1860 Mr. Johnson- Yes, I would like to get their...
1861
1862 Mr. Broadway- I would just say that if we have such a hard-set rule that we
1863 never make exceptions, then there's no use in there entertaining applications for
1864 conditional use permits.
1865
1866 Mr. Green- When we've made exceptions, there have been reasons why,
1867 folks that we've made the exceptions, and they've come in and clearly articulated why the
1868 exceptions have been made and have never been additional violations that we've seen
1869 when we've made those exceptions. I mean, we've made exceptions because, like I've
1870 said, that people have used those, and have brought in those services animals, and their
1871 physicians have certified that those dogs and cats are sometimes needed, and, or we've
1872 seen them in pens because... And the conditions are a little bit better. Those, those are
1873 the reasons why we've done that. But then the problem I have, if we just set a number,
1874 how do you go through the process of selecting the ones you're going to keep versus the
1875 ones you're going to let go. And that's a hard stressful thing to put, place on someone. To
1876 say, okay Muffy, you stay. Duke, you go. And, you know, the other dogs.

1877
1878 Mr. Blankinship- Denial would leave her in the same position, right? Because
1879 she'd have to get down to four.
1880
1881 Mr. Green- But...
1882
1883 Mr. Blankinship- She'd still have to make that same decision.
1884
1885 Mr. Green- True, but she got down to four. She's following the law.
1886
1887 Mr. Pollard- In my opinion, I think, you know, within 90 days it should be
1888 cut in half. Which brings you to eight. And I'm not sure what to do after that. After you get
1889 to eight. Because at some point, you've got to get down to four.
1890
1891 Mr. Johnson- Well, you need to have to...
1892
1893 Mr. Pollard- What's the word again Mr. Blankinship?
1894
1895 Mr. Blankinship- Natural attrition.
1896
1897 Mr. Pollard- Natural attrition.
1898
1899 Mr. Green- But she said only one dog was going to be naturally attributed
1900 to reduction. We don't know the ages of the other dogs or the lifespan and I'm telling you
1901 all if we do this eight, we'll open up Pandora's box, because I would come in and argue
1902 and use this case as an example. That, you know, you've allowed that individual eight
1903 and I want the same eight. When the rule is four. I have pets myself and rules are there
1904 for a purpose, and we've got to follow the rules. And, like I say, if the County went through
1905 the process of determining it, then we, we're obligated to do it. Just like when we hear
1906 these appeals. There's certain things you got to hear on appeals that people have got to
1907 follow.
1908
1909 Mr. Blankinship- The thing is that the Board has delegated to this Board the
1910 authority to grant more than that.
1911
1912 Mr. Green- Well.
1913
1914 Mr. Pollard- And I say, get down to four in a year.
1915
1916 Mr. Blankinship- Four in a year.
1917
1918 Mr. Pollard- Yes sir, that's my suggestion for conditions.
1919
1920 Mr. Green- From what? From 17 to four?
1921
1922 Mr. Pollard- From 17 to eight to four.

1923
1924 Mr. Johnson- So, would we like to...
1925
1926 Mr. Green- Hold on. Hold on. So, logically, follow me; so, for the next 300
1927 days, she could keep 14, 18 dogs and then on that last day, she can get rid of them.
1928 That's what you're saying.
1929
1930 Mr. Pollard- No. After 90 days, go down to eight. Within a year getting
1931 down to four.
1932
1933 Mr. Johnson- Yes, that's the best we can come up with.
1934
1935 Mr. Pollard- Any other members have an opinion on that?
1936
1937 Mr. Johnson- And what you're saying is that in 90 days, you come down to
1938 eight, and then within a year, down to four.
1939
1940 Mr. Lawrence- I can support that.
1941
1942 Ms. Harris- May I speak?
1943
1944 Mr. Johnson- Yes.
1945
1946 Ms. Harris- Thank you again, I have every intention of reducing the
1947 population. The whole purpose of the conditional use permit is to get approval to have
1948 more than four. I would propose that I would like to have eight. I will find homes,
1949 appropriate homes, for all of the other animals. I think a year is probably a reasonable
1950 amount of time. Understanding the difficulty, the shelters and the rescue groups are
1951 having. I've exhausted all my friends. They don't want to hear me one more time, asking
1952 them to take another animal. I've already rehomed six poodles, three cats, and four other
1953 small dogs. None of my friends want to hear from me. They're like, nope. Don't do it. If
1954 you allow me to have eight under the conditional permit, conditional use permit, I will
1955 rehome the remaining animals.
1956
1957 Mr. Green- How soon?
1958
1959 Mr. Johnson- They've got 90 days.
1960
1961 Mr. Green- No, no, how soon?
1962
1963 Ms. Harris- Well, I think 90-day increments would be fine. I will rehome
1964 animals. I will rehome them as quickly as I can. And if given, if you give me 12 months. I
1965 will be down to eight in 12 months. Probably sooner.
1966
1967 Mr. Green- So, right now you have 17.
1968

1969 Ms. Harris- I have 17. I have 4 cats...
1970
1971 Mr. Green- So, for the next 90 days, what we're saying is we will allow her
1972 to continue to have 17 dogs or cats.
1973
1974 Mr. Blankinship- Mr. Pollard's suggestion was for 90 days. Yes. At the end of
1975 90 days, you would have to reduce the number to eight, ...
1976
1977 Mr. Blankinship- Then at the end of a year she would have to get down to four,
1978 is what Mr. Pollard said. And what I'm hearing the applicant propose is that she'd like
1979 some period of time to get down to eight, but she would like that number to stay until
1980 natural attrition reduces it.
1981
1982 Mr. Green- But then why in the previous? I'm saying we've got to be
1983 consistent. Previously we've made we've made rulings and folks had to immediately
1984 reduce. Why are we making such an exception in this one when before we haven't. We've
1985 made, we've made folks, I'm sorry you've got to get down to that number and it was
1986 immediate. Now. I mean, why is this? If that's the case, we need to make that exception
1987 all the time.
1988
1989 Mr. Pollard- I agree with Mr. Green's point in that there isn't anything that
1990 would compel us to go above four. In the past, we have the treated everything on a case-
1991 by-case basis. And so, in the past we have given them time to rehome. And it was similar
1992 cases like this, where someone just has it affinity, love for animals and they are rescuing
1993 them. But how it's zoned matters. And so, if you want to have 17 pets, you need to be in
1994 a different zone.
1995
1996 Ms. Harris- I understand.
1997
1998 Mr. Pollard- And I think that given time to rehome them, getting down to
1999 four is both. We'll stay within the law, we don't set a precedent, but also, we are giving
2000 time for, for certain considerations.
2001
2002 Mr. Green- I'm going to vote against it. I'm sticking with the four, because
2003 I don't want someone coming in two or three meetings later and using this as an example.
2004
2005 Mr. Pollard- They wouldn't have to have 17 pets first. Show you they love
2006 them, show that they take care of them.
2007
2008 Mr. Green- One thing. One thing. One thing that's missing. We don't even
2009 know. I haven't seen, we don't know any vet conditions. We haven't seen how often these
2010 cats and dogs are taken to the vet. We don't know. I mean, to be honest with you have
2011 all of the rabies, have all of their shots been given? We haven't been presented with any
2012 of that. So, these are the things I'm taking in consideration. If you can show me that of all
2013 your cats and dogs all have had their inoculations done, or rabies, all of that, then, you
2014 know, maybe, but I'm not hearing the need it and I didn't see any of that. So, what you're

2015 saying is while we are allowing you all of this, animal service can go out there and fine
2016 me tomorrow because my dog may be out of his rabies shot. Or, if you decide that you're
2017 going to take all of those dogs and cats, like, I would do with my dog, to be housed while
2018 I'm on vacation. You've got to have all that done. I haven't heard where any of that has
2019 been done.

2020

2021 Ms. Harris- I will happily provide the Board with proof of rabies vaccine.
2022 My animals do not go to the vet unless they need to go to the vet. They are all healthy as
2023 the police officer, APO Drinkwater, could have testified, or you would see that if that
2024 evidence had been produced.

2025

2026 Mr. Green- Mr. Chair. My dog does not go to the vet unless he isn't
2027 healthy, but the County says I have to have my dogs. I have to have my dogs inoculated
2028 and ...

2029

2030 Mr. Blankinship- She said she'd produce those records if you all want them.

2031

2032 Mr. Green- Well, I'd like to see them.

2033

2034 Mr. Broadway- Is proof of inoculation a usual requirement?

2035

2036 Mr. Green- No.

2037

2038 Mr. Broadway- Or a condition?

2039

2040 Mr. Blankinship- I don't think we've ever asked for it before.

2041

2042 Mr. Green- But we've never granted this many dogs.

2043

2044 Mr. Broadway- Okay. I don't know why we're asking for it now.

2045

2046 Mr. Gidley- Did you make a motion Mr. Pollard?

2047

2048 Mr. Pollard- I'm putting the pressure on Mr. Johnson.

2049

2050 Mr. Green- This is your district, Mr. Johnson, so.

2051

2052 Mr. Johnson- I see you like, you love dogs, and you try it, and not only the
2053 dogs, but animals trying to keep the best homes for them, and trying to get them down to
2054 the limit that we, that's regulated. Now, I would like to see the, those, I would like to see
2055 the animals been distributed to someone that can, can take care of those. What's the one
2056 of the...

2057

2058 Mr. Johnson- Yes.

2059

2060 Ms. Harris- The question at hand is not whether they are properly cared
2061 for.
2062
2063 Mr. Johnson- No, no, no, no it's not that.
2064
2065 Mr. Pollard- What's your motion Mr. Johnson?
2066
2067 Mr. Blankinship- We have a lot to do and it's 11:59.
2068
2069 Mr. Johnson- Yes. I make a motion that, within 90 days you bring them down
2070 to eight, all of the animals in the home. And also, by the end of the year that we would
2071 also know that you are down to the limit of four.
2072
2073 Mr. Green- For point of clarification, by end of the year, you mean 12
2074 months.
2075
2076 Mr. Johnson- 12 months, right.
2077
2078 Mr. Green- Calendar year or fiscal year?
2079
2080 Mr. Blankinship- No, it's just starting from this month.
2081
2082 Mr. Pollard- I second the motion.
2083
2084 Mr. Pollard- You discuss...
2085
2086 Mr. Johnson- It's been motion and second.
2087
2088 Mr. Pollard- Any further discussion?
2089
2090 Mr. Johnson- Any discussion? Any discussion? None. All in favor? Is there
2091 a 2nd?
2092
2093 Mr. Blankinship- Yes, it's been seconded.
2094
2095 Mr. Pollard- I did.
2096
2097 Mr. Johnson- All in favor say, aye.
2098
2099 Board- Aye.
2100
2101 Mr. Johnson- All opposed.
2102
2103 Mr. Green- No.
2104

2105 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **approved case**
2106 **CUP2023-00028** subject to the following conditions:

- 2107
- 2108 1. This approval only allows for the keeping of dogs and cats belonging to the owner. No
2109 boarding or breeding of animals will be permitted.
2110
 - 2111 2. The property must be maintained such that the pets do not produce any objectionable
2112 odors or vermin on surrounding properties.
2113
 - 2114 3. No later than October 30, 2023, all building code and community maintenance
2115 violations must be abated.
2116
 - 2117 4. No later than October 30, 2023, the number of dogs and cats on the property must be
2118 reduced to no more than eight.
2119
 - 2120 5. This conditional use permit will expire July 29, 2024.
2121

2122

2123 Affirmative:	Broadway, Johnson, Lawrence, Pollard	4
2124 Negative:	Green	1
2125 Absent:		0

2126

2127

2128 **CUP2023-00032 - Angelica Alley: conditional use permit to operate a large family**
2129 **day home at 1200 Cole Boulevard, Cole Run, Fairfield. Parcel 783-763-7894. Zoning:**
2130 **R-5AC, General Residence District (Conditional). Code Section: 24-4402.**

2131

2132 Mr. Blankinship- Alright, next case is Conditional Use Permit 2023 number 32,
2133 Angelica Alley, a conditional use permit to operate a large family day home at 1200 Cole
2134 Boulevard, in Cole Run, in the Fairfield Magisterial District. Would everyone who intends
2135 to speak to this case, please stand and be sworn. Raise your right hand, please. As soon
2136 as you have a moment. Raise your hand, please. Do you swear the testimony you're
2137 about to give us the truth, the whole truth, and nothing but the truth, so help you God? All
2138 right. Mr. Gidley.

