

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY June 28, 2018 AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH JUNE 11,**
6 **2018 AND JUNE 18, 2018.**

7
Members Present: William M. Mackey, Jr., Chair
Helen E. Harris, Vice Chair
Gentry Bell
Terone B. Green
James W. Reid

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

8
9 Mr. Mackey - Good morning and welcome to the June 28, 2018
10 meeting of the Henrico County Board of Zoning Appeals. All who are able, will you
11 please stand and join us in the Pledge of Allegiance.

12
13 Thank you. Now I'll ask Mr. Ben Blankinship, our Board secretary, if he will read
14 the rules for today's meeting.

15
16 Mr. Blankinship - Good morning, Mr. Chair, members of the Board,
17 ladies and gentlemen, the rules for this meeting are as follows: Acting as secretary,
18 I will announce each case. Then we will ask everyone who intends to speak to that
19 case to stand and be sworn in. Then a member of the staff will give a brief
20 introduction to the case, and then the applicant will actually give their presentation.
21 After the applicant has spoken, anyone else who wishes to speak will be given the
22 opportunity. After everyone's had a chance to speak, the applicant, and only the
23 applicant, will have an opportunity for rebuttal. At that point, the Board will close
24 that public hearing and open the public hearing on the next case. We'll go straight
25 from hearing to hearing, and then at the end of the meeting they will go back
26 through the agenda and make all their decisions. So, if you want to hear their
27 decision on a specific case, you can either stay until the end of the meeting, or you
28 can check the Planning Department website—we usually get it updated within
29 about an hour of when the meeting ends—or you can call the Planning Department
30 this afternoon.

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

36 We do not have any requests for deferral or withdrawal that I'm aware of, Mr. Chair.

37

38 Mr. Mackey - Okay, may we hear our first case?

39

40 Mr. Blankinship - We are almost ready to begin. Were you going to make
41 your announcement, or did you want to wait until the end.

42

43 Mr. Mackey - I was going to wait until the end.

44

45 Mr. Blankinship - Oh, okay. All right, well then let's begin.

46

47 **CUP2018-00006 WESTHAMPTON MEMORIAL PARK** requests a
48 conditional use permit pursuant to Section 24-52(h) of the County Code to expand
49 an existing cemetery at 10000 Patterson Avenue (Parcel 744-742-5871) zoned
50 Agricultural District (A-1) and One-Family Residence District (R-1) (Tuckahoe).

51

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

56

57 Mr. Gidley - Thank you, Mr. Secretary. Good morning,
58 Mr. Chairman, members of the Board.

59

60 This is a request from the Westhampton Cemetery, which is located at the
61 northwestern corner of Patterson Avenue and Gaskins Road. The request would
62 allow for the expansion of the cemetery towards the west. This case was deferred
63 at last month's hearing to allow time for the adjacent residents of the Westhampton
64 Glen subdivision to meet with the cemetery to resolve some issues. To my
65 knowledge, those issues have been resolved.

66

67 The cemetery was first established in 1953. In 1954, they obtained a use permit
68 and a 100-foot variance to allow construction of a mausoleum on the property,
69 which you can see right here. Included in this permission was approval for a
70 smaller, temporary mausoleum to handle the remains of anyone who purchased
71 space in the new mausoleum but passed away before its completion. That's this
72 facility right here.

73

74 Both the use permit and the variance required this facility, the temporary
75 mausoleum, to be removed following completion of the main facility. Despite the
76 completed main mausoleum, the smaller facility does remain, which is a violation
77 of the use permit and the variance.

78

79 In 2005, the cemetery sold 22.6 acres of land to Wilton Development to construct
80 the Westhampton Glen subdivision, which is the neighborhood to the west of the
81 cemetery. This limited the ability of cemetery to expand because under the Zoning

82 Ordinance all graves shall be located at least fifty feet from adjacent property lines
83 and two hundred feet from any dwelling or well on an adjacent property. Currently,
84 graves have been thirty-two feet off the adjacent subdivision, right here in this area
85 and also down in the Patterson Avenue right-of-way right here.
86

87 The cemetery believes that the presence of these graves allowed them to expand
88 to within this distance of the adjacent property lines. Staff and the adjacent
89 neighborhood, however, do not share this view and believe that the graves
90 complied with setback until the property was sold for the subdivision to exist to the
91 west. By selling that land, they became in violation of the setback requirement.
92

93 In 2012, the cemetery initially applied for permission to expand. After months of
94 negotiation between the nearby neighborhood and the cemetery, a compromise
95 was reached that was approved by this Board in October of 2012. The proposal
96 shown here, the expansion plan, is what was approved in the compromise. This
97 held the cemetery to the fifty-foot setback for all new graves and provided for the
98 preservation of existing vegetation within this fifty-foot setback. In addition,
99 supplemental plantings would be installed within this buffer. And they were initially
100 scheduled to go along the property line between the adjacent homes here and this
101 buffer. So right in this area.
102

103 The use permit that was approved in 2012, however, did expire before any action
104 was taken by the cemetery. As a result, they are requesting a new use permit that
105 essentially reflects the compromise that was reached back in 2012. And again, you
106 see the expansion here.
107

108 There was an issue that came up, at least one between the neighborhood and the
109 cemetery. There was some concern in the neighborhood that when you go in—
110 and again, this fifty-foot buffer minimum was going to be left in its natural state.
111 There was concern that when you go in with augers and Bobcats or what have you
112 to put in landscaping within this buffer, you could tear it up somewhat and certainly
113 not have it in its natural state.
114

115 So, there was compromise reached, and that compromise said that the
116 supplemental landscaping would instead be moved interior towards the cemetery.
117 So instead of along the outer part of the buffer, between these homes here and
118 the cemetery, the supplemental landscaping would go in along this side of the
119 buffer. The neighborhood agreed to allow five feet of the buffer to be disturbed to
120 fit-in the plantings. In return, the cemetery also agreed that five feet on their side,
121 here of their actual property, that they would also allow that to be used for planting.
122

123 That was the compromise that was reached, and that would preserve the woods
124 that are near the neighborhood here. And as you can see—I'll zoom in here—there
125 are quite a few trees right in through here. If you're going to have folks coming this
126 way through people's lots and start tearing things up to plant the landscaping, it

127 would kind of defeat the purpose. So, by allowing it to instead go interior to the
128 cemetery, it does seem to be a better approach.

129
130 The conditions of this case have been modified to reflect this change. For one
131 thing, again the fifty-foot-minimum no disturb buffer would allow that five-foot
132 encroachment. And the supplemental landscaping would also go partially into the
133 cemetery property.

134
135 In evaluating this request, with regard to the Comprehensive Plan and Zoning
136 Ordinance, the cemetery is zoned A-1, Agricultural, and R-1, One-Family
137 Residence District. The cemetery is a permitted use in the A-1 District and is a
138 legal nonconforming use in the R-1 District. It is predominantly shown as semi-
139 public on the Land Use Plan, and a cemetery is consistent with this designation.

140
141 Substantial detriment to nearby property. As noted, the proposed expansion plan
142 resulted in a compromise between the cemetery and the neighbors to the west,
143 back in 2012. And it was recently modified as discussed. Because a compromise
144 was reached, it would indicate that neither party expects the proposal to have a
145 substantial detrimental impact on either side.

146
147 In conclusion, the proposed expansion is consistent with the Zoning Ordinance
148 and the Comprehensive Plan. Staff does not anticipate any substantial detrimental
149 impact to nearby homeowners and as a result can recommend approval of this
150 request subject to the conditions in the staff report.

151
152 That concludes my presentation. If you have any questions, I'll do my best to
153 answer them.

154
155 Mr. Mackey - All right. Thank you, Mr. Gidley. Does anyone from the
156 Board or from staff have any questions for Mr. Gidley?

157
158 Ms. Harris - Mr. Gidley, do you know if construction of the
159 Westhampton Glen subdivision has been completed?

160
161 Mr. Mackey - I believe it has, although I can't state that for certain.
162 It's been there for some time. But again, it was at least partially in 2012. Someone
163 in the audience has indicated it has. And we do have an aerial up here as well. It
164 looks like things are complete here. This is like open community space down here.
165 Looks like the only lot that maybe hasn't been built on is right here. And again, it
166 may be environmental or something like that.

167
168 Mr. Blankinship - It looks like there's a stream running through it there.

169
170 Mr. Mackey - Are there any other questions for Mr. Gidley? All right,
171 thank you, sir.

172

173 Mr. Gidley - Thank you, Mr. Chair.

174

175 Mr. Mackey - Can we hear from the applicant now?

176

177 Mr. Wilson - Good morning, Mr. Chair, members of the Board. My
178 name is Jack Wilson. W-i-l-s-o-n. I am the attorney representing the applicant. As
179 usual, the Planning staff has done an excellent job providing overview of the case
180 and I don't need to repeat all of the background.

181

182 I think the most important thing for this Board to understand is that the cemetery
183 has worked very closely with the adjacent neighbors. We worked very closely in
184 2012 when the Board approved our conditional use permit then for an expansion.
185 Things generally had been moving slowly at the cemetery, so that permit expired.
186 But now they're ready to actually begin the expansion, so we had to come back
187 and get a new conditional use permit for that. And again, like we did in 2012, we
188 went to the neighbors, worked with the neighbors. And as a result of probably some
189 more thinking about the buffer that was approved in 2012 realized that perhaps a
190 modification to that would better serve the neighbors and the cemetery.

191

192 And so, we did tweak that one condition, as Mr. Gidley mentioned, to provide that
193 we would put the supplemental landscaping, some of it closer to our side of the
194 line, so that we would not run the risk of damaging any of the existing vegetation.
195 Clearly, we wanted to provide that natural buffer for the neighborhood and provide
196 supplemental landscaping that the neighbors were looking for, and we were more
197 than willing to work with them on that. And I think the conditions reflect that.

198

199 So, we would ask for your approval of the conditional use permit, and I'd be happy
200 to answer any questions.

201

202 Mr. Mackey - All right. Thank you, Mr. Wilson. Does anyone from the
203 Board or staff have any questions?

204

205 Ms. Harris - Yes. Attorney Wilson, do you know how it happened
206 that the mausoleum is so close to the nearby property rather than the 700 feet that
207 was allowed by the variance?

208

209 Mr. Wilson - Well again I think, as Mr. Gidley mentioned, originally
210 when it was built, where the Westhampton subdivision is located, it was actually
211 owned by the cemetery. So, the cemetery subdivided that property off, sold it to
212 Wilton Development, and that's what then brought that mausoleum that much
213 closer to the property line. When it was built, the Westhampton Glen portion was
214 owned by the cemetery.

215

216 Ms. Harris - Does that account for the fact that it was within thirty-
217 feet of the property line rather than the required fifty?

218

219 Mr. Wilson - I think that would be also the case, as well as earlier
220 graves down in the Patterson Avenue area. But obviously with this expansion and
221 this conditional use permit, we'll clearly be abiding by the conditions in this and
222 won't be relying on those thirty-two feet gravesites as a basis to get any closer
223 than what this condition allows for.

224

225 Mr. Reid - Mr. Wilson, how many burial lots are left in the existing
226 cemetery?

227

228 Mr. Wilson - I'm not sure, frankly. There are areas that are still able
229 to be developed, and there are different types of burial sites. So, depending on
230 what the market demand is, it sort of dictates the number of sites there are. But
231 they have come to the point where there is a demand for a particular type of burial
232 site, and that's what would be the first one developed in this new expansion area
233 under the conditional use permit.

234

235 Mr. Reid - Thank you.

236

237 Mr. Green - Could you show where additional burial sites might be
238 on the map?

239

240 Mr. Wilson - It's basically that gray area that's on the map. You'll
241 see where it's called "Cemetery Expansion Area." That is the new area that would
242 be the subject of this conditional use permit. So, if you're looking at the mausoleum
243 to the right and to the left of the mausoleum, clearly you see all the hashed area,
244 which is the buffer area that will remain between the cemetery and the adjacent
245 subdivision.

246

247 Mr. Green - That's a lot of lots.

248

249 Mr. Wilson - It could be. But again, it depends on the type. Some of
250 them, they're looking at more—it's almost called an "estate type," and they're on a
251 small little garden-type burial plots. So, it's not the standard lined-up headstones.
252 More of them are small little garden areas almost, which take more space, but
253 that's sort of what the demand is at this point.

254

255 Mr. Green - And most of those are away from the homes.

256

257 Mr. Wilson - Exactly.

258

259 Mr. Green - Towards Patterson Avenue?

260

261 Mr. Wilson - Yes sir. And again, the purpose of the buffer and the
262 natural vegetation and then supplementing that with these evergreens will prevent
263 really the neighbors from even being able to see into the cemetery.