2139

2140 Mr. Gidley- This case was deferred from my last month's meeting
2141 because of technical difficulties on Webex. This is her property here in yellow. The subject
2142 property is part of a zero-lot-line development of 13 lots. As you can see, she's located at
2143 the end of the cul-de-sac next to Interstate 295. This is the dwelling here. The lot itself is
2144 a fifth of an acre and contains a 1,674-square-foot dwelling. The rear yard is screened
2145 from Cole Boulevard and the adjacent property by a 6-foot-tall privacy fence. There are
2146 also trees and a 6-foot-tall chain link fence against the ramp coming down from Interstate
2147 295. That's on the other side. The applicant's parents acquired the home in May of last
2148 year, and their daughter, who lives there, has been caring for up to four children, Monday
2149 through Friday. She would like to upgrade her license to care for at least 12 children with
2150 the assistance of her mother and sister. And, as, you know, this requires a conditional
2151 use permit. In evaluating this request, the existing single-family residence is consistent

2152 with the underlying zoning and comprehensive Plan. Because the property is located at
2153 the end of the cul-de-sac, it is larger than the other lots in the neighborhood. In addition,
2154 there is only one abutting home with woods across the street and the off ramp on the
2155 eastern and northern sides. The rear yard, which is fenced, is large enough to
2156 accommodate the designated play area. The driveway however, as you can see here, is
2157 rather shallow and would likely need to be extended to accommodate the additional
2158 employees. Pick up and drop can occur in the cul-de-sac, again because there's not really
2159 much traffic there. Assuming the applicant follows the conditions of approval, staff does
2160 not anticipate any significant detrimental impacts on nearby property. In conclusion, the
2161 home and proposed use are consistent with the property's zoning and comprehensive
2162 plan designations. The use can be accommodated on the property, and in the home. We
2163 do not anticipate any substantial detrimental impacts. Therefore, we recommend approval
2164 subject to the conditions in your staff report. This concludes my presentation. If you have
2165 any questions, I'll be happy to answer those. Thank you.

2166
2167 Mr. Johnson- We will now hear from the applicant.

2168
2169 Ms. Alley- I'm ... A.L.L.E.Y.

2170
2171 Mr. Johnson- Okay, can you bring the mic closer to you so we can hear you.

2172
2173 Ms. Alley- I just want to start this business just so I could stay at home
2174 with my nieces and nephews and close friend's kids. I have one niece, and now three
2175 nephews. But I just want to be able to stay at home, watch when my sisters are at work.
2176 And then when my brother has kids, I'll watch his kids. It's more like a family thing than
2177 out in the public.

2178
2179 Mr. Blankinship- You're going to have more than six?

2180
2181 Ms. Alley- Yeah, my sister just gave birth in May to her second kid. And
2182 then I do want to watch some friend's kids. And my one neighbor, the one right next to
2183 me, I actually help her out occasionally when she needs it.

2184
2185 Mr. Blankinship- This is a business it's not just...

2186
2187 Ms. Alley- Yeah, my sisters are paying me.

2188
2189 Mr. Blankinship- Okay. I'm making sure we were not doing all this
2190 unnecessarily. Alright, great.

2191
2192 Mr. Johnson- Any questions for the applicant?

2193
2194 Mr. Lawrence- I just had one. I think the staff report indicated this. Just to
2195 understand Mr. Gidley, staff is recommending that the driveway be extended, or enlarged,
2196 to accommodate additional vehicles.

2197

2198 Mr. Blankinship- The condition that's drafted says, employees of the family day
2199 home must park on the property. Not on the public right-of-way. So, we didn't specify how
2200 they extend the driveway or whether. That's the condition that their employees have to
2201 park on the property.
2202

2203 Mr. Lawrence- So, I guess that follow-up question is for the applicant. Ms.
2204 Alley, how many employees will there be?
2205

2206 Ms. Alley- It just me, and then my mom occasionally helps. And
2207 sometimes my sister, if I really need it, but...
2208

2209 Mr. Lawrence- Okay, and so your current driveway would that accommodate
2210 two or three vehicles?
2211

2212 Ms. Alley- It fits two.
2213

2214 Mr. Gidley- So, if she has only one person at a time, helping her out, and
2215 then she has one vehicle.
2216

2217 Mr. Lawrence- Then she has sufficient parking?
2218

2219 Mr. Gidley- Yes.
2220

2221 Mr. Lawrence- Okay. Thank you.
2222

2223 Mr. Johnson- Okay. Any other questions for the applicant? Does anyone
2224 want to speak in opposition? Okay. Any questions for the board? Okay. Alright, a motion
2225 would be in order.
2226

2227 Mr. Pollard- Hold on one second.
2228

2229 Mr. Johnson- Okay. A motion would be in order.
2230

2231 Mr. Pollard- I move that we approve this conditional use permits subject to
2232 the conditions recommended by the staff. It is consistent with the comprehensive plan
2233 and zoning ordinance. Family day homes provide an important service to the community.
2234 This property has a large yard, and the cul-de-sac provides a safe place for a drop off
2235 and pickup.
2236

2237 Mr. Lawrence- Second.
2238

2239 Mr. Johnson- It's been motioned and seconded. All in favor, say, aye.
2240

2241 Board- Aye.
2242

2243 Mr. Johnson- All opposed, say nay. Motion passes.

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On a motion by Mr. Pollard, seconded by Mr. Lawrence, the Board **approved case CUP2023-00032** subject to the following conditions:

1. This conditional use permit applies only to the operation of a large family day home. All other applicable regulations of the County Code remain in force.
2. Employees of the family day home must park on the property, not on the public right-of-way.
3. Play area and equipment must not be located in the front or side yard.

Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
Negative:		0
Absent:		0

CUP2023-00039 - Fred and Dianne Mills: conditional use permit to build a garage in the front yard at 5387 New Market Road, Plantation Bluffs, Varina. Parcel 843-671-4171. Zoning: A-1, Agricultural District. Code Section: 24-4404.A.1.

Mr. Blankinship- Okay. Conditional Use Permit 2023 number 39, Fred and Diane Mills. A conditional use permit to build a garage in the front yard at 5387 New Market Road, in the Plantation Bluff Subdivision, in the Varina Magisterial District. Would everyone who intends to speak to this case, please stand and be sworn in. Raise your right hand please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley.

Mr. Gidley- Yes, sir. Thank you, Mr. Secretary. The subject property contains 7.71 acres and is located off of New Market Road, just before you enter Charles City County. In 1998 it was part of a 25-acre parcel that has since been divided into three large lots. You can see here the applicant's home. It's close to 4,000 square feet in floor area, and it contains a 2-car garage. They also have an existing garage located on the property, and it's located to the side of the house. The applicants evidently own several vehicles that need to be kept in climate-controlled conditions, and these necessitate the additional storage space. As a result, they are requesting permission for an additional detached garage. This is their home here, New Market Road, the garage you just saw, the proposal one would go right here. And as you can see, there's an existing drive that comes off New Market, up to this garage here, and the new garage would also be served by this driveway. The proposed new garage would be 1,440 square feet in total area. And this is an idea of what it would look like. While the applicant's rear yard is rather large, it does have environmental constraints, including a 100-year floodplain and potential wetlands that limits its use. In addition, the applicant's well and septic system, which is also located in their side yard, extends over into the rear yard here. As a result, they're requesting this conditional use permit to place a new garage in the side yard. In evaluating this request, the site is zoned A-1, Agricultural district and contains almost eight acres of

2291 land. The houses on either side are on similar sized lots. Otherwise, the surrounding area
2292 is mostly forests and farms. A large metal garage would be out of place on a suburban
2293 lot. The applicant's lot, as I stated, is almost eight-acres in area. The proposed garage
2294 should not be visible from the two neighbors and would be consistent with the agricultural
2295 uses that dominate this area. It would also be screened by mature trees from Route 5
2296 and the Capitol Trail. As a result, from a practical matter, staff doesn't really see any
2297 detrimental impacts on nearby property. In conclusion, the rear yard slope, environmental
2298 constraints, and drainfields limits the usefulness of the applicant's rear yard, making the
2299 preferred location more appropriate. On an almost eight-acre parcel the proposed garage
2300 would have no detrimental impacts on nearby property. As a result, staff recommends
2301 approval of this request, subject to the conditions in your staff report. If you have any
2302 questions, I'll be happy to answer those. Thank you.

2303
2304 Mr. Green- Once again, they have a two-car garage. They have a three-
2305 car structure, and for another two. For what purpose?

2306
2307 Mr. Gidley- They evidently have collectable cars that need climate-
2308 controlled space. The applicant could go into more detail in that with you. That is a lot of
2309 garage space, but from our perspective, just looking at impacts, we don't necessarily see
2310 any. But, I agree that is a lot of garage space.

2311
2312 Mr. Green- And then, of course, the other question I have is, in hearing
2313 another case we had, the one structure is how many square feet? The three-car garage.

2314
2315 Mr. Gidley- Let's see here, it's 60 by 30 so that'd be 1,800 square feet.

2316
2317 Mr. Green- And the second one is going to be what?

2318
2319 Mr. Gidley- This says 1,310.

2320
2321 Mr. Green- So, it's under the 4,000 of the house, so we can. That's not
2322 problematic.

2323
2324 Mr. Gidley- Yes, sir.

2325
2326 Mr. Green- Just something y'all said that makes me remember that now.

2327
2328 Mr. Blankinship- We do check.

2329
2330 Mr. Gidley- Yes.

2331
2332 Mr. Lawrence- Also, Mr. Gidley, a follow up to Mr. Green's question. So, this
2333 accessory structure, it's being proposed for a garage and then storage on the second
2334 floor. Under the ordinance, with this applicant, or anyone else that was granted a similar
2335 permit, would they be able to use that second floor for living space, or is that restricted
2336 for garage use?

2337
2338 Mr. Gidley- It would depend upon how they wish to use it. Obviously, if
2339 they wanted a short-term rental or an accessory dwelling unit, that they would need to
2340 come into this Board for a conditional use permit. If they just had a simple guest house
2341 out there with no cooking facilities in it, where, you know, the brother visited for a week
2342 or so, but the brother actually has a home somewhere else where he lives. Then the
2343 brother can sleep up there and bathe up there. But it wouldn't be an actual apartment.
2344
2345 Mr. Lawrence- So, this permit is not actually for an accessory dwelling. Is that
2346 correct?
2347
2348 Mr. Gidley- Yes, sir. That's correct.
2349
2350 Mr. Lawrence- So, that would require a separate permit?
2351
2352 Mr. Gidley- Yes, sir. If for some reason they decided they wanted to use
2353 this for an accessory dwelling unit or short-term rental they would need to come back to
2354 this board. Yes, sir.
2355
2356 Mr. Lawrence- Thank you.
2357
2358 Mr. Gidley- Yes, sir.
2359
2360 Mr. Green- And the other the other three-car garage, did they have to
2361 come to us for that other three-car garage they put out there. Or they were able to do
2362 that?
2363
2364 Ms. McChesney- I can answer that. My name's Holly McChesney. M. A.C.C. H.
2365 E. S. N. E. Y., I'm a representative for Fred and Diane Mills. I'm their daughter. They're
2366 traveling, already had plans to travel today, over the next week and a half, so they couldn't
2367 be here. So, the former owner built the garage that's there today and did acquire a
2368 conditional use permit at that time. My father, he's retired, he was born in the fifties and
2369 loves collectable cars, muscle cars. He owns a variety of makes and models of older
2370 vehicles that he tinkers with, but all are up and running, and takes to car shows in the
2371 area. You know, every weekend goes to car shows. That's just a hobby of his and
2372 something social that he interacts in. And so, he just has a variety of those cars that are
2373 not daily drivers, their classic vehicles. And then they have their daily drivers. He has a
2374 pickup truck. My mom has a car, and those are the ones that are parked at the home. I
2375 think the current garage that is there, I think if he had built it, he would have built it
2376 differently to where he wouldn't need a second garage. But now that they've moved there
2377 and, you know, just wants to be able to keep the cars that he has. There's no business
2378 associated with this, it's all personal use. There's no intention to have an extra dwelling.
2379 It'll be finished inside, but not finished up to the standards of, like someone dwelling there,
2380 but it'll be climate controlled. It will really be the finishing aspect of it. I think, as a picture
2381 shows, there are woods in front of where they would be building it. So, it's not going to be
2382 extremely visible from someone driving by. And they're very comfortable with the

2383 conditions laid out. In that, you know, they'll make the second garage similar to the first
2384 one that's already there. So, it won't be extremely different, and an eyesore. And while, I
2385 guess it says this is being proposed for in front of the house, as you can see in the picture,
2386 it's really more adjacent to the home. It's not really an option to build behind the property
2387 because of reasons already stated, like the well, the slope being at the backyard. I'm
2388 happy to answer any other questions.

2389
2390 Mr. Green- Thank you.

2391
2392 Mr. Johnson- And the cars in the garage, those are cars that he has for
2393 pleasure. those are older cars as well.

2394
2395 Ms. McChesney- Correct. Yes, so the daily drivers, they like to park at the
2396 home. They also have like bikes, and I have children, so they have toys and stuff in there,
2397 in the garage connected to the home, for like grandchildren, and then the classic cars are
2398 in the separate. The goal is to have them in a separate garage space.

2399
2400 Mr. Green- Question. Stay on that picture. Is that the house right there?

2401
2402 Ms. McChesney- In the back, yes, that's the one side of the house.

2403
2404 Mr. Johnson- And is the 25-acres still together?

2405
2406 Mr. Blankinship- No, it's been subdivided.

2407
2408 Mr. Green- Seven.

2409
2410 Mr. Gidley- Roughly eight-acres.

2411
2412 Mr. Johnson- Which is space yeah, they've got good space then. Okay. Any
2413 other questions for the applicant?

2414
2415 Mr. Green- I have a question for staff. Mr. Gidley, when we've seen these
2416 before, we've always asked, and this is a question for me because she answered it, that
2417 they inherited the garage that was there. I thought we typically liked them to build a garage
2418 is kind of consistent with the house. So, the person before must have had it for commercial
2419 use or something. Because that seemed to be out of character with the structure of the
2420 house.

2421
2422 Mr. Gidley- I don't recall any conditional use permit being an issued there.
2423 It came to mind. It wasn't my case actually, but preparing for...

2424
2425 Mr. Blankinship- It was 2008 so...

2426
2427 Ms. McChesney- My parents spoke with the previous owner, because they
2428 moved from Lynchburg, Virginia so the operations of Henrico County were new to them.

2429 And he went to the previous owner to understand what he had gone through. From what
2430 he said, was he obtained that conditional use permit, and was told one of the conditions
2431 of approval was that it needed to be maybe the brown that it ended up at or black, like a
2432 dark color. I don't think that was what he had suggested according to him, and I think that
2433 was a condition for approval that it'd be the color that it ultimately was.

2434
2435 Mr. Blankinship- The advantage of that is that it's really inconspicuous from
2436 New Market Road.

2437
2438 Ms. McChesney- Yeah, I think that's what drove it.

2439
2440 Mr. Green- No, my question is that just looks more like a commercial
2441 building than something you would just keep regular cars in. It looks like you pull in a
2442 tractor, trucks, and all that, no, no offense, I'm not going against your parents...

2443
2444 Ms. McChesney- My father wanted me to point out in the pictures that this
2445 gentleman showed earlier, what this garage will look like, it will be probably more pleasing
2446 to the eye in that, yes, the garage doors are not going to be the full length of the building.
2447 It will have gabled roof; it'll look more like a traditional residential garage than what's
2448 currently there.

2449
2450 Mr. Green- No, it was just a question because we typically like to have
2451 them build, or stay within the consistency of the house and you answer that question.
2452 That was no offense to what y'all were doing.

2453
2454 Mr. Blankinship- Okay.

2455
2456 Mr. Johnson- All right. Any against the application? None. Okay. Alright, and
2457 now, I motion, move that we approve this. This is a conditional use permit, subject to the
2458 conditions recommended by staff. And the use is consistent with the comprehensive plan,
2459 and the zoning ordinance. The garage will be screened by natural trees, and we'll also
2460 have 300 feet from the neighbor's house.

2461
2462 Mr. Green- Second.

2463
2464 Mr. Johnson- It's been motioned and seconded. All in favor, say, aye.

2465
2466 Board- Aye.

2467
2468 Mr. Johnson- All opposed say, nay. Motion passed.

2469
2470 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **approved case**
2471 **CUP2023-00039** subject to the following conditions:

2472
2473 1. This conditional use permit authorizes the construction of a detached garage in the
2474 front yard. All other applicable regulations of the County Code remain in force.

2475

- 2476 2. This conditional use permit applies only to the improvements shown on the plot plan
- 2477 and building design filed with the application. Any additional improvements must comply
- 2478 with the applicable regulations of the County Code. Any substantial changes or additions
- 2479 to the design or location of the improvements will require a new conditional use permit.
- 2480
- 2481 3. The new construction must match the existing garage as nearly as practical in materials
- 2482 and color.
- 2483
- 2484 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant
- 2485 must obtain approval of an environmental compliance plan from the Department of Public
- 2486 Works.
- 2487
- 2488 5. Any exterior lighting must be shielded to direct light away from adjacent property and
- 2489 streets.
- 2490
- 2491 6. The applicant must obtain a building permit for the proposed garage by July 28, 2025,
- 2492 or this conditional use permit will expire. If the building permit is cancelled or revoked after
- 2493 that date due to failure to diligently pursue construction, this conditional use permit will
- 2494 expire at that time.
- 2495

2497	Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
2498	Negative:		0
2499	Absent:		0

2500

2501

2502 Mr. Blankinship- Conditional Use Permit 2023 number 40 has been deferred.

2503

2504 **CUP2023-00041 - Cynthia Leal: conditional use permit to allow short-term rental of**

2505 **a dwelling at 8700 Hungary Spring Road, Laurel View, Brookland. Parcel 767-756-**

2506 **0656. Zoning: R-3, One-Family Residence District. Code Section: 24-4431.A.**

2507

2508 Conditional Use Permit 2023 number 41, Cynthia Isa Leal, a conditional use permit to

2509 allow short-term rental of a dwelling at 8700 Hungry Spring Road, in the Laurel View

2510 Subdivision, in the Brookland Magisterial District. The applicant is on Webex. Is there

2511 anyone in the room who intends to speak to this case? No one is here for 41. Alright, I

2512 will mention there were several emails that came in last night after the close of business,

2513 so I will distribute them to you now. I didn't do it earlier just because there was so much.

2514 No, I did distribute some of them. The one that is headed "8700 Hungry Spring Road"

2515 pertains to this case. The one that is headed "Tina Durrett", that's one of the neighbors,

2516 that pertains to this case.

2517

2518 Mr. Green- For or against?

2519

2520 Mr. Blankship- Well, one is from the applicant, and one is in opposition, and

2521 I will distribute the other two as Mr. Gidley presents his report.

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Mr. Gidley- Thank you, Mr. Secretary. The subject property is located off Hungary Spring Road across from the Goodwill Baptist Church and Hermitage High School. According to the County Real Estate records this is a three-bedroom dwelling constructed in 1955. The applicant, however, indicates there are four bedrooms. She has owned the property since 2019. Earlier this year we received a complaint from a neighbor about the property being used for a short-term rental, and a recent party that had occurred that was disruptive. In addition, the neighbors stated that the applicant did not live at the property. Only visited once or twice a year, but otherwise lived in California. A Notice of Violation was issued, and the applicant ceased the activity. She's now applied for permission to have hosted stays on the property for potentially more than 60 days a year. The applicant needs a conditional use permit for the more than 60 days, and also, she appears to lack the required 80 feet of a lot with, which would be a second reason for the use permit. In evaluating this request, the property is consistent with the surrounding neighborhood, and is less dense than some nearby multifamily development. There's an existing garage in the back of the property that provides some screening from nearby property however, staff does recommend enclosing the rear yard with a privacy fence if approved. This is looking north towards on one of the neighbors on the side. Again, a privacy fence would help to, you know, address some of the impacts on nearby property owners. There are two potential issues that have arisen. First, a complainant, as noted, indicated the applicant lives in California. The applicant's affidavit of residency was filled out in California, which is okay. She has indicated she is a doctoral student at the University of California at Davis. Staff emailed her number of times trying to get a handle on how many days she has been in the house this year and how many days she will be there for the remainder of the year. But the response is never totally clear. For instance, she wrote "I am a PhD candidate in California, and I'm teaching over the summer there, I went to grad school there. I've been working to afford to live..." She wrote, "there 185 days of the year..." I assume she meant here "...and just hadn't secured work, which I have for this fall." Finally, the car parked outside the dwelling has expired California tags. So, staff is uncertain at this point whether she lives here as her primary residence or not. We just don't know. The second issue concerns parking. This is the side street here and this is her rear yard over here. Staff goes by county records, which indicates there are three-bedrooms, while the applicant indicates there are four. If it's done for three bedrooms, and she's in one of them, they would need total parking for three cars minimum.

Mr. Blankinship- Let me interrupt you just for a second. In the staff report you'll see that it says two-bedrooms. The applicant submitted a copy of an appraisal that was done to the property that showed three bedrooms. So, we forwarded that to the real estate assessment staff, and they checked the property and confirmed that. So, they have updated the county record to now reflect three bedrooms. Excuse me, Mr. Gidley.

Mr. Johnson- Oh, okay.

Mr. Gidley- Yes sir. Thank you. Anyway, they would need at least three parking spaces for this use, that must be on site. And as a result, the applicant has

2568 indicated they could potentially go into the rear yard. They'd have to come in off the side
2569 street and put the driveway in here somewhere in order to get it on site.

2570
2571 Mr. Blankinship- There is a gate there, and there might be a curb and gutter.

2572
2573 Mr. Gidley- Let's see here. Yeah, there's a gate down here, as Mr.
2574 Blankinship indicated, and I didn't see any curb here. So, in conclusion, the property is
2575 consistent with the surrounding neighborhood. A short-term rental for more than 60 days,
2576 on a lot under 80-feet in width is allowed with the approval of a conditional use permit.
2577 The applicant however must live in the home at least 185 days per year, and she's not
2578 clearly stated where she has lived this year, or where she will live once the fall semester
2579 starts. If the applicant can convince the Board she complies with the residency
2580 requirement of 185 days, then staff would recommend approval of this request subject to
2581 the conditions in your staff reports, including those requiring fencing and onsite parking.
2582 This concludes my presentation. If you have any questions, I'll be happy to answer those.
2583 Thank you.