264

265 Mr. Bell - When driving down Westhampton Glen Drive or Court
266 or whatever, I couldn't even see the cemetery when I drove through there the other
267 day.

268
269 Mr. Wilson - And again, once we put in the additional supplemental
270 landscaping, it would make it that much more difficult to even see. That's the
271 purpose. And I think that's where we worked with the neighbors. As you can see
272 from the photographs, some of these are deciduous trees, they lose their leaves
273 in the wintertime. And so that's where we've agreed to plant evergreens in this
274 area so that it'll provide that screen year-round. That's an area that was planted a
275 couple years ago because that was a very thin area.

276
277 We got the conditional use permit in 2012. Even though we didn't move forward
278 with it, we started planting some of the landscaping in the sparsest area just so
279 that that could get a head start, knowing we'd come back at some point.

280
281 Mr. Mackey - Mr. Wilson, the small mausoleum was supposed to be
282 temporary?

283
284 Mr. Wilson - It is, and that's been an ongoing discussion with the
285 Planning folks. We've run into some challenges from a legal standpoint trying to
286 identify how we can relocate those. It's not something that we've given up on, and
287 I've been working with Mr. Blankinship over the years as we try to figure out how
288 to address that. Again, that's an area that we recognize is under the old permit, but
289 it doesn't seem to be causing an issue at this point with the neighbors. But it is an
290 issue that I've been working on with Mr. Blankinship over the years.

291
292 Mr. Green - The families, are they comfortable with moving the
293 remains?

294
295 Mr. Wilson - That's the issue, trying to get that resolved. Then the
296 only other option is at some point, you have to go get a court order. The thought
297 was we would wait on that, get this taken care of, and then I'd continue to work
298 with Mr. Blankinship and his department to figure out what we can do about that.

299
300 Mr. Mackey - All right, are there any other questions for Mr. Wilson?
301 All right. Thank you, sir.

302
303 Mr. Wilson - Thank you.

304
305 Mr. Mackey - Is there anyone else here who would like to speak in
306 support of the application? Come forward, sir.

307
308 Mr. Marshall - Good morning. My name is Lawrence Marshall. I'm a
309 resident of Westhampton Glen. If you look on the map, you'll see my wife and I

310 own the lot that has the longest common boundary with the cemetery. This lot right
311 here.

312
313 I want to congratulate Jack and his client for the openness and the willingness to
314 work with the neighborhood. We have spent many hours discussing this with them.
315 I happen to be a commercial real estate attorney. I've been here in Richmond for
316 thirty-three years working with people from [unintelligible] to Rocketts Landing to
317 the Ross Kreckman entities. I was in-house with Highwoods Properties doing their
318 real estate work for quite a few years. So, I know how this works. Not only do you
319 often find people that are not cooperative—I've represented people who haven't
320 been terribly cooperative on this side; I usually represent the developer. They have
321 been very cooperative.

322
323 Their agreement recently to defer this so we could get to these last conditions that
324 you have heard from staff and from Mr. Wilson, we really appreciated their doing
325 that. And that results in the conditions that you're looking at now.

326
327 In discussions about that, the language in these conditions I believe reflects what
328 our agreement is. Like any legal document, there are potential ambiguities or lack
329 of total clarity regarding everything that the parties have discussed. The document
330 would be ten pages long if it included everything we talked about. Jack and I had
331 a long conversation just a few days ago, and we chatted briefly again this morning.
332 I believe we have an understanding how those issues—we have mutual agreement
333 on how those issues that were the remaining issues for the people in the
334 subdivision are going to be resolved. I don't think there's any disagreement on that.

335
336 As a result of that, I've been authorized by the folks in the neighborhood to tell you
337 that we have no objection to this application.

338
339 Mr. Mackey - All right. Thank you, Mr. Marshall. Does anyone have
340 anything for Mr. Marshall?

341
342 Mr. Green - I'd like to go back to the final resting place of those
343 bodies. Where would you relocate them potentially, in the main mausoleum?

344
345 Mr. Bell - Well he's not . . .

346
347 Mr. Green - Oh yes, yes.

348
349 Mr. Mackey - Mr. Wilson?

350
351 Mr. Wilson - Not in my backyard, that's all.

352
353 Mr. Mackey - Mr. Wilson, could you come back to the microphone,
354 please?

355

356 Mr. Wilson - That would either be perhaps in the mausoleum or in a
357 new burial site or something. Those are things that we're still working out with Mr.
358 Blankinship and often with the families. Some of those are not responsive.

359
360 Mr. Green - The other question. The remaining sites that have not
361 been occupied, have they been sold?

362
363 Mr. Wilson - In the mausoleum?

364
365 Mr. Green - The mausoleum.

366
367 Mr. Wilson - I think there's still space in that mausoleum.

368
369 Mr. Green - I'm talking about the temporary one.

370
371 Mr. Wilson - Oh no, there are no more burials in the temporary
372 mausoleum. I don't know if there are any spaces left in it, but there are no more—
373 that has been stopped. It may be full. But if not, there are no more burials in there
374 because the idea is to try to relocate those. So clearly, we don't want to put any
375 more burials in there.

376
377 Mr. Green - So the biggest challenge with this whole thing is going
378 to be convincing the families to relocate the remains.

379
380 Mr. Wilson - From that temporary mausoleum, exactly, yes sir. But
381 again, that's not really part of this. This conditional use permit is really just for the
382 expansion of ground space. The relocation of those that are in that temporary
383 mausoleum is something I've been working on with Mr. Blankinship and have been
384 really for five years now.

385
386 Mr. Blankinship - With the 2012 one.

387
388 Mr. Wilson - For the 2012 case with Ben. So that's an issue that will
389 be ongoing that we want to resolve. But that's not really part of this conditional use
390 permit application. I think staff mentioned that more for background of the history
391 of the cemetery.

392
393 Mr. Green - I can just see that coming back as a major problem.

394
395 Mr. Wilson - It might. But again, that's something we're trying to
396 work through to prevent it from becoming a problem. And again, the Planning staff
397 has been working cooperatively with us to see what we can come up with to resolve
398 that.

399
400 Mr. Mackey - Thank you, Mr. Wilson. Thank you, Mr. Marshall. Oh,
401 I'm sorry. You had a question for Mr. Marshall?

402
403 Ms. Harris - Yes. How many homes do we have in the
404 Westhampton Glen subdivision, and how many will be affected by this?

405
406 Mr. Wilson - I think there are a dozen or so that are affected by it.
407 Maybe not even that many. I think there are twenty-six. When you come in on
408 Westhampton Glen Drive, there are six before you get to the court, seven or eight
409 before you get to the court.

410
411 Mr. Blankinship - I believe it's thirty-six.

412
413 Mr. Wilson - Thirty-six, okay. That would make sense. And I'm
414 virtually certain there are no lots that can be developed now.

415
416 Mr. Blankinship - Yes, you are correct.

417
418 Mr. Wilson - That one down at the bottom is—

419
420 Mr. Blankinship - It is common area.

421
422 Mr. Wilson - Yes. The ones that are affected by it directly are those
423 on the eastern boundary as you come in Westhampton Drive on the north side of
424 Patterson going up to the back of Westhampton Glen Place.

425
426 Ms. Harris - And your decision to compromise, was that decision
427 made by the twelve affected homes or twelve affected residents?

428
429 Mr. Wilson - Yes ma'am. We were all participants in that. Not just
430 the people that are directly affected, that border it, but others as well. On the other
431 side of Westhampton Glen Court, for example. Westhampton Glen Court where
432 we live in that big lot at the very end, there are twelve children, for example, ten of
433 whom are eight or younger. My wife and I are the seniors in the neighborhood.
434 There was a concern about wildlife, for example, being disturbed, snakes coming
435 over, because there are wetlands in there as well back in those woods. There are
436 foxes that live back there.

437
438 But the cemetery has worked with us very much on assuring us that they're going
439 to do what they need to do to relocate the fox family, for example. That's not in a
440 condition, but they've told us that they'll work with us on that just so it doesn't end
441 up homeless if its habitat is disturbed.

442
443 But also because people across the street from those lots affecting it can also see
444 through to the cemetery during those times of the year that the deciduous trees
445 are not in bloom. They have a bit of a stake in that as well. We were the ones who
446 technically were notified because we border it. Yes, as you can see. That's a
447 perfect example of the type of thing that the buffer is meant to address.

448
449 Putting the buffer on this side as opposed to where it was originally planned is far
450 preferable. After talking to some arborists and so on, we pretty much determined
451 that putting them inside that buffer where it's wooded, they're not going to survive.
452 They're just going to be in competition for water and light. So, the ten-foot
453 solution—five feet into the buffer and five feet on their side—creates a ten-foot strip
454 in which the staggered plantings of these evergreens can occur, and they'll survive.
455 They'll have a much better chance to survive there and grow to full height to create
456 an effective screen.

457
458 Mr. Mackey - All right. Thank you, Mr. Marshall. Is there anyone else
459 who would like to speak in support of the application? Is there anyone here would
460 like to speak in opposition? All right, may we have the next case.

461
462 **[After the conclusion of the public hearings, the Board discussed the case**
463 **and made its decision. This portion of the transcript is included here for**
464 **convenience of reference.]**

465
466 Mr. Mackey - What is the pleasure of the Board?

467
468 Mr. Reid - I move that we approve CUP2018-00006 to allow
469 Westhampton Memorial Park to expand their existing cemetery. I would certainly
470 commend Mr. Wilson and Mr. Marshall, the two attorneys, for working closely
471 together to satisfy the concerns of the residents of Westhampton Glen.

472
473 Mr. Mackey - All right. Thank you, Mr. Reid. It's been moved by
474 Mr. Reid. Is there a second?

475
476 Mr. Bell - Second.

477
478 Mr. Mackey - Seconded. Discussion?

479
480 Mr. Bell - After listening to both the applicant and also the owner,
481 their description of what they wanted done did not show me any safety or welfare
482 concerns and pretty much kept up with the standard of the cemetery with the
483 approval of the neighbors.

484
485 Mr. Mackey - All right. Thank you, Mr. Bell. The motion has been
486 made and seconded. All in favor say aye. Opposed? The ayes have it; the motion
487 carries.

488
489 After an advertised public hearing and on a motion by Mr. Reid, seconded by
490 Mr. Bell, the Board **approved** application **CUP2018-00006, WESTHAMPTON**
491 **MEMORIAL PARK** requests a conditional use permit pursuant to Section 24-52(h)
492 of the County Code to expand an existing cemetery at 10000 Patterson Avenue
493 (Parcel 744-742-5871) zoned Agricultural District (A-1) and One-Family Residence

494 District (R-1) (Tuckahoe). The Board approved the request subject to the following
495 conditions:

496

497 1. This approval is only for the expansion of new gravesites within the area shown
498 on the "Proposed Cemetery Area Expansion Plan" by Dean E. Hawkins, ASLA,
499 dated October 1, 2012, as modified by these conditions. This approval is not for
500 the expansion of the mausoleum. Any substantial changes or additions to the
501 cemetery shall require a new conditional use permit.

502

503 2. Before beginning any clearing, grading, or other land disturbing activity, the
504 applicant shall obtain approval of an environmental compliance plan from the
505 Department of Public Works.

506

507 3. The applicant shall maintain a natural, wooded buffer, a minimum 50 feet wide
508 along its common property lines with Westhampton Glen Subdivision. Other than
509 the easternmost five feet to accommodate the plantings required by condition #4,
510 no clearing or grading shall take place outside the proposed expansion area shown
511 on the "Proposed Cemetery Area Expansion Plan."

512

513 4. The applicant shall provide additional ornamental landscaping five feet along
514 each side of the interior line of the buffer between Westhampton Memorial Park
515 and Lots 30-37 of the Westhampton Glen subdivision. This additional landscaping
516 shall consist of 270 Nellie R. Stevens holly or equivalent evergreen plants 5-6' high
517 at the time of their planting. The plants shall be evenly spaced in double rows ten
518 feet apart. Westhampton Memorial Park shall have the right to remove any
519 diseased or dead vegetation within the setback area and shall be required to
520 replace any of the evergreen plants that it plants pursuant to this condition that die.