2584
2585 Mr. Green- I have a technical question, because when you have a fence
2586 that's already there, let's assume you have a fence that's running along the side yard and
2587 it's not your fence, but the neighbor's fence, and you all are recommending they put up a
2588 privacy fence. How do you do that? Do you have to get the neighbor's permission to take
2589 that chain link fence down, or do you just put a privacy fence up abutting that chain link
2590 fence.

2591
2592 Mr. Gidley- Give me a moment.

2593
2594 Mr. Blankinship- Normally, it would just be abutting it. You'd put it on your side.
2595 If you own the chain link fence, you might take it down and replace it with a privacy fence,
2596 but if it's not yours then no, you just put up against it.

2597
2598 Mr. Green- Or do most folks just ask, I'm upgrading can I take your fence
2599 down and put...

2600
2601 Mr. Blankinship- They can certainly do that.

2602
2603 Mr. Green- Okay. Okay. Thanks.

2604
2605 Mr. Gidley- Sometimes they are back-to-back.

2606
2607 Mr. Green- Like that one.

2608
2609 Mr. Gidley- Yeah, that's what I was looking for. Mr. Green.

2610
2611 Mr. Lawrence- I have some questions for staff Mr. Chairman. First question I
2612 have is I noticed in reading the staff report that the applicant failed to check one of the
2613 boxes on the short-term rental checklist for applicants. The following box was unchecked:

2614 *Detailed instructions for emergency shut off of gas, electricity, and water. So, I guess*
2615 *maybe that's a question for staff and for the applicant. Is the applicant saying they're not*
2616 *going to provide that or is that an oversight on the application.*

2617
2618 Mr. Blankinship- They'd be required to provide it so it's not optional.
2619

2620 Mr. Lawrence- Okay, but it wasn't...

2621
2622 Mr. Blankinship- It's on the checklist as kind of as a reminder. It's not optional.
2623

2624 Mr. Lawrence- Okay. Another question I had; the staff report indicates that
2625 the County's allowed short-term rentals since 2015.
2626

2627 Mr. Blankinship- That's right.
2628

2629 Mr. Lawrence- I thought that the short-term rental ordinance was adopted in
2630 2021. Am I mistaken on that?
2631

2632 Mr. Blankinship- The entire code update was adopted in 2021, but the short-
2633 term rental ordinance was already in there and that was just carried forward with the
2634 update.
2635

2636 Mr. Lawrence- So, we were allowing short-term rentals before the General
2637 Assembly got into the grand debate about local authority?
2638

2639 Mr. Blankinship- Well, the General Assembly has debated that many times. I
2640 can go back and double check that date for you.
2641

2642 Mr. Gidley- I thought that was in the new Code.
2643

2644 Mr. Blankinship- It is also in the new code, but we had already allowed short-
2645 term rentals before that.
2646

2647 Mr. Pollard- Is the difference in 2021 our body took it over? Is that the
2648 difference? In 2015 someone else, the Planning Commission?
2649

2650 Mr. Blankinship- I'm pretty sure that we were approving, the BZA was
2651 approving them before that too. I'll check that separately. I'll look that up for you.
2652

2653 Mr. Lawrence- Okay, I was just curious on that. The next question I have was
2654 about off-street parking, because the staff report indicated there was off-street parking on
2655 both Hungry Spring and Marcie Drive. Then another part of the report had indicated there
2656 was not off-street parking available. So, I'm a little confused on that issue. Or maybe I just
2657 misread the report.
2658

2659 Mr. Gidley- You can see here; she parks on the side of the street right
2660 now. Which for just ordinary use is permitted. What would happen though with the short-
2661 term rental, she would be required by Code to provide parking on-site. Which would mean
2662 in her yard, rather than in the right-of-way. That's why she would need to establish a
2663 driveway into the backyard.
2664

2665 Mr. Lawrence- Well, we have a lot of these neighborhoods in the county
2666 where there's no curb, and people are parking on what appears to be a yard. But is this
2667 considered off-street parking? Or is this actually considered to be parking on site?
2668

2669 Mr. Gidley- Right here would not be considered to be parking on site
2670 because she does not own this land. It is county owned right-of-way.
2671

2672 Mr. Lawrence- That is county right-of-way?
2673

2674 Mr. Blankinship- Right-of-way runs either by the fence or a couple of feet
2675 toward the street from the fence.
2676

2677 Mr. Lawrence- Okay. In terms of Hungary Spring Road, where the house
2678 fronts, I don't believe you can park on Hungary Spring Road. Can you?
2679

2680 Mr. Gidley- No sir.
2681

2682 Mr. Green- So, where's the parking?
2683

2684 Mr. Johnson- Yeah.
2685

2686 Mr. Blankinship- One of the proposed conditions is that she would be required
2687 to provide parking on the site, on the property, ...
2688

2689 Mr. Lawrence- In her backyard.
2690

2691 Mr. Gidley- Yeah, there's not enough room here...
2692

2693 Mr. Blankinship- That's why I pointed out there is a gate in the fence. I'm pretty
2694 sure there is a gate in the fence that she can just open that gate and prepare a surface
2695 between Marcie Drive and the garage.
2696

2697 Mr. Green- Where's she claiming her residence? Virginia or California?
2698

2699 Mr. Blankinship- That I would like for you to ask the applicant, she'll be joining
2700 us on Webex in just a moment.
2701

2702 Mr. Green- Because technically she has California plates. Anyone who
2703 has Virginia residence, you have to have a Virginia license within a certain period of time

2704 from moving from any other state. So, this leads me to believe that she's got California
2705 residence.
2706
2707 Mr. Gidley- That was one of the issues...
2708
2709 Mr. Blankinship- We did let her know that she will need to discuss that with you.
2710 She has to provide you evidence on that point.
2711
2712 Mr. Lawrence- Another question I have I think was clarified by Mr.
2713 Blankinship. I was a little bit confused, but I guess there was some discrepancy between
2714 the number of bedrooms that the applicant stated she had, and she mentioned four, I
2715 think, and the assessment records said two. Now, understand, it's three.
2716
2717 Mr. Blankinship- The assessment record has been updated to three. Yes.
2718
2719 Mr. Lawrence- So, we kind of split the difference.
2720
2721 Mr. Blankinship- Well, that was the appraisal that she submitted, it had three
2722 bedrooms and an office.
2723
2724 Mr. Green- Oh.
2725
2726 Mr. Blankinship- My suspicion is that she was counting the office as a bedroom,
2727 but that's only my suspicion.
2728
2729 Mr. Lawrence- Does that mean she could have three guests?
2730
2731 Mr. Blankinship- She could have four guests in two bedrooms.
2732
2733 Mr. Lawrence- But only required to have two parking spaces?
2734
2735 Mr. Blankinship- Right, you are assuming that the two guests, if they're sharing,
2736 they come in the same car as well.
2737
2738 Mr. Lawrence- Okay. That's all I have right at the moment.
2739
2740 Mr. Johnson- Okay. Okay. Is the applicant up? Do we have any more
2741 questions? Now we'll hear from the applicant.
2742
2743 Mr. Blankinship- Ms. Le-ill or Le-oll?
2744
2745 Ms. Leal- You able to hear me?
2746
2747 Mr. Blankinship- Yes, thank you.
2748
2749 Ms. Leal- Hi, good morning. Good afternoon. Good day.

2750

Mr. Pollard- Good morning.

2751

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Ms. Leal- Hi, my name is Cynthia Leal. L. E. A. L. is my last name. I am calling in regard to applying for a conditional use permit. I'd love to review some of the things that were brought to my attention via the agenda and your presentation. Thank you so much for hearing my application. So, firstly, I'd love to address the number of rooms, the Board member who said that yes, I do consider the office a bedroom, so that is why I've been saying four. But it's called an office via the appraisal because there is a door. There are two bedrooms that are connected, so that's why they're calling it an office. I do live in that bedroom. That's my bedroom and this is my primary residence. I have all my clothes there. I have my dog's ashes there. This is where I have been working towards living. An error on the part of the County is that so..., and as for my application, my family actually passed, and I had to reverse a reverse mortgage. So, the neighbors have been familiar with the fact that I haven't been around, and that has been because I was working on refinancing and purchasing the home. Which I did acquire on September 21st of '21. I was in grad school at the time, and that's why you can see a car that says California license plates. I am a PhD student in California. Um, I spent the past year applying to be a professor at VCU and the surrounding areas and maybe you're familiar with the kind of maxed out, academic problem right now where everybody's trying to get jobs in academia. There's just too many people who are qualified. So, I've just not been able to get secure work as a professor in the area and spent the past year driving back and forth from Baltimore, Maryland, which I was located at prior. I grew up in the home. We moved there when I was four years old and my grandmother kind of cultivated this yard. The neighbors are familiar with the fact. My neighbor, especially the one that you can see in the image with a little white fence, watched me grow up there from the age of four. And I went to grad school after, some years in Baltimore. My mom lived in the home until she was paralyzed, and I had to put her in a nursing home. Then she passed in 2019, which I spent a year and a half, two years, trying to get the property in my name and be able to move back home to my property where I grew up. So, I am a single person, and these are a lot of rooms. I have unfortunately had a lot of hardship due to my mother's mental illness and the reverse mortgage scam that she had to deal with. So, I've been working on that for about ten years and saving up and figuring out, you know, fixing up the property to be able to live in it. Given the amount of space and my need, I was hoping to have a short-term rental, which I had been doing and I didn't realize that there was this process. In regard to the noise of a party. You know, this is unfounded. I had a like a gathering of small amount of people that ended before midnight, and I received no complaints to the neighbors about the sound, which was contained, like, in my house. So, it wasn't out of the house, and it was at a reasonable sound level. I wouldn't have really even considered it a party. There were paintings, and my friend was showing some paintings and we had some like music playing. In regards to the other conditions that are required, I would love to have a security fence around my property. I currently can't afford that, but I did recently just plant some vines. You can see in the pictures that there are some Winter Creeper vines already like volunteers, that have been growing up around the fence. And then I've been framing it into a nice kind of hedge. If you wanted to look at that picture on the PowerPoint presentation. It's also by the gate, which leads to a two-car garage and there's

2796 plenty of space for people to drive onto the property if they wish. So, I already have plants
2797 and the Winters Creeper and I'm hoping to use that as a privacy option, I think it will
2798 actually lend a lot of beauty to the neighborhood and to my own property, as well as the
2799 neighboring properties. And that will be on the existing fence. When it comes to the
2800 driveway, you know, I did grow up there. I spent, you know, age four to like my twenty's
2801 living there and we never drove onto the property. You know, we never opened that fence.
2802 Because my grandmother who had been cultivating the garden, which has since died,
2803 because, you know me trying to get foreclosure and all that stuff, stopped and get a
2804 reverse mortgage reversed, all that has died. But my intention was actually to make a
2805 beautiful yard there. So, I understand if I have to do something differently. But I would
2806 really love to be able to have a beautiful yard with flowers. If you see the lot, the street
2807 parking, which is very wide, I mean, we've never, nobody, there's multiple cars that can
2808 fit on there. And maybe like, five or six cars could fit from one end of the property to the
2809 other, all right there, which is a very large space between the fence and the road. I mean,
2810 you can see it's almost double the width of a car. It's very wide. It's like not nowhere near
2811 the road. It would be ideal if people could park there, because that's what it's been used
2812 my entire life, and I would prefer not to gravel over my grandmother's grass. I'm trying to
2813 grow, you know, hazelnut bushes and just beautiful things there. I think most, most of the
2814 things. Oh, the checking off of that box was just an accident. I was doing on Adobe, and
2815 it just didn't cross over. So, yeah, I think that's everything that I needed to cover. If you
2816 have any questions. I'm happy to oh, wait the residency, right? So, I just couldn't secure
2817 work. I had been living in Baltimore and traveling. I was able to get substitute teaching
2818 work in Baltimore County, and I've just been waiting for nine months for Henrico County
2819 to approve me. I finally did get approved, so I can send documents over showing that I
2820 have secured work in the Henrico County District, being a substitute teacher. And I have
2821 no family, I have, I'm completely alone. I have no cousins, nobody. So, I've just been
2822 having to attend to all these things financially myself and I haven't gotten to, you know,
2823 change things over. So, I do have work in the fall. I am currently working over the summer
2824 at the University of California, and I can also show the documents saying that it is a short
2825 term, just for the summer, job and show my future work in Richmond. I don't really have
2826 any documentation about how I've been driving back and forth from Baltimore but, the
2827 neighbors have seen me physically driving back and forth. So, if I was driving back and
2828 forth, it, it just doesn't make sense that I would live on the other side of the country, which
2829 I did before I purchased the house back. So that's just information that is totally incorrect.
2830 And I'd love to be able to move forward on this. Thanks a lot.

2831
2832 Mr. Green- How many bedrooms are there?
2833

2834 Ms. Leal- I would call it four, but it's technically three bedrooms,
2835 because there is a door connecting the other room. So, it's considered an office and that's
2836 my bedroom. So that's why I'm like, it's my bedroom. So, I'm obviously calling it a
2837 bedroom, but it's apparently, I live in an office and the other rooms are bedrooms.
2838

2839 Mr. Green- Okay, now I think you living, going back and forth to Baltimore.
2840 California does not as much of an issue because you only have to live in 185 days. So,
2841 where you're going the other time period is your business. That's it. My concern is if you

2842 want people to park on that side street and then not on your property. If somebody's car
2843 is vandalized, the question I have for staff, who is responsible for that? Because if that's
2844 County property, then the person who's in the house can say, well, that's not my property,
2845 if you've parked on the street.

2846
2847 Mr. Blankinship- It is a provision of the Code...

2848
2849 Ms. Leal- I mean...

2850
2851 Mr. Blankinship- Excuse me ma'am. It is a provision of the Code that she has
2852 to provide the parking for the short-term rental on her property. Not on the street.

2853
2854 Mr. Green- Right.

2855
2856 Mr. Blankinship- So, that's not really up to the Board's discretion.

2857
2858 Mr. Green- Okay. And so, the question I have is you can't afford a fence,
2859 but would you be able to afford to pay for parking? I know you said you want to keep it
2860 natural, but the reality of it is, you're going to have to put parking on the lot.

2861
2862 Ms. Leal- Is there a way to put just gravel? Basically, there isn't a curb
2863 and the grass is just grass. I mean, is it possible just to open the fence and... in a
2864 way, it's like a grass driveway. Like you open the fence and drive forward. That's where
2865 you would open the garage doors and drive into the garage. So, it's kind of naturally set
2866 up such that cars would just drive onto the grass and into the garage.

2867
2868 Mr. Blankinship- It does not have to be paved. There are a variety of ways that
2869 you can create parking on a residential lot.

2870
2871 Ms. Leal- Okay, great. I mean, it would be ideal if it could just be grass
2872 and I could open the fence and have the people just drive right on to the grass. That would
2873 be ideal, just to be able to have, you know, the green and have it be lovely and also, you
2874 know, attend to what your needs are.

2875
2876 Mr. Blankinship- We can discuss that after.

2877
2878 Ms. Leal- Okay, thank you.

2879
2880 Mr. Lawrence- Ms. Leal, we've received some opposition from your
2881 neighbors in the form of e-mails. And one that particularly, I guess concerned me was
2882 from a resident who indicated that... I was trying to read through it this morning because
2883 I didn't see it until this morning.

2884
2885 Mr. Blankinship- I apologize. It was received either this morning or late last
2886 night, so you haven't had a chance to review it.

2887

2888 Mr. Lawrence- So, I was trying to read through it earlier, but this resident
2889 indicates that you mentioned that you've had conflicts with others in the neighborhood.
2890 And that is hearsay, so, maybe that's the case. Maybe it's not. But it also indicates that
2891 you were calling this person to come check issues on your house while you're out of town
2892 and renting, including fire issues and HVAC issues. You wanted the opportunity for the
2893 person leasing there to come and use their washer and dryer. If you're running and,
2894 operating a short-term rental, those are services that you're going to have to have
2895 oversight over and be responsible for.

2896
2897 Ms. Leal- I have no idea who has said that, because I don't even speak
2898 to anyone in the neighborhood. So, I would never ask any of them to go into my neighbor,
2899 into my property. As I have stated before a few of the neighbors have been evicted from
2900 the property, before it was in my ownership. So, they have like a vendetta against me, so
2901 there is no, besides the point that there are, you know, are the issues that I have written
2902 down there, things that you can see. So, yeah, I have never spoken to anyone to ask
2903 them to be on my property, because I wouldn't want them on my property. So, if they have
2904 some sort of proof of that, I would love to see it.

2905
2906 Mr. Lawrence- On the one hand, the property is as well situated for this kind
2907 of short-term rental, because it does front a major four-lane road. So, it wouldn't affect
2908 properties in that area and it's easily accessible. On the other hand, you've got a
2909 neighborhood behind you, and when we start talking about putting parking in the
2910 backyard, you're having an impact on adjoining property owners and the other properties
2911 behind you that can see it. Another concern that was mentioned by a neighbor, which I
2912 think is an appropriate concern, is that, you know, the property is located directly across
2913 the street from a church and from a high school, where we've had incidences in the past
2914 years of shootings and stalkings and that sort of thing and again, I think there's some
2915 concern about clientele and, you know, where the property is located, and whether there
2916 could be some public safety concerns. How would you respond to that?

2917
2918 Ms. Leal- Yeah, I would like to tend to both of those. Firstly, the cars in
2919 the backyard, if you looked at the images, I mean I don't know if you have an image from
2920 this particular angle, but where the cars would be located would be next to the cars on
2921 the other side where they also have a driveway. So that's visually identical to what they
2922 have in their yard. In regards to the safety, I had, like I said, I didn't realize I had to go
2923 through this process, and I have been having short-term rentals there and, you know, I've
2924 have basically the clientele are all background checks because it's Air BnB. You have to
2925 have a background check and you have to have your ID and all of those things. They're
2926 not just like random people. I'm not sure that the neighbors are aware of the process of
2927 Air BnB and how you don't just have random people come that don't have any kind of
2928 security features. Embedded in that, additionally, like, the clientele that I have had in the
2929 past are people like traveling nurses or just people staying the night to rest? They just
2930 sleep there. There's no gatherings. I don't allow gatherings. As a graduate student, I get
2931 to pick who I allow onto my property, and I review people's profiles which have been
2932 reviewed by other hosts. So those posts say, like what that clientele was like, and they
2933 are reviewed via like, you know, a system of stars. My property has also received five-

2934 star ratings of cleanliness and quiet, peaceful neighborhood, as well as the clientele that
2935 I have had, like, you know, professionals. When it comes to the church and the school,
2936 and all of that, again, there's a background check on my end. Also, there's just quite a lot
2937 of space, between, it's a very open spacious area. It's not like somebody could hide and
2938 then show up at the school, it would be, you know, quite a long ways away. And in fact, I
2939 would be more concerned about people coming from the school, given, you know, the
2940 kinds of things that, you know, we have seen historically in the public eye. So, yeah, there
2941 is literally no threat to security of the neighborhood, and this is in line with what the
2942 neighbors are doing, they're all renting, you know. The neighbors are all renting. So,
2943 they're renting to people who are living there. And, I mean, I honestly, the Air BNB security
2944 is more advanced than, you know, if one of the neighbors, you know, one of the people
2945 who own their properties who's renting out their property, they would just rent it to whoever
2946 they felt like, renting it to. And within Air BNB, there's actually more security. So that's
2947 what I would have to say about that.

2948
2949 Mr. Lawrence- But you're saying that this neighbor who said that you had
2950 contacted them about providing maintenance services, or checking on your property on
2951 at least several occasions, that never happened?

2952
2953 Ms. Leal- Completely untrue. I have asked a neighbor if they knew of
2954 anyone that I could call like, if they knew of a phone number. I just moved into my home,
2955 like I'm wondering if you know somebody that does plumbing. Do you have a guy that
2956 does that? So, that I could hire them. But I haven't, nor would I ever, contact any of the
2957 surrounding neighbors and ask them to come to my property, one. And two, because I
2958 did have an Airbnb that was brought to the attention of the Code Enforcer, that I didn't
2959 realize I had to have a permit for. I have a person who is paid via the cleaning fees. So,
2960 on Airbnb, you can, I'm sure you have either done it or maybe you can look it up, there is
2961 a cleaning fee, hosting fee. So, I have a host whose name is Gabby, who goes over there
2962 and cleans and does those maintenance things. So, she's kind of like the person who
2963 checks in on that room and has been doing that when I wasn't there. But because I am
2964 going to be working there. You know, it will be not only be me, but also her. So, yeah, I
2965 have a handy man. I have an HVAC person, and I have a plumbing person, which I can,
2966 you know, if you would like to receive the contacts of those folks, you're welcome to that
2967 as well as the person who is the host for the room that I had been renting out. So, she
2968 can also attest to the fact that I haven't, nor would I, speak to the neighbors doing her job,
2969 which is to attend to those kinds of things, which she is paid for via the Air BnB.

2970
2971 Mr. Lawrence- The other concern I've got I guess, is that you know, staff is
2972 recommending, and this is consistent with what we've done with other short-term rentals.
2973 A privacy fence in the backyard and then also extending parking. I think they were looking
2974 in terms of, maybe it doesn't have to be paved parking, but, you know, parking
2975 improvements. But I'm hearing you say that you don't really have the funds to put up a
2976 privacy fence. And we're probably limited in what you can do in terms of parking. So, how
2977 would you be able to comply with those conditions if they were part of this?

2978

2979 Ms. Leal- Like I said before, and if anybody swings out by the property
2980 right now, and I don't know, can you flip through the pictures that you have? I'm not sure
2981 if you can see it. But there is already, like, I have already installed vines to cover the
2982 existing fence that go up to seven feet. So, the, the vines that are currently present just
2983 naturally grew up there. They just started climbing the fence. It's not there, it's the back,
2984 towards the driveway. So, I'm not sure if you have that image. I could probably give you
2985 the image.

2986
2987 Mr. Blankinship- That's the back of the property.

2988
2989 Ms. Leal- Yeah, that's the back, it's towards the left so it's out of view. If
2990 you look towards the left, it's also where the neighbors park their cars. So, the cars on my
2991 lot would be next to the cars across on the other lot, which are renting to people as well.
2992 So, there you can see it. On the other side of the trash cans, do you see the little ledge
2993 of green coming up over the fence that's cut trimmed like, flush. That is some Winters
2994 Creeper Ivy, but as it grows, it just kind of builds a grass wall and I've been trimming it,
2995 so it's like nice and square and pretty. So, I planted, like a week ago, along the fence, on
2996 the inside of the fence, on my property, some of that same vine. To be able to grow up
2997 over the fence and keep flush with a nice hard line. Because, like I said, I'm wanting to
2998 improve the look of the area. I also would like privacy of my own. So, I am very interested
2999 in having privacy from the neighbors, and I was attending to that via the ivy that I was
3000 hoping to keep trim and beautiful and kind of have a nice garden. When it comes to the
3001 lot, in the backyard driveway, I'd love to, you know, find solutions that work for, you know,
3002 the Planning Board.