521

522 5. Prior to any development in accordance with this conditional use permit, the
523 applicant shall record a restrictive covenant confirming these setbacks and
524 landscaping requirements, such covenant to benefit the Westhampton Glen
525 Homeowner's Association (the "HOA") and each of the 37 parcels in the
526 Westhampton Glen subdivision. The applicant shall also include in this covenant
527 comparable restrictions on burials in the area currently used by the applicant for
528 its maintenance area. The restrictive covenant shall be approved as to form by the
529 HOA and the Henrico County Planning Department, such approval to be
530 reasonably provided, prior to recordation.

531

532

533 Affirmative: Bell, Green, Harris, Mackey, Reid 5

534 Negative: 0

535 Absent: 0

536

537

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

540

541 **CUP2018-00013** **REGENCY SQUARE** requests a conditional use
542 permit pursuant to Section 24-116(d)(1) of the County Code to hold a special event
543 at 1420 N Parham Road (Parcel 752-743-9774) zoned Business District (B-3)
544 (Tuckahoe).

545

546 Mr. Blankinship - Would everyone who intends to speak to this case
547 please stand and be sworn in. Is there no applicant here this morning? Mr. Chair,
548 would you like to pass this over toward the end of the agenda and see if the
549 applicant's caught in traffic?

550

551 Mr. Mackey - Yes, Mr. Blankinship.

552

553 Mr. Blankinship - All right, let's do that.

554

555 [This case is continued on page 52 of this transcript.]

556

557 **CUP2018-00014** **ELIZABETH SANDLER** requests a conditional use
558 permit pursuant to Section 24-95(i)(4) of the County Code to allow a pool in the
559 side yard at 7 Kanawha Road (CHATHAM HILLS) (Parcel 764-730-5661) zoned
560 One-Family Residence District (R-1) (Tuckahoe).

561

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

566

567 Mr. Gidley - Thank you again, Mr. Secretary, members of the
568 Board. The subject property here is a 1.173-acre lot located in the Chatham Hills
569 subdivision, which is off of River Road. It was originally part of a parcel you see
570 here to the north that was owned by Judge Merhige. In 1997, however, this sold
571 as a separate parcel down here, which is the subject property today. Also, in that
572 year, 1997, a 3,000-square-foot home was constructed on the property. The
573 applicant subsequently acquired this site in 2014. This is a view basically from the
574 road looking east. It's zoomed in a little bit, and there's the home. The pool would
575 be located over here to the right.

576

577 This southern part of the property is located in the James River floodplain and
578 encompasses a more significant portion of the front yard. As a result, when the
579 home was constructed, it was constructed towards the rear of the property to get
580 it out of that floodplain. There is also a two-story detached garage constructed here
581 as well.

582

583 The applicant would like to construct an in-ground pool on the property. Because
584 the rear yard is rather limited because the home is set back so far, they are
585 requesting permission to place it in the side yard right here. This again shows the

586 location. Kanawha Road is up here. As you can see, with the floodplain coming up
587 here, the home was really pushed back towards the rear. Between the home, and
588 the detached garage, and the driveway here, and a fountain over here, there is
589 limited room back there.

590
591 In evaluating this request, consistency with the Zoning Ordinance and
592 Comprehensive Plan; the property is zoned R-1, One-Family Residence District.
593 It's designated as Suburban Residential 1 and Environmental Protection Area on
594 the Future Land Use Plan. A one-family dwelling is consistent with the Zoning
595 Ordinance designation, along with the SR-1 Land Use Plan designation. Swimming
596 pools are customary and incidental to the use of the property as a one-family
597 dwelling as well.

598
599 As far as substantial detriment on nearby property, if you look at the aerial here.
600 To the south, actually, is a canal of the James River located right here. Then on
601 the other side of the canal is a railroad track. So that's the closest property line,
602 and there's really no impact there to be had as such. The closest residence—let
603 me zoom in a little bit here so you can see that better. The closest residence is
604 over here to the east, which is actually 300 feet away, which is six times the fifty-
605 foot setback required for the home itself. So as a result, staff doesn't really consider
606 any substantial detrimental impact to result from this request on this home. In fact,
607 if it was located in the rear yard, it would actually be closer to that home.

608
609 And then the view from the street. If you look here, you can note the distance the
610 pool would be from the street is substantial, and there's also quite a bit of
611 landscaping along this street as well. So, anyone driving by, it's going to be hard
612 to really notice the pool. As a result, staff does not anticipate any substantial
613 detrimental impact on nearby property if this request were approved by the Board.

614
615 In conclusion, the applicant's request is consistent with the zoning and the
616 Comprehensive Plan designations. Due to the large size of the lot and the resulting
617 distance to adjacent residences, staff does not anticipate any substantial
618 detrimental impact on these neighbors.

619
620 With the adoption of the conditions of approval, staff can recommend approval of
621 this request.

622
623 That concludes my presentation, and I'll be happy to answer any questions you
624 may have.

625
626 Mr. Mackey - All right, thank you, Mr. Gidley. Does anyone from the
627 Board or from staff have any questions for Mr. Gidley? All right. Thank you, sir.
628 Can we hear from the applicant?

629
630 Mr. Gidley - Thank you, Mr. Chair.

631

632 Mr. Roberts - Good morning. I'm here on behalf of Mr. and
633 Mrs. Sandler. They couldn't be here due to a prior engagement. But I've been
634 working with them for quite a few—

635
636 Mr. Mackey - Excuse me. Could you state and spell your name,
637 please, for the record?

638
639 Mr. Roberts - Oh, I'm sorry. My name is Bryan Roberts. B-r-y-a-n, R-
640 o-b-e-r-t-s.

641
642 Mr. Mackey - Thank you.

643
644 Mr. Roberts - As you guys have seen from the photos, where the pool
645 is located there is very little—I mean you won't even be able to notice it. Actually,
646 the grade of the property is lower, and then the pool kind of sits up higher than
647 when you would be driving by the road. So, when you come by, you couldn't
648 even—since it's in plane with the grade level. As you can see on that photograph
649 there. You wouldn't even really see the pool. It's not like you'd be looking down.

650
651 All of the stuff in the neighborhood, everybody wants the river view. That's what
652 it's about. And the canal and everything. So, as you look around the neighborhood,
653 everybody's kind of oriented their house for the backs to be to the river for the view.
654 And then house fronts are wherever. Of course, the neighborhood is so old they
655 just did what they wanted to in there originally.

656
657 But that's basically what we're looking to do.

658
659 Mr. Mackey - Does anyone have a question for Mr. Roberts? All right.
660 Thank you, sir. Is there anyone here who would like to speak in support of the
661 application? Anyone to speak in opposition? All right, can we hear our next case,
662 please?

663
664 **[After the conclusion of the public hearings, the Board discussed the case**
665 **and made its decision. This portion of the transcript is included here for**
666 **convenience of reference.]**

667
668 Mr. Mackey - What is the pleasure of the Board?

669
670 Mr. Bell - I move that we approve CUP2018-00014 to allow
671 Ms. Sandler to build a pool in her side yard at 7 Kanawha Road in Chatham Hills.

672
673 Mr. Mackey - All right, there's a motion. Is there a second?

674
675 Mr. Green - Second.

676
677 Mr. Mackey - Seconded by Mr. Green. Discussion?

678
679 Mr. Blankinship - Will one of you provide a little statement?
680
681 Mr. Mackey - A statement why you seconded it?
682
683 Mr. Green - The application.
684
685 Mr. Mackey - All right. I don't believe there will be any detriment to
686 the community if we approve this, so I also would like to lend my support if we
687 approve this. Any more discussion?
688
689 Ms. Harris - Even though part of the front parcel is located in the
690 floodplain, it seems to be a very small part of the parcel. So, I hope they have no
691 problem with that.
692
693 Mr. Mackey - All right. There's a motion on the floor that's been
694 properly seconded. All in favor say aye. Any opposed? The ayes have it; the motion
695 is carried.
696
697 After an advertised public hearing and on a motion by Mr. Bell, seconded by
698 Mr. Green, the Board **approved** application **CUP2018-00014, ELIZABETH**
699 **SANDLER's** requests for a conditional use permit pursuant to Section 24-95(i)(4)
700 of the County Code to allow a pool in the side yard at 7 Kanawha Road (CHATHAM
701 HILLS) (Parcel 764-730-5661) zoned One-Family Residence District (R-1). The
702 Board approved the request subject to the following conditions:
703
704 1. This conditional use permit applies only to the placement of the proposed
705 swimming pool in the southern side yard of the property. All other applicable
706 regulations of the County Code shall remain in force.
707
708 2. Only the improvements shown on the plot plan and design filed with the
709 application may be constructed pursuant to this approval. Any additional
710 improvements shall comply with the applicable regulations of the County Code.
711 Any substantial changes or additions to the design or location of the improvements
712 shall require a new conditional use permit.
713
714 3. Before beginning any clearing, grading, or other land disturbing activity, the
715 applicant shall obtain approval of an environmental compliance plan from the
716 Department of Public Works.
717
718 4. The swimming pool shall be enclosed as required by the Building Code.
719
720 5. No permanent structures shall be placed within the 10-foot easement along the
721 southern property line containing a 24" sewer main. Ms. Utility shall be called to
722 locate this easement prior to any clearing, grading or other land disturbing activity.
723

724			
725	Affirmative:	Bell, Green, Harris, Mackey, Reid	5
726	Negative:		0
727	Absent:		0

728
729

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

732

733 **CUP2018-00015 LIESFELD CONTRACTOR, INC.** requests a
734 conditional use permit pursuant to Section 24-116(d)(3) of the County Code to
735 deposit soil as fill material at 8950 Strath Road (Parcel 816-677-8788) zoned
736 Agricultural District (A-1) (Varina).

737

738 Mr. Blankinship - Would everyone who intends to speak to this case
739 please stand and be sworn in. Raise your right hands, please. Do you swear the
740 testimony you're about to give is the truth, the whole truth, and nothing but the truth
741 so help you God? Thank you. Mr. Madrigal?

742

743 Mr. Madrigal - Thank you, Mr. Secretary. Good morning, Mr. Chair,
744 members of the Board.

745

746 Before you is a request to deposit soil as a fill material at a reclaimed mining site.
747 Vulcan owns 147 acres on both sides of Strath Road. Liesfeld Contractors has
748 applied for a conditional use permit for the 64 acres on the west side of Strath
749 Road. Approximately 41 acres of this parcel would be disturbed, while 24 acres
750 would remain intact.

751

752 The subject property is a former mining site. In 1988, the Board granted a
753 conditional use permit for West Sand and Gravel to mine the property. After
754 extraction was completed, the operator did not backfill the site. Instead, they simply
755 spread topsoil over the property and planted ground cover on it. As a result, the
756 elevation near the center of the property is approximately fifteen to twenty feet
757 lower than the surrounding land.

758

759 In October of 1992, the County accepted the reclamation of the property as
760 complete. Over the past twenty-five years, natural vegetation has taken over and
761 grown into woodlands consisting mostly of white pine on the property.

762

763 Liesfeld Contractors would like to remove the existing trees from the property, fill
764 the lower grade areas with material excavated from construction sites, and then
765 reclaim the site a second time. No new material will be excavated from the
766 property. The applicant's request is only to place additional fill material on the
767 property.

768

769 Most of the surrounding area is rural in character except for a cluster of seventeen
770 homes on both sides of Strath Road just north of the entrance to the property. You
771 can see that cluster here. There are an additional eight dwellings near the southern
772 property line down here. The site is bordered on the west by a 220-foot utility
773 easement containing high-voltage power lines. And the property on the other side
774 of the power lines was recently approved for a solar farm in 2017. So here are the
775 power lines, and then this is the property for the solar farm.

776
777 The project plan shows a 100-foot wooded buffer around the perimeter of the
778 subject property. This buffer would not be disturbed except for a construction
779 entrance, which is to occur at the existing site entrance. Disturbance along Strath
780 Road and the northern property line would be minimal. The finished grades in that
781 area would be close to existing grades.

782
783 There are two sediment basins planned at the two lowest points on the property
784 near the southwest and southeast corners of the site. Here is one, and here's the
785 second one here. In those areas and along the southern and western property
786 lines, the final reclamation plan shows 3:1 slopes for the finished grades of the
787 property down to the existing elevation. Here is a final reclamation plan. This slope
788 is on the project side of the property adjacent to a 100-foot buffer. And there will
789 be no clearing or grading within 100 feet of the property lines.

790
791 The property is zoned A-1 and is designated Rural Residential on the 2026 Future
792 Land Use Map. The extraction of sand and gravel is permitted by CUP under the
793 A-1 use standards. Extraction and the reclamation of a former mining site are
794 consistent with the Rural Residential designation. The future use of the property
795 would be enhanced by this request because the property would be regraded, and
796 the finished grades would be closer to what was in place prior to 1988.

797
798 Because of this, staff found the request to be consistent with the zoning and
799 Comprehensive Plan designations. Although this request would not have all the
800 detrimental impacts associated with a traditional mining use, it would increase
801 truck traffic on Strath Road, and it will bring additional noise and dust to a site that
802 has been dormant for many years. Truck traffic would be similar to the traffic that
803 has been driving down Strath Road to reach the Kingsland Road mining site for
804 the past several years. Approval of this request would lengthen the time, but should
805 not increase intensity of traffic. Strath Road is a public road maintained by the
806 County and is able to accommodate truck traffic safely and efficiently. Staff is not
807 aware of any safety issues relative to site access for the Strath Road property.

808
809 Compared to traditional mining requests, detrimental impacts are found during the
810 excavation phase, as well as the reclamation process. This project would be
811 different in that the excavation phase was completed twenty-five years ago. There
812 are, however, potential impacts from the reclamation process that the Board needs
813 to consider. As mentioned earlier, most of the pine trees existing on the property
814 will be removed. The visual impact of this change will be mitigated by the 100-foot

815 buffer that will remain in place. There will also be noise and dust generated by
816 trucks bringing material to the site and dumping it, along with the equipment use
817 to spread and compact the material. The noise impact will be mitigated by
818 limitations on the hours of operation, and potential impacts from dust will be
819 mitigated by requiring the deployment of water trucks to spray and control dust as
820 needed.

821

822 In conclusion, when the subject property was previously mined, the limited
823 reclamation left the property surface fifteen to twenty feet below original grade.
824 This application would restore the property to a condition more consistent with the
825 surroundings and improve the future viability of the site. While the operation will
826 have some detrimental impacts on nearby property, the impacts will be temporary
827 in nature and will be mitigated by the proposed conditions.

828

829 Based on the facts of the case, staff recommends approval subject to conditions.
830 We have received one letter of opposition, and that was included in your packet
831 this morning. I stand ready to answer any questions you may have.

832

833 Mr. Mackey - Other than this letter, have you received any phone
834 calls in opposition?

835

836 Mr. Madrigal - I'm not aware of any. Ben?

837

838 Mr. Blankinship - There have been a couple of phone calls that were just
839 conversations. Some, I guess, where concern was expressed, but not opposition.

840

841 Mr. Mackey - Okay.

842

843 Ms. Harris - Mr. Madrigal, I have several questions. I think
844 somewhere in your report you mentioned that there were eight residents closer to
845 this parcel.

846

847 Mr. Madrigal - There are seventeen homes up here on the north along
848 Strath Road. And then on the southern end there's a cluster of eight homes.

849

850 Mr. Blankinship - There are five there and then three along Old
851 Kingsland Road along the southern property line.

852

853 Ms. Harris - So you said there are five near this?

854

855 Mr. Blankinship - Right at the corner of Strath and Kingsland. Maybe you
856 could zoom there.

857

858 Ms. Harris - I'm not concerned, necessarily, with the corner. I was
859 down there yesterday. A block from the site I see the start of several homes on the
860 opposite side of the site. The community just goes on to about thirty homes. It just

861 continues. So, to me there are a lot of homes that will be affected by this decision
862 today. I noticed there was the two-way traffic, and traffic was pretty brisk. I had to
863 go down to Kingsland to turn around, and that was crazy. I'm not an excellent
864 driver, but I was afraid to jump out there because the traffic is pretty fast.

865
866 I understand on the other side of Strath Road that you have a lot of curves, so
867 people prefer using this side of Strath Road. So my main concern is the truck traffic.
868 If you have one site at the end of Kingsland and then on Strath Road, and trucks
869 are involved there. Right.

870
871 Mr. Blankinship - Yes ma'am.

872
873 Ms. Harris - Then we have this site that is supposed to be opening
874 or becoming active because the other site is going to be shut down. Do we know
875 how long it's going to be shut down before the end of the Kingsland Road/Strath
876 Road area? Do we know how long it will be before—

877
878 Mr. Blankinship - The applicant may be able to address that.

879
880 Ms. Harris - Okay. I'm very concerned about the truck traffic there.
881 You mentioned thirty years ago? Well, I'm familiar with the fact that thirty years
882 ago there was a fatality coming out of this case. The truck collided with a nineteen-
883 year-old driver. It was very public. And he was killed. So I'm concerned with
884 reopening this site, putting more trucks on Strath Road, a two-lane road. And you
885 have the truck traffic from Kingsland and Strath. You may be compounding the
886 situation again.

887
888 Now, the solar farm, how far is that from this site?

889
890 Mr. Madrigal - That is just on the other side of the power lines, so it's
891 this area here.

892
893 Ms. Harris - So how far, do you think?

894
895 Mr. Madrigal - Oh, that's at least—well I mean that's 220 feet here to
896 the edge of this property. And then the solar farm's going to be in the center of this
897 site over here. So that could be anywhere from 600 to 800 feet away.

898
899 Ms. Harris - Okay. Will there be truck traffic connected with the
900 solar farm?

901
902 Mr. Madrigal - There will be truck traffic at the initiation of that project,
903 during the construction phase. So, there will be some clearing that will have to
904 occur, and there will be the installation of the poles for the solar panels, and then
905 the installation of the panels plus the electrical that goes with it. So yes, there will
906 be truck traffic for a period of time.

907
908 Ms. Harris - Okay. And you mentioned in your report that Vulcan
909 owns both sides of Strath Road.
910
911 Mr. Madrigal - Yes.
912
913 Ms. Harris - Can you point out those two sides?
914
915 Mr. Madrigal - Yes. This site here, and then this site here, which is the
916 subject property.
917
918 Ms. Harris - So almost directly across the street?
919
920 Mr. Madrigal - Yes, it is directly across the street, across Strath, yes.
921
922 Ms. Harris - Okay. I believe that's all I have. I noticed in the report,
923 it was said that a water truck will be used for dust control. I think in other cases
924 similar to this we really specified what type of solution would actually go on the
925 road. I noticed in these conditions we did not; we just said a water truck would be
926 used to kind of water down and keep the dust under control. That's condition 13.
927 We did say "or."
928
929 Mr. Blankinship - Yes ma'am.
930
931 Ms. Harris - Do we need to specify that? That's my concern.
932
933 Mr. Blankinship - There is some standard language, yes ma'am, and I
934 don't know the details of that. I can find that out for you.
935
936 Ms. Harris - Okay. All right. Thank you.
937
938 Mr. Madrigal - Thank you.
939
940 Mr. Mackey - All right. Mr. Madrigal, condition #5, the materials to be
941 deposited on site shall be limited to soil and similar materials. What are we allowing
942 as far as similar type materials?
943
944 Mr. Blankinship - Well, similar materials excavated from construction
945 sites. So, it would be soil, rock, roots—whatever is under the ground. But it's limited
946 to excavation. This is not construction and demolition debris; this is just excavation
947 material.
948
949 Mr. Bell - How far away on this particular location are they
950 allowed to bring in construction material?
951

952 Mr. Blankinship - There is not a limit in this permit. That's limited by the
953 economics, though. Transporting the materials is very expensive. That's why they
954 want this site so that they don't have to take it any further. When work is being
955 done in this part of the County, they want to be able to deposit that material as
956 close to the construction site as possible because it's expensive to haul it.

957
958 Mr. Bell - Thank you.

959
960 Mr. Mackey - Are there any other questions for Mr. Madrigal? All
961 right. Thank you, sir. Can we hear from the applicant, please?

962
963 Mr. Nelson - Mr. Chairman, members of the Board, my name is
964 Robbie Nelson. I'm with Engineering Design, and I represent the applicant. And I
965 have Kelby Morgan here with me today from Liesfield Contractors.

966
967 In general, we're in agreement with the staff report. Basically, we're taking an old
968 Vulcan site that was left, in my eyes, not reclaimed, and reclaiming it back to
969 existing grade. I also represent S. B. Cox who owns the Kingsland Road borrow
970 pit. They're in their final stages of reclamation, and they're pretty much full. In fact,
971 this week he requested a final grading plan. That operation is very near to ending.

972
973 Glad to answer any questions. And like I say, I have Mr. Morgan here who can
974 answer any questions you might have.

975
976 Mr. Mackey - All right. Go ahead, Mr. Bell.

977
978 Mr. Bell - If you would, speak just a little louder. I would
979 appreciate it.

980
981 Mr. Nelson - Okay, sorry.

982
983 Mr. Bell - How long have you been working this piece of
984 property?

985
986 Mr. Nelson - This particular piece?

987
988 Mr. Bell - The area there where your trucks go up and down.

989
990 Mr. Nelson - I have been working on the Kingsland Road pit, which
991 is owned by S. B. Cox, since the very beginning, which I would say is twenty years
992 probably, twenty, twenty-five years.

993
994 Mr. Blankinship - I don't have that at my fingertips but it's—

995

996 Mr. Bell - So you've watched the truck traffic decrease and
997 increase. If this is approved, how would it compare to the past? Would it decrease
998 the amount of trucks or increase because of what's going in there now?
999

1000 Mr. Nelson - Currently, it would probably go back to what Cox had
1001 ten years ago. Same amount of trucks.

1002
1003 Mr. Bell - And that is?

1004
1005 Mr. Nelson - Like I say, he's in the process of complete reclamation
1006 right now. So, what's going in is pretty much topsoil. They're grading and seeding.
1007 So he has a lot less trucks that he originally had.

1008
1009 Mr. Bell - So what would an average be, I guess is what I'm trying
1010 to get at. I know you can't give me one because each job's different.

1011
1012 Mr. Morgan - Kelby Morgan with Liesfield Contractor. K-e-l-b-y, M-o-
1013 r-g-a-n. We have operated a couple of these facilities in other parts of the County.
1014 Our truck traffic is very sporadic. It is very job-dependent. So, there might be a lot
1015 of trucks, say ten or twelve trucks an hour today and then there might not be any
1016 for two weeks. And then there might be three trucks. It goes up and down
1017 depending on the needs of disposing material in this part of the County. Sometimes
1018 it's a lot; sometimes it's none. It's very unpredictable on what that will be.

1019
1020 Mr. Bell - How do you all handle the dust problems when there
1021 are dust problems on County roads?

1022
1023 Mr. Morgan - Typically dust on county roads, we either do sweeping
1024 or water trucks. We do have a fleet of water trucks. Any dust on this site would
1025 most likely be addressed with water trucks. That's the best dust control - is to keep
1026 things wet. That's what we would be looking to do here.

1027
1028 Mr. Bell - And then to follow up on a question that was asked
1029 earlier and they said to ask you. What are "other materials"? What does that mean?

1030
1031 Mr. Morgan - As Mr. Blankinship said, it is predominately dirt, red dirt,
1032 organics, topsoil, that kind of thing. Occasionally you'll get some concrete or a rock
1033 or something such as that. We're not asking for a C&D landfill, which is
1034 construction and demolition debris. That's not what we intend to put here, and we
1035 haven't asked for that to be permitted. So, it's all pretty much earthen materials.
1036 We do have another company that recycles concrete, so we don't throw it away.
1037 It's not our intent to dump a lot of that stuff in there. But cleaning up stuff,
1038 occasionally you get some rock and miscellaneous concrete/asphalt stuff in there,
1039 but predominantly dirt.

1040

1041 Mr. Bell - And then lastly, have any area residents or businesses
1042 complained about the activities that have been going on for thirty years in the last
1043 five years?

1044
1045 Mr. Morgan - Rarely. I think . . . let's see. We have the Hines Road
1046 facility, which is now closed. We did have one person there who was pretty active,
1047 as much as he possibly could be. You all might be aware of him. And that was run
1048 by a different company than us. But to my knowledge, that was really the only
1049 complaint we've had there. We have another facility, not Liesfield, but another
1050 company down in the Bottoms Bridge area. We really haven't had any complaints
1051 down there from that operation.

1052
1053 Mr. Bell - Thank you.

1054
1055 Mr. Blankinship - Mr. Bell, I did find the earliest use permit appears to be
1056 1992 on the Kingsland site, so that was the same time that this site was previously
1057 closed. So, I guess they went in the other order before they excavated this site.
1058 Then when it finished, they excavated Kingsland. So, it's been about twenty-five
1059 years.

1060
1061 Mr. Bell - Thank you.

1062
1063 Ms. Harris - My main concern is burdening the community. I think I
1064 saw in the report that you will be burning something. I guess trees? How will you
1065 handle that?