3003
3004 Mr. Lawrence- So, a question of staff. We have a situation where we have
3005 proposed conditions and we have an applicant who said they may not be able to comply
3006 with those conditions, at least not initially. How have we tended to address that?

3007
3008 Mr. Blankinship- Well, the condition is phrased before listing the property for
3009 short-term rental, the applicant must, so the way it is phrased now she, she would not
3010 have authorization to list the property for short-term rental until after she came into
3011 compliance with that condition.

3012
3013 Ms. Leal- May I ask you some questions? May I ask question?

3014
3015 Mr. Blankinship- Yes.

3016
3017 Ms. Leal- Okay so, like I said, the ivy has been planted, so...

3018
3019 Mr. Blankinship- I don't think ivy would be sufficient. I'm personally, my
3020 recommendation to the Board as your staff is ivy would not be sufficient. For one thing it
3021 won't block sound at all. Even to the extent that it does block the view, it won't attenuate
3022 sound at all. So, staff would recommend the privacy fence. But it's the Board's decision
3023 and we've each stated our case.

3024

3025 Ms. Leal- Okay, I just wanted to...

3026

3027 Mr. Blankinship- It is afternoon and we're about halfway through our agenda,
3028 we really need to move along.

3029

3030 Ms. Leal- Okay, well, I just wanted; this is really important because the
3031 neighbors would be very upset about having the wood fence over the ivy. That would,
3032 they would much prefer that. So, just I know that they would prefer that would be. So, I'm
3033 just giving that information to, you. And I can, put gravel on my lot tomorrow if that's
3034 something that you would like, for the, for the driveway to happen.

3035

3036 Mr. Broadway- Well, Mr. Blankinship, you had three letters, or three emails,
3037 in opposition.

3038

3039 Mr. Blankinship- Yes sir.

3040

3041 Mr. Broadway- Has this Leal had the opportunity to see these?

3042

3043 Mr. Blankinship- No, she has not. These arrived between close of business last
3044 night and 8:00 this morning. So, I printed them out and brought them down to you, but
3045 she has not been provided.

3046

3047 Mr. Broadway- I wonder if in all fairness she should have an opportunity to
3048 see those. One of which is nearly three pages long.

3049

3050 Ms. Leal- Yes.

3051

3052 Mr. Blankinship- Yes. That is definitely a concern. Yes sir.

3053

3054 Ms. Leal- I also haven't. Yeah, and if, if that if that was the case, sir, I'm
3055 sorry, but I would also like to be able to have letters for, you know, like, I, I wasn't aware
3056 that you could send in email letters. So, I have plenty of people who could email in
3057 responses as well.

3058

3059 Mr. Lawrence- Ms. Leal, I think I think that's a reasonable request. You know,
3060 I'd like to help you with this, and I just feel like at this point, I'm a little bit concerned about
3061 some of these concerns that came in and we just received these from the neighbors...

3062

3063 Ms. Leal- What are the concerns that I haven't seen?

3064

3065 Mr. Lawrence- Well, I understand that, but I'm a little concerned you haven't
3066 had any discussions with your neighbors too, I realize, excuse me, ma'am. I realize a lot
3067 of these are rental properties, but at the same time, I think it's, you know, I understand
3068 your desire to see what's, and have an opportunity to address what's being proposed. So,
3069 Mr. Chairman, I'd like to go ahead and make a motion that we defer this request ...

3070

3071 Ms. Leal- {inaudible}

3072

3073 Mr. Blankinship- Staff, would you please mute the Webex. Sorry.

3074

3075 Mr. Lawrence- I'd like to make a request that we defer this request to August

3076 24th so we can get additional information provided and give Ms. Leal an opportunity to

3077 see the concerns that have been raised by the neighbors and have the opportunity to

3078 address those.

3079

3080 Mr. Pollard - I second the motion.

3081

3082 Mr. Johnson- It's been motioned and seconded for deferral. All in favor.

3083

3084 Board- Aye.

3085

3086 Mr. Johnson- I all opposed? All in favor. Motion pass for deferral.

3087

3088 On a motion by Mr. Lawrence, seconded by Mr. Pollard, the Board **deferred case**

3089 **CUP2023-00041** until the August 24, 2023 meeting.

3090

3091

3092	Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
3093	Negative:		0
3094	Absent:		0

3095

3096

3097 Mr. Blankinship- All right we have one more conditional use permit and then

3098 three variances.

3099

3100 **CUP2023-00042 - Holly E. Herbert: conditional use permit to allow an accessory**

3101 **dwelling unit at 11611 Bent Pine Road, Brookland. Parcel 776-771-4614. Zoning: A-**

3102 **1, Agricultural District. Code Section: 24-4406.**

3103

3104 Mr. Blankinship- The last conditional use permit is 2023 number 42. Holly E.

3105 Herbert, a conditional use permit to allow an accessory dwelling unit at 11911 Bent Pine

3106 Road, in the Brookland Magisterial District. Miss Herbert is also on Webex.

3107

3108 Mr. Gidley as he mentioned, had surgery yesterday, so I'm going to be judge, jury, and

3109 executioner here. I will do the staff report for you. Paul if you would just drive the

3110 presentation, I'd appreciate it because I can't do that.

3111

3112 Mr. Blankinship- So, the property is on Bent Pine Road, which is just north of

3113 Greenwood Road. At the time that this house was built, Bent Pine Road was not a public

3114 street. It was just a drive going up into a farm. So, you see the front of the house there is

3115 facing toward Greenwood Road, but what you have in most of the view, there now is Bent

3116 Pine, which is now the front of the property. So as a result, you also see the garage, the

3117 light-colored building to the left, just above the zoning sign there, that is an attached
3118 garage. Well, it's a detached garage, it's attached only with the breezeway. So, it follows
3119 the regulations for a detached garage. It was lawful at the time that it was built. Today it
3120 would require the conditional use permit to be put there. Just beyond that there is a
3121 carport, a metal carport and it was put there in, I've forgotten what year, but after Bent
3122 Pine Road was made a public street. So, it should not have been put in the front yard,
3123 up on the road. It should have met at least the front yard setback, and a conditional use
3124 permit should have been obtained as well. As part of this application, the applicant has
3125 agreed to move the carport to a location that could be approved by the board. So, Paul,
3126 if you can find the site plan and put that up. Yes. The request this morning is to allow an
3127 accessory dwelling unit, and according to the application form, it would be occupied by a
3128 mother and an aunt.

3129
3130 {inaudible}

3131
3132 Yes, I'm sure that that's accurate, but, of course, we don't really rely on that because
3133 property could be sold in the future and the accessory dwelling unit could be occupied by
3134 someone else. But that's the purpose of the request. It would be located as you see
3135 toward the middle of the property there. It would meet the setbacks from the front and
3136 rear, and sides, and also the setback from the existing structures. But it requires a
3137 conditional use permit anywhere on the property for an accessory dwelling unit. And this
3138 conditional use permit would also allow it to be in the side yard, rather than the rear yard.
3139 Yes. Go ahead to that, Paul. This is what the unit would look like from the front and gives
3140 you a quick view of the two bedrooms, living room, a kitchen, full bathroom, and a porch
3141 on the front and on the rear. It is about the maximum that is allowed under code for this
3142 property. It's very close to 35% of the principal dwelling. And if you would show the
3143 existing storage building Paul. That's the one other thing out here that's really noteworthy,
3144 I think. All the way at the north end of the property is this building, which has been on the
3145 property for several years, as you can kind of tell by its condition. And that again is located
3146 in the side yard. So, it also would be subject to approval of this conditional use permit.
3147 You'd be approving that building and the carport, and the accessory dwelling in the side
3148 yard, and the existing garage in the front yard. So, quite a lot is going on here. If you can
3149 go to the aerial, or even the expanded aerial would be better, I think. This is an A-1,
3150 Agricultural District. Everything is on the east side of Bent Pine, while on the west side of
3151 Bent Pine is Glover Park, which was actually rezoned shortly before the county obtained
3152 it, so it has a higher density residential zoning, but it's going to be developed as a park.
3153 But as you can see, the surrounding area is agriculture in nature. It's single-family
3154 dwellings on lots of two, and three, and four acres, more or less. Almost every house in
3155 the view there has at least one detached accessory structure. So, we do feel pretty
3156 comfortable with this being consistent with the neighborhood and with the setting. The
3157 accessory dwelling unit itself, again, just allows for a family member to live on the property
3158 with some semblance of privacy and independence, but still close enough by that other
3159 family members can help them with whatever activities they need help with. And so, with
3160 that, I'd be happy to try to answer your questions.

3161

3162 Mr. Green- I understand what they intend to do. But in the future, could
3163 they subdivide it and turn it into single-family dwelling, and sell it?
3164

3165 Mr. Blankinship- The property is large enough. I think that it could be
3166 subdivided. Sorry, let me find the correct page in my report here. No, it's not. It's about
3167 one-and-a-half acres. In the A-1 district, you're required one acre per dwelling unit. So,
3168 they'd have to have at least two acres in order to subdivide. So, no, they could not
3169 subdivide it. Unless it was rezoned, I mean anything could happen in the future, but as it
3170 stands currently, no.
3171

3172 Mr. Green- Okay.
3173

3174 Mr. Lawrence- I just had two quick questions of staff Mr. Chairman, before
3175 we hear from the applicant. So, I just want to confirm, an accessory dwelling under the
3176 ordinance can have up to one kitchen. Is that right?
3177

3178 Mr. Blankinship- Yes, Paul if you would show the floor plan again. Yes, you can
3179 allow it. It's proposed ADU. The biggest difference between an accessory dwelling unit
3180 and at a guest house is that the accessory dwelling unit can have a kitchen.
3181

3182 Mr. Lawrence- That's where my confusion is because I was thinking there
3183 was a restriction on kitchens. But I'm thinking of a guest house.
3184

3185 Mr. Blankinship- That was just added code in 2021.
3186

3187 Mr. Lawrence- For the guest house?
3188

3189 Mr. Blankinship- To allow the accessory dwelling.
3190

3191 Mr. Lawrence- Okay. And the other question I had. Maybe for Mr.
3192 Blankinship, or Mr. Gidley, either one.
3193

3194 Mr. Blankinship- I'll try to answer it, I actually wrote this.
3195

3196 Mr. Lawrence- The staff report said 23 to 25 dwellings on Bent Pine and Ryall
3197 Road have accessory buildings.
3198

3199 Mr. Blankinship- Detached, yes.
3200

3201 Mr. Lawrence- I'm assuming though that most of those are not, since the
3202 ordinance is so new, most of those are not accessory dwellings there?
3203

3204 Mr. Blankinship- No, no, I think they're just garages and storage buildings and
3205 such. Yes, sir.
3206

3207 Mr. Green- The question I have again... Just looking at it, if they were to
3208 sell this, decided they wanted to use it for Air BnB, they would have to take out the kitchen.
3209

3210 Mr. Blankinship- That's correct. You cannot convert an accessory dwelling unit
3211 to a short-term rental. The board was emphatic on that point when we added the
3212 accessory dwelling units. They felt that they did not want to, want to allow people to build
3213 these, and then list them on Air BnB.
3214

3215 Mr. Green- That could never be an Air BnB.
3216

3217 Mr. Blankinship- That is correct. Again, unless the code changes.
3218

3219 Mr. Green- I remember someone had to take a kitchen out.
3220

3221 Mr. Blankinship- Yes.
3222

3223 Mr. Green- But that was that was attached or ...
3224

3225 Mr. Blankinship- I think that was the case where the kitchen had been put in
3226 without permits. In the past, it was converted unlawfully. So, we required them as part of
3227 approving the short-term rental to correct that violation of by removing kitchen.
3228

3229 Mr. Green- Thank you.
3230

3231 Mr. Blankinship- Ready to hear from the applicant?
3232

3233 Mr. Johnson- Yes.
3234

3235 Mr. Blankinship- Alright. I believe we have Ms. Herbert on Webex. Ms. Herbert,
3236 are you with us?
3237

3238 Ms. Herbert- I appreciate you hearing my request. I think you kind of made
3239 my whole request there in your presentation and I appreciate that. It is to enable us to
3240 bring my mother and my aunt closer to us. My partner is an RN. So, as these two women
3241 are aging, we are noticing more health concerns, so we feel that it would be helpful for us
3242 to have them close by and also still give them a sense of independence. And it being a
3243 detached unit, you know, they're still kind of mobile and we have a pool on the property.
3244 So, it makes me happy to think that they'll have all of these amenities available to them,
3245 plus the security of us being close by to take care of them. You have a sample of what
3246 the ADU will look like. Obviously, we're going to do it with the colors and the finishes to
3247 match the primary home. We don't have an exact drawing yet, but the square footage
3248 would be like, 35%, it's about 743 square feet. So, the footage size of about 27 feet long
3249 by 27 or 29 feet, match similarly to what this is. I did some research with contractors and,
3250 of course, they're not used to Henrico County, allowing ADUs. So, everybody I interacted
3251 with were steering me away and saying we won't do anything and don't invest any money

3252 until you have approval from Henrico County. So that's why I don't have an exact plan yet
3253 and wanted to get your thumbs up before we went down that road and spent more money.