1066
1067 Mr. Morgan - If Henrico County would give us a burn permit, we
1068 would burn on the site. But I'm not sure that they would issue that permit to us. But
1069 we would try to burn the existing material if it couldn't be harvested. It would have
1070 no value as timber.

1071
1072 Ms. Harris - You're going to try to burn it on site? Is that what you're
1073 saying?

1074
1075 Mr. Morgan - Yes ma'am.

1076
1077 Ms. Harris - Okay. You will not be dealing with hazardous materials
1078 at all in this particular case.

1079
1080 Mr. Morgan - No ma'am.

1081
1082 Ms. Harris - Okay. The application stated that you would be able to
1083 start this operation in July 2018.

1084
1085 Mr. Morgan - Yes ma'am.

1086

1087 Ms. Harris - Okay. And one of the purposes we see in the report is
1088 to, sort of [distorted audio; unintelligible] the operation because the other site at
1089 Kingsland should be reclaimed within the next two years. Why now? Why not wait?
1090 You have two years that you're going to be operating the Kingsland/Strath Road
1091 site. And you want to operate this one in conjunction with that one. You're saying
1092 it's being renewed. Why not wait until those operations are over?
1093

1094 Mr. Morgan - No ma'am. They are two separate companies.
1095

1096 Ms. Harris - We know, we know. But in the report we have—you
1097 have a copy of the report, right?
1098

1099 Mr. Morgan - Yes ma'am.
1100

1101 Ms. Harris - It reads—I won't read the whole sentence, but they're
1102 talking about the site on Kingsland Road is near completion and will be reclaimed
1103 within the next two years. As that site approaches closure, Liesfield Contractors is
1104 looking for other sites to deposit materials. So as it is closing. But it has not closed,
1105 may not close for two years. Why don't you wait for this rather than put additional
1106 trucks on the road now? We have a solar farm not too far there. That would involve
1107 acres of land. I think the community is being burdened too much. I know the solar
1108 farm is not your doing, but this is. And if this is going to help out the situation that
1109 might occur within two years, why can't we wait until two years later and deal with
1110 this application? Why take the chance now of putting additional trucks on the road?
1111

1112 Mr. Morgan - We have no association whatsoever with the Kingsland
1113 facility.
1114

1115 Ms. Harris - I'm aware, I'm aware.
1116

1117 Mr. Morgan - That is another company. That is their business. We
1118 are operating this facility for our purpose and that's why we're doing it.
1119

1120 Ms. Harris - Yes, I understand that. Can you wait two years to start
1121 this operation?
1122

1123 Mr. Morgan - We cannot.
1124

1125 Ms. Harris - You cannot?
1126

1127 Mr. Morgan - No ma'am.
1128

1129 Ms. Harris - Why?
1130

1131 Mr. Morgan - Because we are not purchasing a piece of property and
1132 pay it for two years without being able to utilize it.

1133
1134 Ms. Harris - You've already purchased the property.
1135
1136 Mr. Morgan - We are in the process of doing that now.
1137
1138 Ms. Harris - Okay. Those are all my questions.
1139
1140 Mr. Mackey - All right. Are there any other questions? All right, thank
1141 you.
1142
1143 Mr. Morgan - Yes sir. Is there anyone else here who would like to
1144 speak in support of the application? Anyone to speak in opposition?
1145
1146 Mr. Kidd - My name is Ray Kidd. It's R-a-y, K-i-d-d. Y'all may
1147 remember me because I'm the solar farm guy. I've heard some things here this
1148 morning I haven't even known. I didn't have any idea they were going to do a
1149 burning operation on this project. The solar field thing, other than the brief period
1150 of construction, that's a zero.
1151
1152 The differences between what we did and what they're doing here is—I don't know
1153 if you all are aware of this or not, but the sign was removed from the street, and
1154 it's only been up for two days. So maybe there are people out here that haven't
1155 seen the sign yet to be able to come down and speak either for or against it.
1156
1157 A lot of this stuff I don't understand. So maybe you can help me with that. We just
1158 bought 600 acres here, and we spent a substantial amount of money for it. We're
1159 getting ready to put a two-million-dollar house on it. He's talking about filling the
1160 grade back up to level. The trees that are on it are only about fifteen feet high, so
1161 if he puts twenty feet of dirt in it, that's going to be a big deal to me.
1162
1163 There are other places to take the dirt as well. Are you all aware if there are any
1164 other borrow pits in the area? Is anybody here aware of that?
1165
1166 Mr. Blankinship - They're closing down. We have had a few over the
1167 years, but they're getting fewer.
1168
1169 Mr. Kidd - That's right. But you do know you have one over on
1170 Beulah Road, right?
1171
1172 Mr. Blankinship - Yes.
1173
1174 Mr. Kidd - Okay. They do have options. And I know why they're
1175 doing it, and I feel for them a little bit because I own a construction company as
1176 well. I've met Joe several times and bought some equipment from him. That's all
1177 nice and all, but this is going to be a big deal to me. Eventually, I'd like to move my

1178 family out here with us. We envision over time having five or sixes houses on this
1179 600-acre parcel out there. So I'm against it all the way.

1180
1181 Now he's talking about burning. Who monitors and enforces these conditions on a
1182 daily or even an hourly basis?

1183
1184 Mr. Blankinship - We monitor them, generally speaking, on a monthly
1185 basis.

1186
1187 Mr. Kidd - That's right. So if he comes out there on a Tuesday and
1188 dumps 200 truckloads of whatever, and smoothes it over, and you go out and look
1189 at . . . who's to know better?

1190
1191 Mr. Blankinship - We do not have staff at the gate while they're—

1192
1193 Mr. Kidd - That's my point. And I don't anticipate they do that. I
1194 mean. They're pretty legitimate. But I don't know how you control it. Who monitors
1195 all the complaints?

1196
1197 Mr. Blankinship - My staff does that.

1198
1199 Mr. Kidd - Right. But, I mean, at the end of the day—and I'd like
1200 to work with them. They haven't contacted us, and I've reached out to Joe in a
1201 roundabout way, and he never called back. And that's fine.

1202
1203 The biggest real complaint I got with it is going to be the noise. Nonstop beeping
1204 of backing-up trucks and slamming tailgates. Then of course when they get to the
1205 twenty-foot fill and it's taller than that little 100-foot buffer you're proposing, that's
1206 going to be a big deal for me, a really big deal. When we bought that thing, knowing
1207 that it was in a rural area and that it would, to a large extent, stay there. You can
1208 argue about the solar field thing, but again, that's a zero. The conditions you all
1209 placed on us are far greater than what he's asking for. We had bigger buffers.
1210 Again, we make no noise, no smell, no traffic, no impact on the community in any
1211 way, other than positive.

1212
1213 If you look at S. B. Cox's place, does anybody know how big that is, how many
1214 acres it is?

1215
1216 Mr. Blankinship - I want to say 11.4 is the disturbed area.

1217
1218 Mr. Kidd - So this is at least four times the size, and it took them
1219 twenty years to fill that up. So I'm going to expect that for the next eighty to a
1220 hundred years? How would like to live next to that for eighty years?

1221
1222 In addition, if they bring stuff in, are they going to take any of it back out?

1223

1224 Mr. Blankinship - No. Everything that's been excavated has been
1225 excavated, that —
1226
1227 Mr. Kidd - Right. But if he hauls in a topsoil pile, he's already
1228 talking about burning. Is the burning thing anywhere in this letter that I go?
1229
1230 Mr. Blankinship - No.
1231
1232 Mr. Kidd - I didn't know anything about that. Are any of you
1233 familiar with burn permits or burn sites?
1234
1235 Mr. Blankinship - Somewhat, yes.
1236
1237 Mr. Kidd - Well I am. I'm an excavating contractor, and I've seen
1238 that stuff. It's a big deal. You got ash and all kinds of stuff to deal with. I am against
1239 it all the way. Like I say, you send me this letter. I read the letter, and that's all cool.
1240 And there's stuff now that's not even in the letter. So how often is that going to
1241 change?
1242
1243 Mr. Blankinship - How often is what going to change?
1244
1245 Mr. Kidd - Well, he's asking now to do pit burning. Is that in your
1246 letter?
1247
1248 Mr. Blankinship - That is not address by this permit. As you said, that is
1249 covered by a separate permit. There is a separate process for regulating—
1250
1251 Mr. Kidd - Right. So is that going to change on a constant basis?
1252 He'll go back and ask for three other things to do. Crushing operations. Is he going
1253 to be able to do crushing? He's not asking today. But he's already asking to do
1254 burning, and that's not in this.
1255
1256 Mr. Blankinship - If so, there will be another notice and another hearing.
1257
1258 Mr. Kidd - Right. But to me, once you've opened the door and put
1259 him in there, I've got to start battling. Me and maybe some of the other neighbors
1260 are going to have to battle that for the next 80 to 100 years. That's a big deal. Or
1261 at least it is to me.
1262
1263 And look at the hours of operation, six to six. Who's going to enforce that? When
1264 he's pressed, working for White Oak, and White Oak says they have to have this
1265 done today. And they're down there until nine o'clock at night because White Oak's
1266 pressing them, who's going to go down there and tell them to stop?
1267
1268 Mr. Blankinship - We do that on a regular basis.
1269

1270 Mr. Kidd - No, I have to do it, because you're not going to live
1271 there next to it. I'm going to be the one who's having to call somebody, and that
1272 makes me a bad neighbor. And I don't need to be a bad neighbor to him. But that's
1273 a lot of hours of operation. And anything he asks for, it gets moved around. I've
1274 done it. You guys set rules on me all the time, and I push them as far as I can go.
1275 That's just the nature of the business that he's in or that I'm in. I don't like it.
1276

1277 Mr. Blankinship - Are there changes that you would propose to the hours
1278 of operation?
1279

1280 Mr. Kidd - There are three things he could do that would make me
1281 happy.
1282

1283 Mr. Blankinship - Okay.
1284

1285 Mr. Kidd - One would be change the hours a little bit—or actually
1286 a lot. Two, make the buffer bigger. And three, eliminate backup alarms and tailgate
1287 slamming.
1288

1289 Mr. Blankinship - I wish we could eliminate backup alarms but—
1290

1291 Mr. Kidd - I'm going to have to hear them. I'm certainly within ear
1292 distance of that.
1293

1294 Mr. Blankinship - Yes, you are.
1295

1296 Mr. Kidd - I'm going to have to hear that nonstop for eighty years.
1297

1298 Mr. Mackey - Mr. Kidd, what would be your proposed hours of
1299 operations?
1300

1301 Mr. Kidd - Well, I mean, most businesses run eight to four. The
1302 weekend thing? I get it, right? I'm in his shoes as well. But again, this is where I
1303 have to live. He doesn't live there, and you don't live there, but that's where I live.
1304 So it's going to be a big deal to me. And I don't know how you eliminate the tailgate
1305 slamming, but that's what you have to do.
1306

1307 Mr. Blankinship - Can't be done.
1308

1309 Mr. Kidd - Have you ever been around that?
1310

1311 Mr. Blankinship - Yes sir.
1312

1313 Mr. Kidd - Okay. Well I have. We do it for a living. We call it "the
1314 sonic boom."
1315

1316 Mr. Blankinship - Was there a specific buffer that you would prefer?
1317 The—
1318
1319 Mr. Kidd - There is no buffer that's going to solve the backup
1320 alarms and tailgate slamming. During limited or normal business hours, to some
1321 degree I reluctantly would say I could live with it. I can imagine a scenario in where
1322 he could eliminate backup alarms, and that just drives me nuts. All the machines I
1323 have they're off of.
1324
1325 Mr. Blankinship - Let's talk later.
1326
1327 Mr. Green - Excuse me. You just said you do backup alarms?
1328
1329 Mr. Kidd - We own heavy equipment. All the ones that are on
1330 mine we disassembled just because it drives me crazy. And he can't do that
1331 because he's a little more of a business guy than I am.
1332
1333 Mr. Blankinship - That's an OSHA requirement.
1334
1335 Mr. Kidd - It is. Look, I understand that.
1336
1337 Mr. Blankinship - I would eliminate every one of them in the world if it
1338 was within my authority.
1339
1340 Mr. Kidd - I know it. Well, put it in your backyard, six to six, and
1341 nine o'clock five times a year when he's pressed.
1342
1343 Mr. Green - So technically . . .
1344
1345 Mr. Kidd - You should have them.
1346
1347 Mr. Green - So you should have them.
1348
1349 Mr. Kidd - There is no legitimate way to get around it.
1350
1351 Mr. Green - But technically you should . . . have them.
1352
1353 Mr. Kidd - That's right, I should be shot. I'm a private individual,
1354 so I can take a few more liberties than he can.
1355
1356 Mr. Green - Well no, we have to all follow the law.
1357
1358 Mr. Kidd - There is not a law that says I have to have them.
1359
1360 Mr. Blankinship - That's not really germane to our case this morning.
1361

1362 Mr. Mackey - Basically what we're looking at is your proposal for
1363 some hours, like you said, the backup alarms and stuff like that. We can't change
1364 any of that; that's law.

1365
1366 Mr. Kidd - I got it. And that's why I hate to complain about it, but
1367 still, I'm going to have to live with this for eighty years or so.

1368
1369 Mr. Mackey - I understand. And we take it seriously, and I know the
1370 County does. Unfortunately, part of being a citizen is when you have something
1371 that is troublesome or a nuisance, it is your responsibility to call and make the
1372 complaint because the County can't staff people at every location where they're
1373 doing work. I mean that's impossible. That's part of being a resident.

1374
1375 We have some other people that want to speak, so we need to move along. We
1376 appreciate you—oh, was there anyone who had anything for Mr. Gidley? All right,
1377 thank you, sir. Is there anyone else who would like to speak in opposition?

1378
1379 Mr. Blankinship - Would you raise your right hands, please. Do you
1380 swear the testimony you're about to give is the truth, the whole truth, and nothing
1381 but the truth so help you God?

1382
1383 Mr. Austin - Yes. I'm Larry Austin. Mr. Kidd had a lot of good points
1384 there. However, if I could show you. This is my house. Nobody said anything about
1385 my house. I'm the closest person to any of this. I'm real concerned about my well.
1386 They're talking about coming down in here and bringing that borrow pit down in
1387 here and depositing whatever. That's right across from my window of my house,
1388 and 150 feet is not very far. I'm looking dead at it, and it's going to be piled up out
1389 there.

1390
1391 This is a hill. I don't know if you know this. Back here, you go behind my house,
1392 this is a hill. It slopes down. All of this slopes down like this. It slopes the other way
1393 that way. So this has all been dug out. I've been there thirty-one years. This has
1394 all been dug out, and this was all trees when I moved there. So they dug it all out.
1395 And when they did dig it out, they disrupted my well, and my well went dry. They
1396 were nice enough to admit that, and they dug me a deeper well. But with this
1397 material going in here, I'm real concerned. My well is right there. And I'm real
1398 concerned that this is going to affect my water. And I don't know how that's going
1399 to do. I'm not happy about that at all.

1400
1401 And I'm not happy about it coming so far down that I could look out my window
1402 and see it. If they stopped it back here at the top of the hill, it wouldn't affect me
1403 that often. I mean there are trees back there. And I wouldn't be able to see that
1404 much. But if they're coming down in here, that's going to be a problem for me.

1405
1406 I'm the main person that this is affecting. I'm very close to it. What else was I going
1407 to say?

1408
1409 All this runoff. Mr. Kidd was talking about he owns this property over here. This is
1410 flat. There is no hill right here. There's a hill here, all the way around. There's a hill
1411 there. But when it gets to right here, this is flat land. All this runs down to a creek,
1412 which runs out to Roundabout Creek to the James River. It's a pretty good-sized
1413 creek. All of this here on that hill, it runs down, and all that runs down to that creek.
1414 My driveway runs right up alongside of that creek. That's a big creek. And I don't
1415 know what's going to go into the James. And you know you have the Chesapeake
1416 Bay Act, and nothing is supposed to go down in there. If he's dumping asphalt or
1417 whatever or shingles, stuff like that, you don't know what he's dumping.

1418
1419 Mr. Blankinship - The conditions restrict him to excavated material. The
1420 first step will be to install the sediment basin required by the Chesapeake Bay Act.
1421 We can't ask—

1422
1423 Mr. Austin - I pretty much addressed what I wanted to. My main
1424 concern is to not come down so far and keep it up on top of that hill. If you keep it
1425 up on top of that hill up there right there, I wouldn't be too awful unhappy about.
1426 Because it wouldn't come down so far and I'd look out my window and there it is.

1427
1428 Mr. Blankinship - The Board could ask the applicant to adjust the plan.

1429
1430 Mr. Austin - I'd appreciate that. That's all I had.

1431
1432 Mr. Mackey - Thank you, Mr. Austin. Is there anyone else who would
1433 like to speak in opposition? All right. I'd like to call Mr. Nelson back up. Before you
1434 start your rebuttal, I had a question. Have you all had a lot of communications with
1435 the community, the folks from the community?

1436
1437 Mr. Nelson - I have not. No one has called me at all.

1438
1439 Mr. Mackey - Is that something you all typical do sometimes ahead
1440 of your projects?

1441
1442 Mr. Nelson - Being from that area, I typically get phone calls from
1443 neighbors and people I've known over the years from that area.

1444
1445 Mr. Mackey - All right. Going to Mr. Kidd's request for the hours of
1446 operation, he requested eight to four. Is there anything you could do close to that?

1447
1448 Mr. Nelson - Our hours of operation are seven to five thirty. That's
1449 what we do. We would like it to include at least that parameter. Typically, materials
1450 coming in, those are the hours that it's going. So we would not want to do anything
1451 shorter than seven to five thirty in the evening.

1452

1453 Mr. Mackey - Is there anything else that you wanted to rebut that you
1454 heard from some of the residents?

1455
1456 Mr. Nelson - Let me think. For example, backup alarms, I hate them
1457 too. We have to run them. It's the law. So that's really a non-issue. I can't do
1458 anything to address that.

1459
1460 One thing that we do or that we can do is we run different backup alarms, say on
1461 a bulldozer that we'll have onsite. We've stolen this from other facilities where it's
1462 not the *beep-beep* [high-pitched]. It makes a different sound. So it's a better
1463 backup alarm, but it's still legal. So we will run those. Most of our equipment
1464 actually has those on them anyway because everyone hates them.

1465
1466 As far as tailgate banging, I try to preach to those guys don't bang tailgates, but
1467 it's not easy. I don't like it. I'm not there all the time. He's exactly right. I can't argue
1468 with the noise. I'm not sure what we can do to prevent that, though, except for try
1469 to prevent it. But we can't stop it. I'd be lying to you if I said I could.

1470
1471 Mr. Mackey - What about Mr. Austin's request about not coming
1472 down so far?

1473
1474 Mr. Nelson - You know, I think—

1475
1476 Mr. Mackey - With his well.

1477
1478 Mr. Nelson - As far as how the grades tie in, I'm not exactly sure how
1479 the grades tie in. There is a grading—one of these I think is a grading plan.

1480
1481 Mr. Morgan - Yes. Basically, we're tying it back to the existing grade
1482 where he's talking about going back down. And also, back to the first person who
1483 spoke, we're not building a mountain. This site has a 100-foot buffer to the left, and
1484 they dug a hole. We're tying back to existing grade at those 100-foot buffer lines.
1485 So we're not going higher; we're putting it back to where it was twenty-two years
1486 ago.

1487
1488 Mr. Nelson - You might find a spot out there where it's twenty feet,
1489 but most of it, I believe, is shallow—

1490
1491 Mr. Blankinship - That's about the maximum, yes. Fifteen to twenty I
1492 think is what we said in the report. Can you zoom in on that little two-acre notch?

1493
1494 Mr. Nelson - We intentionally stayed out of that area on Old
1495 Kingsland Road mainly because those two houses are so close. But you can see
1496 in that drawing all I'm really doing is tying back to existing grade. And the berm
1497 that's behind Mr. Austin's house, it's more of a berm that they left in that buffer. It's

1498 where they cut the buffer and left the berm. And we're tying back to that grade, the
1499 existing grade from the beginning.

1500
1501 Mr. Blankinship - How much would it disturb the project if you just cut off
1502 that little notch and just went straight across?

1503
1504 Mr. Nelson - I could care less. As long as the grade—we can tie in
1505 everything correctly and stuff does what it's supposed to do. If we cut off that corner
1506 and basically went from buffer to buffer, it doesn't affect us at all. The engineers
1507 need to make sure that everything kind of still functions correctly by doing that. I
1508 really don't care.

1509
1510 Mr. Morgan - We can make that tie.

1511
1512 Mr. Blankinship - Okay.

1513
1514 Mr. Morgan - They're installing two basins that are required by law.
1515 We're controlling that runoff. The runoff situation actually will be better.

1516
1517 Mr. Nelson - We don't intend to be here for eighty to a hundred
1518 years. I mean that's crazy.

1519
1520 Mr. Mackey - I just have one more question I'd like to ask. With all
1521 the opposition that we heard today, there are a lot of people that are against it. I
1522 know we spent a little bit of time on it today. Would you consider deferring your
1523 case to a later date and possibly having maybe a community meeting at the Varina
1524 Library for some of the residents to kind of explain a little bit? You don't have to.

1525
1526 Mr. Nelson - I think . . . I'm not sure that we . . . I'm not sure we want
1527 to defer it.

1528
1529 Mr. Morgan - They're in a real estate deal with Vulcan. Deferring it
1530 may be detrimental to that.

1531
1532 Mr. Blankinship - Of course the Board has the authority to defer it. You're
1533 required to make a decision within ninety days of application, so you do have time
1534 to defer it if the Board feels that that's necessary.

1535
1536 Mr. Nelson - I think we can work with the neighbors.

1537
1538 Mr. Mackey - Yes, but it's different if we approve something and then
1539 work with the neighbors other than if we move it back maybe thirty days.

1540
1541 Mr. Nelson - We can't control the beeps. We can't—

1542

1543 Mr. Mackey - No, we understand that. But there are some other
1544 things other than beeps. There are some traffic issues. I live very close to that
1545 area, and I know what it's like to meet one of those trucks on that road. I've been
1546 driving for a long time. A lot of people who live down there haven't been driving
1547 that long and don't understand, you need to slow down. The last thing we want is
1548 another fatality or something like that.

1549

1550 I don't want to feel like we're trying to kick the can down the road or anything, but
1551 I do understand the residents' opposition to it, especially like we heard. I'm not
1552 accusing you of anything at all, but the sign missing and stuff like that. There may
1553 be some people that don't even realize that there was a public hearing today.
1554 That's something we could look into as well.

1555

1556 Mr. Nelson - It's been there for the last couple of week because I've
1557 got another project down the street that I go to and it's there. I've seen it multiple
1558 times.

1559

1560 Mr. Mackey - Okay. Maybe it's just fallen over.

1561

1562 Mr. Nelson - I don't know.

1563

1564 Mr. Mackey - All right. I just thought that might be something you
1565 definitely would consider.

1566

1567 Mr. Nelson - I'm not sure. I don't know. I've never been asked if I
1568 should defer something. We are time-sensitive with the purchase of this property.
1569 We have not heard anything previously concerning that as far as feedback. So I'm
1570 not sure we want to defer it at this point. Do you think I should defer it?

1571

1572 Mr. Blankinship - The Board can defer it at their discretion.

1573

1574 Ms. Harris - I don't remember their names.

1575

1576 Mr. Mackey - Mr. Nelson and Mr. Morgan.

1577

1578 Ms. Harris - Mr. Morgan has been before our Board before, have
1579 you not?

1580

1581 Mr. Morgan - Yes ma'am.

1582

1583 Ms. Harris - Yes. So I'm kind of familiar with you.

1584

1585 Mr. Blankinship - And Mr. Nelson's plans have been before you before.

1586

1587 Ms. Harris - Okay.

1588

1589 Mr. Nelson - I used to do this twenty years ago.
1590
1591 Ms. Harris - You said, Mr. Nelson, that you had not been contacted
1592 by the neighborhood. This is why I see a need for your group and the neighbors to
1593 get together. It's not that they would contact you. They probably don't even know
1594 who is involved in this complete project.
1595
1596 And then Mr. Morgan, you said something about you had not purchased the land
1597 before. This piece of land has security problems and safety problems. Well I said—
1598 security and safety are the same basic thing. Buffer problems. I don't understand
1599 why you would be locked in this particular parcel of land when Varina is completely
1600 full of other sites. So, I would hope that you would get with the neighbors and
1601 resolve some of the problems that you have. But if you want us to vote on it today,
1602 of course we can do that too.
1603
1604 Mr. Nelson - It sounds like you want me to defer it. We can do it. If
1605 that's what you all are recommending or think is the best thing to do, we'll defer it.
1606
1607 Ms. Harris - If during this time you would have a neighborhood
1608 meeting, as the Chair suggested, maybe at the Varina Library or something and
1609 just kind of air—like with Mr. Kidd and Mr. Austin and some other neighbors to see
1610 if you can resolve some of these objections.
1611
1612 Mr. Nelson - Yes ma'am.
1613
1614 Ms. Harris - I think it would be smarter, but it's your call.
1615
1616 Mr. Mackey - Our next planning meeting is July 26. It's a month from
1617 now. Will that be sufficient for you?
1618
1619 Mr. Nelson - Yes, I think so. Do we need to . . . okay, yes, if we can
1620 still get on the July 26.
1621
1622 Mr. Mackey - All right. I know it's kind of tight. You probably need to
1623 contact the library as soon as possible to set something up unless you had another
1624 location or something like that.
1625
1626 Mr. Nelson - Okay.
1627
1628 Mr. Mackey - I think it would be in the best interest of the community
1629 to go that route.
1630
1631 Mr. Nelson - All right, we'll do that.
1632
1633 Mr. Mackey - All right. Do we need to make a motion?
1634

1635 Mr. Blankinship - We can do that at the end.

1636

1637 Mr. Mackey - At the end? Okay. All right, thank you, sir.

1638

1639 Mr. Nelson - Thank you. Yes sir.

1640

1641 **[After the conclusion of the public hearings, the Board discussed the case**
1642 **and made its decision. This portion of the transcript is included here for**
1643 **convenience of reference.]**

1644

1645 Mr. Mackey - I would like to make a motion. After a lot of the public
1646 concern and community concern, I think that we might be moving a little quickly on
1647 this. I'd like to make a motion that we defer this case to the July 26th meeting to
1648 allow the contractor and the community to work together to see if they can hash
1649 out some of the concerns. Is there a second?