3254
3255 Mr. Blankinship- That was good advice they gave you.

3256
3257 Ms. Herbert- Thank you.

3258
3259 Mr. Johnson- Thank you. Alright...

3260
3261 Mr. Lawrence- Ms. Herbert, I wanted to commend you on looking after your
3262 family members. My wife and I have both been in care tending mode in one fashion or
3263 another for aunts, sibling, parents for as long as I can remember. And perhaps if we had
3264 had this option available to us, we might have saved a lot of money on assisted living and
3265 nursing facility costs, et cetera, but I know there was a lot of discussion by the Board of
3266 Supervisors when this issue came up and when the ordinance was changed. I think these
3267 types of dwellings probably are more appropriate in some areas than others, but it looks
3268 like you have, you know, a lot of space on your property, there's a lot of other accessory
3269 buildings, so it's not uncommon. And what you've got proposed here, it looks like it would
3270 fit in well with the landscape.

3271
3272 Ms. Herbert- Thank you.

3273
3274 Mr. Johnson- Okay. Alright. Any other questions?

3275
3276 Mr. Lawrence- Mr. Chairman, hearing none, I'd like to go ahead and move
3277 the case forward. I move that we approve this conditional use permanent subject to the
3278 conditions recommended by the staff. It is consistent with the Comprehensive Plan and
3279 Zoning Ordinance. The property is large enough to accommodate the proposed unit. This
3280 proposal will address the garage, carport and storage building.

3281
3282 Mr. Johnson- Alright, it's been motioned.

3283
3284 Mr. Green - Second

3285
3286 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.

3287
3288 Board- Aye.

3289
3290 Mr. Johnson- All opposed? Motion passed.

3291
3292 On a motion by Mr. Lawrence, seconded by Mr. Green, the Board **approved case**
3293 **CUP2023-00042** subject to the following conditions:

3294
3295 1. This conditional use permit authorizes one proposed accessory dwelling unit in the side
3296 yard, along with existing accessory buildings. All other applicable regulations of the
3297 County Code remain in force.
3298

3299 2. This conditional use permit applies only to the improvements shown on the plot plan
3300 filed with the application. Any additional improvements must comply with the applicable
3301 regulations of the County Code. Any substantial changes or additions to the design or
3302 location of the improvements will require a new conditional use permit.

3303
3304 3. The new construction must match the existing dwelling as nearly as practical in
3305 materials and color and must be similar in architectural design to the illustration submitted
3306 with the application.

3307
3308 4. Before beginning any clearing, grading, or other land disturbing activity, the applicant
3309 must obtain approval of an environmental compliance plan from the Department of Public
3310 Works.

3311
3312 5. Any exterior lighting must be shielded to direct light away from adjacent property and
3313 streets.

3314
3315 6. At the time of building permit application, the applicant must demonstrate that the metal
3316 carport has been moved as indicated on the site plan, and that the proposed accessory
3317 dwelling unit will comply with the requirements of Sec. 24-4406 of the Zoning Ordinance.

3318
3319 7. The applicant must obtain a building permit for the proposed accessory dwelling unit
3320 by July 28, 2025, or this conditional use permit will expire. If the building permit is
3321 cancelled or revoked after that date due to failure to diligently pursue construction, this
3322 conditional use permit will expire at that time.

3323
3324

3325 Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
3326 Negative:		0
3327 Absent:		0

3328
3329

3330 Mr. Blankinship- Alright, that concludes the conditional use permits. So, we do
3331 have three variances on the agenda.

3332
3333 **VAR2023-00012 - David and Martha Holdsworth: variance from the public street**
3334 **frontage requirement to build a one-family dwelling at 6149 Hines Road, Varina.**
3335 **Parcel 851-691-0926. Zoning: A-1, Agricultural District. Code Section: 24-4306.E.1.**
3336 **The applicant has 0 feet public street frontage where the Code requires 50 feet**
3337 **public street frontage. The applicant requests a variance of 50 feet public street**
3338 **frontage.**

3339
3340 Mr. Blankinship- The first is a deferral from last month. Variance 2023 number
3341 12, David and Martha Holdsworth, a variance from the public street frontage requirement
3342 to build a one family dwelling at 6149 Hines Road, in the Varina Magisterial District. Would
3343 everyone who intends to speak to this case please stand and be sworn in. Y'all raise

3344 your right hands. Oh, okay. Do you swear the testimony you are you're about to give is
3345 the truth, the whole truth, and nothing but the truth, so help you God?

3346
3347 Thank you. All right in lieu of Mr. Gidley, I would just say, you remember this case from
3348 last month. There was a conversation about the access being too close to the property to
3349 the east and whether that might have detrimental impacts on the neighbor on that side,
3350 the Board deferred the case to give the applicant and the neighbor time to work out a
3351 solution to this concern. The solution that they agreed upon, we've been told, is to move
3352 the 25-foot easement, 25-feet from the property line. So, starting from the property line,
3353 you'd have 25 feet of nothing, and then 25 feet of easement for a total of 50-feet, with the
3354 driveway more than 25 feet away from the property line. And we have been told that both
3355 sides agreed to this. Both sides are here in the room. I don't know that there's really even
3356 a need to open the public hearing, unless ma'am you have anything else that you want to
3357 add? All right I think with that a motion would be in order.

3358
3359 Thank you all very much for your patience, three and a half hours. In addition to the time
3360 you spent last month.

3361
3362 Mr. Johnson- I move that we approve the variance subject to conditions
3363 recommended by staff. There is no other reasonable use for the property and the hardship
3364 was caused by the change in the code and the proposed dwelling will not have any
3365 detrimental impacts. All the tests have been met as stated in the report.

3366
3367 Mr. Lawrence- Second.

3368
3369 Mr. Johnson- It's motioned and seconded. All in favor say, Aye.

3370
3371 Board- Aye.

3372
3373 Mr. Johnson- All opposed? Motion passed.

3374
3375 Mr. Blankinship- All right, I love it when neighbors get together and agree on
3376 things.

3377
3378 On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **approved case**
3379 **VAR2023-00012** subject to the following conditions:

3380 1. This variance applies only to the public street frontage requirement for one dwelling
3381 only. All other applicable regulations of the County Code remain in force.

3382
3383 2. This variance applies only to the improvements shown on the plot plan and building
3384 design filed with the application as amended by these conditions. Any additional
3385 improvements must comply with the applicable regulations of the County Code. Any
3386 substantial changes or additions to the design or location of the improvements will require
3387 a new variance.

3388

3389 3. Before beginning any clearing, grading, or land disturbing activity, the applicant must
3390 obtain approval of an environmental compliance plan from the Department of Public
3391 Works.

3392
3393 4. At the time of building permit application, the applicant must provide evidence of
3394 Virginia Department of Health (VDH) approval of a private water supply and onsite
3395 sewage disposal system applying current VDH standards.

3396
3397 5. The site plan must be amended to show an access easement 25 feet in width no closer
3398 than 25 feet to the property line between 6133 Hines Road and 6167 Hines Road. At the
3399 time of building permit application, a driveway must be constructed within the easement
3400 with a durable surface at least 10 feet wide with 12 feet of horizontal clearance and 14
3401 feet of overhead clearance to provide access for police, fire, emergency medical services,
3402 and other vehicles. The owners of the property, and their heirs or assigns, must maintain
3403 access to the property.

3404
3405 6. The applicant must obtain a building permit for the proposed single-family dwelling by
3406 July 28, 2025, or this variance will expire. After that date, if the building permit is cancelled
3407 or revoked due to failure to diligently pursue construction, this variance will expire at that
3408 time.

3409
3410
3411 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**
3412 **Negative:** **0**
3413 **Absent:** **0**

3414
3415
3416 **VAR2023-00014 - Deborah W. Clark: variance from the public street frontage**
3417 **requirement to build a one-family dwelling at 4197 Camp Holly Drive, Varina. Parcel**
3418 **831-685-9621. Zoning: A-1, Agricultural District. Code Section: 24-4306.E.1. The**
3419 **applicant has 0 feet public street frontage where the Code requires 50 feet public**
3420 **street frontage. The applicant requests a variance of 50 feet public street frontage.**

3421
3422 Mr. Blankinship- The next variance is 2023 number 14. Deborah W. Clark, a
3423 variance from the public street frontage requirement to build a one-family dwelling at 4197
3424 Camp Holly Drive, in the Varina Magisterial District. Would everyone who intends to speak
3425 to this case please stand and be sworn in.

3426
3427 You are not the applicant or an interested party in this case? Mr. chair a motion would be
3428 in order. A deferral would be in order.

3429
3430 Mr. Green- They might be on WebEx.

3431
3432 Mr. Blankinship- No, well, let me double check. I was told that there was
3433 nobody else. No, there was no one else on the Webex. Thank you.

3434

3435 Mr. Johnson- Okay, if not then Variance 14 deferred.

3436
3437 Mr. Pollard- Second the motion.

3438
3439 Mr. Johnson- Yes. All in favor say, aye.

3440
3441 Board- Aye.

3442
3443 Mr. Johnson- All opposed? Motion passed.

3444
3445 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board deferred case
3446 VAR2023-00014 until the August 24, 2023 meeting.

3447			
3448			
3449	Affirmative:	Broadway, Green, Johnson, Lawrence, Pollard	5
3450	Negative:		0
3451	Absent:		0

3452
3453
3454 **VAR2023-00016 - Tia G. Hayes: variance from the public street frontage**
3455 **requirement to build a one-family dwelling at 7801 Haupts Lane, Varina. Parcel 859-**
3456 **689-4666. Zoning: A-1, Agricultural District. Code Section: 24-4306.E.1. The**
3457 **applicant has 0 feet public street frontage where the Code requires 50 feet public**
3458 **street frontage. The applicant requests a variance of 50 feet public street frontage.**

3459
3460 Mr. Blankinship- We will reach out again. So, the last case, variance 2023
3461 number 16, Tia G. Hayes, a variance from the public street frontage requirement to build
3462 a one-family dwelling at 7801 Haupts Lane, in the sorry, in the Varina Magisterial District.
3463 Would everyone who intends to speak to this case, please stand to be sworn in. Please
3464 tell me one of you is the applicant. Okay, great. Do you swear the testimony you're about
3465 to give is the truth, the whole truth, and nothing but the truth, so help you God.

3466
3467 Thank you. Alright, again in Mr. Gidley's stead. I would just, well, I'm going to go to operate
3468 the machinery. Okay all right so this property is just barely in Henrico County. It is right
3469 on the Charles City County line, almost. Then, you see, Haupts Lane here. It's actually
3470 an old fire road, I understand, and it extends all the way from Charles City Road. I want
3471 to say 12 miles to a County Road down in Charles City County. This is property that was
3472 two or three lots that were consolidated. But the point is, this property has never adjoined
3473 Charles City Road. Within 100 years, it has not had any public street frontage. So, there
3474 have been changes to the property, but it was never within the applicant's ability to provide
3475 public street frontage to this property. It is heavily wooded. Some of the property adjoining
3476 here is farmed as you can see, but the subject property is heavily wooded. Haupts Lane
3477 is a very well-constructed and maintained private road. As I said, I think it was originally
3478 an old fire road. It's shown on some of the old deeds, referred to as a fire road, so it's very
3479 well constructed and very well maintained. We do not know who maintains it exactly.
3480 There is not a written maintenance agreement. We wish that there were and we would be

3481 happy to propose a condition, as we often do, requiring the applicant join a written
3482 maintenance agreement. But we don't normally make it a condition on other property
3483 owners that they allow the applicant to join or that they join the applicant in a maintenance
3484 agreement. So, that is why we have not addressed the maintenance of the road. But
3485 perhaps the applicants can speak to that when they have the opportunity. There's not a
3486 whole lot of other information on this one, because they have not proposed a specific
3487 location for the house or a house design. So, other than what you have in front of you,
3488 they would just be following the code requirements. The front and rear setbacks would be
3489 50-feet, and the side yard setbacks 20. Are there any questions before I come back up to
3490 where I belong?

3491
3492 Mr. Johnson- And I also noticed that the roadway entrance from Charles
3493 City Road, it also has a sign saying it is a private road.

3494
3495 Mr. Blankinship- Oh, okay. I did not know that. It's not in our photos. You must
3496 have just noticed that yourself. All right.

3497
3498 Mr. Johnson- Yeah. I was going to look at it and so I just stopped there. I
3499 didn't want to keep...

3500
3501 Mr. Blankinship- Alright. We'll hear from the applicant.

3502
3503 Ms. Hayes- Hello, my name is Tia Hayes H. A. Y. E. S. I want to sell this
3504 land, but without being able to build on it, it isn't worth anything, so it's a hardship. If I don't
3505 have this variance...

3506
3507 Mr. Blankinship- Excuse me. If a dwelling was not built here, what other use do
3508 you think a buyer could make of this property?

3509
3510 Ms. Hayes- None.

3511
3512 Mr. Blankinship- Perfect answer.

3513
3514 Mr. Green- Do you have a buyer?

3515
3516 Ms. Hayes- No, I haven't put it. I was waiting until after I got the variance,
3517 and then listing it for sale.

3518
3519 Mr. Johnson- Okay.

3520
3521 Mr. Pollard- Motion is yours?

3522
3523 Mr. Blankinship- Did you need to speak?

3524

3525 Ms. Melvin- I'm Janice Melvin I'm her real estate agent. M.E. L. V. I. N.
3526 The only thing that I would ask, there is an easement in the title work coming from Charles
3527 City Road down Haupts Lane to the property.
3528

3529 Mr. Blankinship- Okay, very helpful. Thank you. I should have mentioned it.
3530

3531 Mr. Johnson- Okay. All right, let's see.
3532

3533 Mr. Pollard- What's the acreage?
3534

3535 Ms. Melvin- 25 and a half acres
3536

3537 Mr. Green- Acres? Oh, boy.
3538

3539 Mr. Johnson- That's a large area there. Okay. I move that we approve the
3540 variance subject to conditions recommended by staff and there is no other reasonable
3541 use for this property. The hardship was caused by the change in the code and the
3542 proposed dwelling would not have any detrimental impact, and the other tests have been
3543 met as stated in this staff report.
3544

3545 Mr. Green- I second.
3546

3547 Mr. Johnson- It has been motioned and seconded, all in favor, say Aye.
3548

3549 Board- Aye.
3550

3551 Mr. Johnson- All opposed, Nay? Motion passed.
3552

3553 Mr. Blankinship- Okay.
3554

3555 Ms. Hayes- Thank you very much.
3556

3557 On a motion by Mr. Johnson, seconded by Mr. Green, the Board **approved case**
3558 **VAR2023-00016** subject to the following conditions:
3559

3560 1. This variance applies only to the public street frontage requirement for one dwelling
3561 only. All other applicable regulations of the County Code remain in force.
3562

3563 2. Before beginning any clearing, grading, or land disturbing activity, the applicant must
3564 obtain approval of an environmental compliance plan from the Department of Public
3565 Works.
3566

3567 3. At the time of building permit application, the applicant must provide evidence of Health
3568 Department (VDH) approval of a private water supply and onsite sewage disposal system
3569 applying current VDH standards.
3570

3571 4. At the time of building permit application, the applicant must present evidence that a
3572 legal access to the property has been obtained. Prior to certificate of occupancy, the
3573 driveway must be improved with a durable surface at least 10 feet wide with 12 feet of
3574 horizontal clearance and 14 feet of overhead clearance to provide access for police, fire,
3575 emergency medical services, and other vehicles. The owners of the property, and their
3576 heirs or assigns, must maintain access to the property.

3577
3578 5. The applicant must obtain a building permit for the proposed dwelling by July 28, 2025,
3579 or this variance will expire. After that date, if the building permit is cancelled or revoked
3580 due to failure to diligently pursue construction, this variance will expire at that time.

3581
3582
3583 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**
3584 **Negative:** **0**
3585 **Absent:** **0**

3586
3587
3588 Mr. Johnson- Okay. We have next on our agenda is approval of the
3589 minutes.

3590
3591 Mr. Blankinship- Mr. Lawrence has emailed a list of proposed corrections.
3592 Sorry that I didn't have a chance to distribute them to you before the meeting.

3593
3594 Mr. Green- Accepted.

3595
3596 Mr. Blankinship- Does anyone else have any changes to the minute's
3597 statements?

3598
3599 Mr. Pollard- Changes on statements you made?

3600
3601 Mr. Lawrence- Yes.

3602
3603 Mr. Pollard- Okay.

3604
3605 Mr. Lawrence- And one I didn't make.

3606
3607 Mr. Pollard- Right.

3608
3609 Mr. Lawrence- One was Mr. Gidley's statement.

3610
3611 Mr. Green- So moved.

3612
3613 Mr. Pollard - Second.

3614
3615 Mr. Johnson- Okay, the minutes have been moved and seconded. All in
3616 favor?

3617
 3618 Board- Aye.
 3619
 3620 Mr. Johnson- Motion passed.
 3621
 3622
 3623 **Affirmative:** Broadway, Green, Johnson, Lawrence, Pollard 5
 3624 **Negative:** 0
 3625 **Absent:** 0
 3626

3627
 3628 Mr. Blankinship- The last item of business is your 2024 calendar of meeting
 3629 dates and application deadlines. It was paperclipped with a couple of other things. It's
 3630 the same as every year. Essentially, the meeting dates will be the fourth Thursday of the
 3631 month, except for November and December, will be the third Thursday to avoid the
 3632 holidays and the filing deadlines are five weeks in advance of the meeting deadline. With
 3633 the exception of the first one of the year, which is six weeks, again to avoid the holidays.
 3634 Any questions or comments on your calendar?

3635
 3636 Mr. Pollard- Will I get the opportunity to be Chair?

3637
 3638 Mr. Blankinship- That would be up to the other members of the board. There's
 3639 an election next month.

3640
 3641 Mr. Pollard- Next month. Okay. That's alright then.

3642
 3643 Mr. Green- No, just for historical purposes. We got new members. We
 3644 decided that we would go to a two-year chair. Mr. Johnson is finishing his first year.

3645
 3646 Mr. Johnson - Okay.

3647
 3648 Mr. Green- So then, right or is it...

3649
 3650 Mr. Pollard- A year.

3651
 3652 Mr. Green- He's been chair a year.

3653
 3654 Mr. Blankinship- We elect every year. Traditionally, the members have, or
 3655 chairs have been reelected once.

3656
 3657 Mr. Green- Yeah, so he's finishing his first year.

3658
 3659 Mr. Blankinship- But that's only tradition. If he wants to mount a campaign...

3660
 3661 Mr. Pollard- No, no, no.
 3662

3663 Mr. Green- I'm just telling him about...

3664

3665 Mr. Blankinship- Put out some yard signs...

3666

3667 Mr. Lawrence- Terrell for Chairman!

3668

3669 Mr. Pollard- Right, right that's it.

3670

3671 Mr. Johnson- I thought it was two years.

3672

3673 Mr. Blankinship- The election is every year, but traditionally...

3674

3675 Mr. Pollard- Okay.

3676

3677 Mr. Green- You've been, you think you've been on it, you haven't been

3678 chair two years?

3679

3680 Mr. Blankinship- It feels like it doesn't it?

3681

3682 Mr. Green- He only been chair a year, so what will happen is or what,

3683 what we would typically do is he would be reelected as chair. Mr. Terrell, since he's the

3684 next longest serving person, because I was, I'm so far, the longest. So, I've moved out,

3685 he would be vice-chair. He would rotate, then as we do it next year, he would become

3686 chair. You, because you're next, would become vice-chair and then we go down.

3687

3688 Mr. Lawrence- Do it the way the Board Supervisors used to do when the

3689 newcomers had to wait about four or five years to get in the rotation.

3690

3691 Mr. Blankinship- That's negotiable every year. Every August, you can decide

3692 what you want to do.

3693

3694 Mr. Pollard- I think I got mixed up with the timing because someone gave

3695 their chair-ship up early, I think he gave up after about a year.

3696

3697 Mr. Blankinship- It does happen.

3698

3699 Mr. Green- Bell gave it up and I got it.

3700

3701 Mr. Blankinship- And we had one chair for about 30 years at one point. Al

3702 Wright was chair forever and ever and ever.

3703

3704 Mr. Green- But we decided that we would just keep rotating, and we do it

3705 based on the seniority.

3706

3707 Mr. Blankinship- The calendar is. The calendar is what we're waiting for a

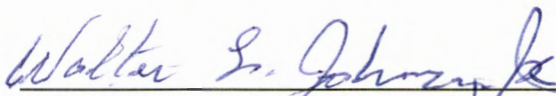
3708 motion.


3709
 3710 Mr. Lawrence- So moved.
 3711
 3712 Mr. Blankinship- All right. Is there a second to approve it?
 3713
 3714 Mr. Broadway- Second.
 3715
 3716 Mr. Blankinship- Seconded by Mr. Broadway?
 3717
 3718 Mr. Green- If he wins his election, then you become vice chair.
 3719
 3720 Mr. Lawrence- I got it.
 3721
 3722 Mr. Blankinship- Say all in favor, say, aye.
 3723
 3724 Mr. Johnson- All in favor, say, aye.
 3725
 3726 Board- Aye.
 3727

3728 On a motion by Mr. Lawrence, seconded by Mr. Broadway, the Board **approved the**
 3729 **Calendar of Meeting Dates and Application Deadlines.**
 3730

3731
 3732 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**
 3733 **Negative: 0**
 3734 **Absent: 0**
 3735

3736
 3737 Mr. Blankinship- Meeting adjourned. Thank you everybody.
 3738
 3739

3740
 3741 
 3742 _____
 3743 Walter L. Johnson, Jr., Chair
 3744

3745
 3746 
 3747 _____
 3748 Mr. Benjamin W. Blankinship, Secretary