1650

1651 Ms. Harris - Second.

1652

1653 Mr. Mackey - Okay. We don't need any discussion.

1654

1655 Mr. Blankinship - No, I think that was clear enough.

1656

1657 Mr. Mackey - Okay. All right. It's been moved and properly seconded
1658 by Ms. Harris. All in favor of the deferral to the July 26th meeting say aye. Any
1659 opposed? That motion is granted.

1660

1661 After an advertised public hearing and on a motion by Mr. Mackey seconded by
1662 Ms. Harris, the Board **deferred** application **CUP2018-00015, LIESFELD**
1663 **CONTRACTOR, INC.** request for a conditional use permit pursuant to Section 24-
1664 116(d)(3) of the County Code to deposit soil as fill material at 8950 Strath Road
1665 (Parcel 816-677-8788) zoned Agricultural District (A-1) (Varina).

1666

1667

1668 Affirmative: Bell, Green, Harris, Mackey, Reid 5

1669 Negative: 0

1670 Absent: 0

1671

1672

1673 **[At this point, the transcript continues with the public hearing on the next**
1674 **case.]**

1675

1676 **CUP2018-00017 GINAULO POULOS AND TAMMI GRINDELE** request
1677 a conditional use permit pursuant to Section 24-95(i)(4) of the County Code to build
1678 a detached carport in the side yard at 5702 Linda Road (SANBURNE PARK)
1679 (Parcel 821-716-1525) zoned One-Family Residence District (R-3) (Varina).

1680

1681 Mr. Blankinship - Would everyone who intends to speak to this case
1682 please stand and be sworn in. Raise your right hands, please. Do you swear the
1683 testimony you're about to give is the truth, the whole truth, and nothing but the truth
1684 so help you God? Thank you. Mr. Gidley?

1685
1686 Mr. Gidley - Thank you, Mr. Secretary, members of the Board.

1687
1688 The subject property, as you can see here, is located in the Sanburne Park
1689 subdivision, which is northwest of the intersection of Airport Drive and Williamsburg
1690 Road. It currently contains a 1600-square-foot home built in 1980, and the
1691 applicants have owned the home since 2008.

1692
1693 As you can see on the aerial here, you have homes on either side and across the
1694 street from the subject property. To the northeast is a parking lot that is used for
1695 people going to the airport.

1696
1697 This is a street view of the home. As you can see, the applicants own a mobile
1698 home right here, and they are requesting permission to place a carport in the side
1699 yard to provide shelter for this mobile home. The carport would be sixteen feet
1700 wide and forty feet deep. Due to an easement on the rear property line, they really
1701 can't fit it in their rear yard unless they had it perpendicular to the road, which would
1702 pretty much render it useless. So as a result, they are requesting permission to
1703 place it in the side yard at the end of the driveway right here.

1704
1705 In evaluating it, the property is zoned R-3, One-Family Residence District, and it's
1706 designated as SR-2, Suburban Residential, on the Land Use Plan. A one-family
1707 dwelling is consistent with both of these designations, and carports are customary
1708 to the principal use of the property as a residence.

1709
1710 In looking at any substantial detrimental impact on nearby property, as you can
1711 see here, the front of the property is 78 feet in width and the rear is 145 feet. The
1712 home, which is located here, is skewed toward the left side of the lot, resulting in
1713 a rather large side yard here on the right side. The motor home is over here, so
1714 you can see the side yard here is rather extensive and landscaped.

1715
1716 The proposed location of the carport would be right here. It shows forty feet toward
1717 the rear. When you go to the front, I actually scaled it on a plot plan, and in the
1718 front here it would be roughly thirty feet from the adjacent neighbor. This is well in
1719 excess of the eighteen feet setback required for the home itself on this side of the
1720 property. So, there would be a significant distance between the carport and the
1721 adjoining property line. So between the distance and the landscaping that you saw
1722 earlier, staff doesn't really anticipate any detrimental impact if this case were
1723 approved.

1724
1725 So, in conclusion, the applicant is requesting to place the carport in the side yard.
1726 The location is at least thirty feet from the nearest property line. Between the

1727 distance and the landscaping, no detrimental impact is anticipated. It is consistent
1728 with the zoning and the Comprehensive Plan. So as a result, staff can recommend
1729 approval of this request.

1730

1731 If you have any questions, I'll be happy to entertain those.

1732

1733 Mr. Mackey - All right. Thank you, Mr. Gidley. Are there any
1734 questions?

1735

1736 Ms. Harris - No.

1737

1738 Mr. Mackey - All right. Thank you, sir. Can we hear from the
1739 applicant?

1740

1741 Mr. Robbins - My name is Rod Robbins. I'm the builder.

1742

1743 Mr. Mackey - Did you say *Robbins*?

1744

1745 Mr. Robbins - Robbins. R-o-b-b-i-n-s.

1746

1747 Mr. Mackey - Okay.

1748

1749 Mr. Robbins - Rod. R-o-d. I think he laid it out pretty well. We're just
1750 trying to build a carport because there's not enough room in the back.

1751

1752 Ms. Harris - Thank you for the plans. The exterior of the carport,
1753 what would it be made of, the construction?

1754

1755 Mr. Robbins - Nothing. It's going to be all open. And then there's
1756 going to be vinyl siding on the gable ends up top. It's going to look nice. But the
1757 sides and the back and the front will be all open.

1758

1759 Ms. Harris - All right. So, you'll have the vinyl—

1760

1761 Mr. Robbins - Yes.

1762

1763 Ms. Harris - —roofline, I call it. I don't know the technical term for it.

1764

1765 Mr. Robbins - Well, that's a gable end.

1766

1767 Ms. Harris - Okay. I'll take your word for it.

1768

1769 Male - Shingle roof?

1770

1771 Mr. Robbins - Yes.

1772

1773 Mr. Blankinship - So will it be consistent with the dwelling, the vinyl and
1774 the shingles?
1775
1776 Mr. Robbins - Yes.
1777
1778 Ms. Harris - I didn't know how fancy you were going to get there. I
1779 did drive by there yesterday. And I don't know if you can answer this or the owners
1780 need to answer this. But there is a carport on the lot. Is there a carport on the
1781 adjacent lot or something, some type of structure?
1782
1783 Mr. Robbins - I don't remember. I saw another one in the
1784 neighborhood several houses down. It didn't look very good.
1785
1786 Ms. Harris - Yes, yes.
1787
1788 Mr. Robbins - This one will look a whole lot better than that one.
1789
1790 Ms. Harris - That's what I was talking about. Thank you.
1791
1792 Mr. Mackey - All right. Any other questions for Mr. Robbins? All right,
1793 thank you, sir.
1794
1795 Mr. Robbins - All right.
1796
1797 Mr. Mackey - Is there anyone here who would like to speak in support
1798 of the application?
1799
1800 Ms. Poulos - [Off microphone] I'd like to ask a question.
1801
1802 Mr. Mackey - Excuse me. We need you to get to the microphone.
1803 Has she been sworn in?
1804
1805 Mr. Blankinship - Yes.
1806
1807 Mr. Mackey - Okay.
1808
1809 Ms. Poulos - My name is Ginaulo (G-i-n-a-u-l-o), Poulos (P-o-u-l-o-
1810 s).
1811
1812 Mr. Blankinship - I tried; I apologize.
1813
1814 Ms. Poulos - No, you did pretty good, you did. I'm the homeowner.
1815 We've actually been there since 1997. So as far as to an adjacent carport, there's
1816 nothing on the property. The neighbors I think at 5704, they have some hard
1817 structures under both that maybe you saw.
1818

1819 Ms. Harris - I noticed the road was very narrow. Do you know the
1820 width of that road?
1821
1822 Ms. Poulos - The driveway?
1823
1824 Ms. Harris - Yes.
1825
1826 Ms. Poulos - The driveway entry is eighteen feet. As it goes back, it
1827 narrows down to sixteen.
1828
1829 Ms. Harris - Yes. I was just concerned. For safety reasons, if an
1830 ambulance or something had to come through that road could they actually get
1831 through?
1832
1833 Ms. Poulos - I'm sorry; I don't understand.
1834
1835 Ms. Harris - If I had stayed on that road that we're talking about,
1836 Linda Road, I noticed that it got more rural as you drove back. I was just wondering
1837 about—that doesn't pertain to this case, just curiosity.
1838
1839 Ms. Poulos - Oh, we can talk about that area all day long if you'd
1840 like.
1841
1842 Ms. Harris - I would be concerned about the neighborhood if an
1843 emergency vehicle had to really go back there.
1844
1845 Ms. Poulos - With this vehicle on the roadway and other large
1846 vehicles passing, there's plenty of room. So having that vehicle in the
1847 neighborhood isn't a safety concern.
1848
1849 Ms. Harris - Thank you.
1850
1851 Ms. Poulos - And your other question was in regards to the finish. It
1852 will be a vinyl—
1853
1854 Ms. Harris - Yes, I think he answer that.
1855
1856 Ms. Poulos - —that ties into what the existing structure—
1857
1858 Ms. Harris - Right.
1859
1860 Ms. Poulos - —to include the roofing.
1861
1862 Ms. Harris - Yes, thank you.
1863
1864 Ms. Poulos - We want it to look like a part of the original structure.

1865
1866 Ms. Harris - Yes. I saw the proposed plans. It's going to be
1867 gorgeous, but I still wanted to check.

1868
1869 Ms. Poulos - Thank you.

1870
1871 Mr. Mackey - Thank you, Ms. Poulos. Is there anyone else who
1872 would like to speak in support? Is there anyone here who would like to speak in
1873 opposition? All right. Can we hear our next case?

1874
1875 **[After the conclusion of the public hearings, the Board discussed the case**
1876 **and made its decision. This portion of the transcript is included here for**
1877 **convenience of reference.]**

1878
1879 Mr. Mackey - What is the pleasure of the Board? Being the Varina
1880 magistrate, I make a motion that we approve the conditional use permit. I do not
1881 believe that the carport will be a detriment or an eyesore on the neighborhood. I
1882 believe we should allow them to build the carport in the side yard. Is there a
1883 second?

1884
1885 Ms. Harris - Second. I feel too that based on the plans that we had
1886 submitted to us that it will be a very attractive addition to the community.

1887
1888 Mr. Mackey - All right. Any more discussion? It's been moved and
1889 properly seconded. All in favor to approve the motion say aye. Any opposed? That
1890 motion is carried.

1891
1892 After an advertised public hearing and on a motion by **Mr. Mackey, seconded by**
1893 **Ms. Harris, the Board approved application CUP2018-00017, GINAULO**
1894 **POULOS AND TAMMI GRINDELE's** request for a conditional use permit pursuant
1895 to Section 24-95(i)(4) of the County Code to build a detached carport in the side
1896 yard at 5702 Linda Road (SANBURNE PARK) (Parcel 821-716-1525) zoned One-
1897 Family Residence District (R-3). The Board approved the request subject to the
1898 following conditions:

1899
1900 1. This conditional use permit applies only to the placement of a carport in the side
1901 yard only. All other applicable regulations of the County Code shall remain in force.

1902
1903 2. Only the improvements shown on the plot plan and building design filed with the
1904 application may be constructed pursuant to this approval. Any additional
1905 improvements shall comply with the applicable regulations of the County Code.
1906 Any substantial changes or additions to the design or location of the improvements
1907 shall require a new conditional use permit.

1908
1909 3. The carport shall not be located within the 20-foot utility easement that crosses
1910 the property or the drainage and utility easement along the rear property line.

1956 Between 2015 and 2016, again, the subdivision was expanded, the roadway was
1957 extended to section 3. Because of the layout of the adjacent lots, the subject
1958 property was converted from a standard corner lot to a reverse corner lot. In a
1959 reverse corner lot, the rear property line abuts the side yard of the adjacent lot. So
1960 that's what establishes a reverse corner lot.

1961
1962 This change imposed a sixty-five-foot street-side setback to accessory structures
1963 and uses located in the rear yard instead of a ten-foot street-side setback
1964 applicable to standard corner lots. So that's a difference. A reverse corner lot
1965 requires a much deeper setback from the side street as opposed to a standard
1966 corner lot.

1967
1968 The applicant's purchased the property in February 2014, and the home was
1969 completed three months later. They now wish to construct an inground swimming
1970 pool in the rear yard. The proposed pool would be located between the existing
1971 septic drain field and the street-side property line. Because the property is a
1972 reverse corner lot—and again, code requires a sixty-five-foot setback from the
1973 street-side property line to the pool. Although the property has a large rear yard,
1974 the existing septic system and drainage and utility easements limit where the pool
1975 can be placed. The applicants are requesting a reduced street-side setback of
1976 thirty feet to accommodate the proposed pool.

1977
1978 The property is zoned A-1, and it is designated Rural Residential on the 2026
1979 Future Land Use Map. The existing residence is a principally permitted use in the
1980 A-1 District and is consistent with the Comprehensive Plan. Although accessory
1981 uses and structures are permitted by right in the rear yard, the proposed placement
1982 of the pool in the street-side yard requires a conditional use permit.

1983
1984 Generally, street-side setbacks are required for corner lots to protect the
1985 streetscape, limit detrimental impacts on adjacent neighbors, and protect privacy.
1986 This is more critical in a reverse corner lot configuration.

1987
1988 Because of the large size of the lots within the subdivision, the distances between
1989 homes and existing landscaping, staff does not anticipate any detrimental impacts
1990 to adjacent and nearby property if the applicant's request is approved. The closest
1991 and most impacted property is to the rear of the subject lot. That home is
1992 approximately 200 feet distant to the proposed swimming pool. The proposed pool
1993 will be partially screened by an existing fifteen-foot landscape buffer along the
1994 street-side property line. Additionally, there is an existing ninety-foot-wide tree
1995 buffer east of the proposed pool in the rear neighbor's side yard. If we go to the
1996 aerial, you can see the landscaping along the street. And then this is that wooded
1997 or buffered area on the neighbor's lot.

1998
1999 The applicant will be required to fence the perimeter of the pool to satisfy building
2000 code requirements. As a prerequisite for the reduced setback, staff recommends
2001 a condition requiring a six-foot-tall privacy fence along the western, southern, and

2002 eastern boundary lines of the pool deck. This will aid in limiting the pool's impact
2003 on the streetscape and on the adjacent neighbor.

2004
2005 In conclusion, although the proposed pool is technically in the rear yard, the
2006 request is to locate the inground pool in the street-side yard. This change from a
2007 standard corner lot to a reverse corner significantly impacted the applicant's plans
2008 for the swimming pool in the rear yard. This was further exacerbated by the existing
2009 septic system which constrained the placement of the pool in the rear yard. The
2010 intent of the increased setback is to protect the streetscape and limit visual and
2011 physical impacts on the adjacent lot. In this instance, the large size of the lots within
2012 the subdivision, the distances between homes, and existing landscaping buffers
2013 help to diminish any detrimental impacts associated with the proposed pool.

2014
2015 Based on the facts of the case, staff recommends approval subject to conditions.

2016
2017 That concludes my presentation.

2018
2019 Mr. Mackey - Thank you, Mr. Madrigal. Does anyone from the Board
2020 or staff have any questions?

2021
2022 Ms. Harris - I have one question, Mr. Madrigal. Why did you say the
2023 fence would not enclose the northern side as well?

2024
2025 Mr. Madrigal - That's facing the interior of the lot, and there's existing
2026 landscaping here. So it really doesn't affect anybody other than the property
2027 owners.

2028
2029 Ms. Harris - Okay.

2030
2031 Mr. Madrigal - If we go to the pool plan. Basically, it would be fencing
2032 along here, here, and here, and not here on the northern side. That's to the interior
2033 of the lot.

2034
2035 Ms. Harris - Well I have a question about the pool being completely
2036 enclosed.

2037
2038 Mr. Mackey - Yes, me too.

2039
2040 Mr. Madrigal - It'll be enclosed from a building standpoint - code
2041 requirements.

2042
2043 Mr. Blankinship - For privacy.

2044
2045 Mr. Madrigal - We're just requesting the privacy fence along those
2046 three sides. And then there will still have to be—

2047

2048 Mr. Mackey - We got you now.
2049
2050 Mr. Madrigal - —fenced in there. It'll be up to their discretion what type
2051 of fence. It doesn't necessarily have to be a privacy fence.
2052
2053 Mr. Mackey - It will be lowered to I think like four or five feet.
2054
2055 Mr. Blankinship - Or you can actually use one of the electronic covers.
2056
2057 Mr. Mackey - Okay, thank you. Any other questions for Mr. Madrigal?
2058 All right. Thank you, sir. Can we hear from the applicant?
2059
2060 Ms. Bradshaw - Good morning. Just some points of clarification. We did
2061 actually—
2062
2063 Mr. Mackey - Excuse me. Can you state and spell your name,
2064 please?
2065
2066 Ms. Bradshaw - Oh yes, I'm sorry. Jennifer Bradshaw. J-e-n-n-i-f-e-r.
2067 *Bradshaw* is B-r-a-d-s-h-a-w.
2068
2069 Mr. Mackey - Thank you, Ms. Bradshaw.
2070
2071 Ms. Bradshaw - Thank you. We actually purchased the lot in December
2072 of 2012. The home was built during 2013, and then we closed on it in February of
2073 2014. At that point, the gentleman that owned the property—it used to be a
2074 beautiful horse field. He was very, very weird [?]. He was not interested in selling
2075 that property to HHHunt. So, we were under the impression—our realtor also told
2076 us, a builder told us, the developer told us—that we figured eventually the
2077 gentleman would pass away, and his children would probably sell the property. But
2078 we were under the impression that that was not going to happen anytime in the
2079 near future. That's what we were told. And then within a year of us moving in, it
2080 subsequently did happen. So we thought we were going to have a little bit more
2081 privacy, a little bit more buffer, a little more cul-de-sac for quite a while. But it didn't
2082 happen. And it's fine. We love our neighbors who have moved in down there, so
2083 it's been a good thing.
2084
2085 I think there's a personal aspect to the reason why we want to have a pool there. I
2086 did talk a little bit about that in our application. Our youngest son has cerebral palsy
2087 and right-sided hemiplegia, which is partial paralysis of his right side. One of the
2088 things that has been amazingly helpful in his development in dealing with his
2089 disability has been the use of water therapy. So, having a pool and access to a
2090 pool several times a day would just revolutionize his therapy.
2091
2092 I think, understanding too—we belong to a community pool, and we belong to the
2093 Y, and stuff like that. As a child who is disabled, it's very, very hard for him

2094 emotionally. I'm sorry; I'm getting a little emotional. But it's hard for him emotionally
2095 to be in the pool where there are kids younger than him swimming around. He's
2096 not able to really interact with his friends who are there because—they'll hang out
2097 with him in the shallow end, in the baby pool for a little while, but then they want to
2098 go and do other things. So being able to have him in a pool where we've designed
2099 it not to be deeper than 4-1/2 feet water level so he can touch everywhere, so
2100 there's not a safety issue for him. For us, helping with the disability, but also just
2101 dealing with the emotional impact of him being in a community pool, it would really
2102 mean a lot to us to be able to do that.

2103

2104 Mr. Green - Thank you.

2105

2106 Mr. Mackey - Thank you. Did anyone have any questions?

2107

2108 Ms. Harris - Just one quick question. The construction of your
2109 security fence, what would that be made of?

2110

2111 Ms. Bradshaw - That was actually one thing. We appreciate it very
2112 much that the Permitting Center's report did recommend approval. We did have
2113 some concern regarding the six-foot fence. So I would like to address that, if that
2114 is okay.

2115

2116 Our initial intention was to—following the Building Code requires a four-foot fence.
2117 Our intention was to do a fence similar to—if you all can see this. But just a four-
2118 foot aluminum fence with the kid-proof security lock that goes on the top. We were
2119 also going to install Nest or one of those other digital viewing things so that when
2120 something is disturbed, it immediately texts you and sends you a visual to your
2121 phone. So that way we'd be able to monitor it at all times.

2122

2123 Because our lots are supposed to be wooded lots and because actually the first
2124 thing our neighbors asked when we said, "Hey, we're thinking about putting in a
2125 pool," is "You're not going to put up an ugly big fence, are you?" So I feel that it's
2126 necessary that I just make you aware our neighbors are not fans of the idea of a
2127 large, solid fence. Actually, our HOA approved it conditionally that we were going
2128 to have the minimum security fence but then also use softscape—the trees,
2129 shrubs, evergreens, those in place of a six-foot fence to provide privacy.

2130

2131 You saw the drawing. We did install those trees right there. That is a ninety-foot
2132 thing. We did that last year just to provide privacy for us. With the road being
2133 extended, as cars were coming up the road, you get headlights right into our
2134 kitchen and our family room. So we installed that last year. The interior line of trees,
2135 there are eight Thuja Green Giants. Those will be twenty to forty feet in height and
2136 twelve to twenty feet in width. The nursery that installed them said that within two
2137 years, so by the fall of next year those will have grown wide enough to be able to
2138 actually provide a solid privacy screen.

2139

2140 To kind of help that along, we also planted in front of those off center a line of Nellie
2141 Stevens hollies. Those will get to be five to ten feet in width and will be fifteen to
2142 twenty-five feet in height. So what we're hoping is that we could use that as a
2143 privacy screen. We also plan to plant—if you can see in my little drawing. We plan
2144 to plant more of those in the back, as well as four-to-five-foot evergreens in the
2145 front here. That way it would be completely blocked from view. It would be
2146 screened, but it would also fit in with what our neighborhood is, which is supposed
2147 to be wooded lots.

2148
2149 The question I have about the six-foot fence is that several of our neighbors who
2150 have pools, as well as just friends of mine who are in Henrico County, they do not
2151 have to have a six-foot privacy fence. My friends, the Cooks, who live at 4245
2152 Mountain Grove Road, have a four-foot semi-private fence, as you can see here.
2153 They built this pool ten years ago. This picture was taken this week. So it's taken
2154 some time, but they do have some vegetation planted there. But as you can see
2155 here, their pool is completely visible at several points from the road and then also
2156 from their front yard.

2157
2158 They live on a third of an acre. They're a traditional corner lot. Their neighbors
2159 have complete open view. There's no vegetation, shrubbery, or anything on the
2160 side and the rear. So there's no privacy at all. When we go swimming there, it's in
2161 full view of everybody there.

2162
2163 The other example is down the street from us, three houses down at 5608 Westin
2164 Estates Terrance. They put in a swimming pool last year. They did install an
2165 automatic cover. Personally, I'm scared of automatic covers. They can break.
2166 They're very easily broken. A twig gets caught in the mechanism and that's it. We
2167 don't want to use an automatic cover because we want the ability to secure our
2168 pool at every point. That's why we're not choosing to do an automatic cover. We
2169 want to do a security fence around the whole thing. They have an automatic cover.
2170 They have no fence at all. And they have just four shrubs that they've planted here.
2171 Their pool and pool deck is completely visible from the street. That's just another
2172 example.

2173
2174 Another house, which is down Westin Estates Drive from us, it's 12804 Westin
2175 Estates Drive, the Orcutt residence, their pool is in their rear yard, but they have
2176 just a four-foot aluminum fence that goes around the back yard. But their pool is
2177 visible from the street. This is me standing at the street, no zoom. You can fully
2178 see their entire pool deck and swimming pool. And then on this side, you can see
2179 the other side where the handrail is that goes down into the pool.

2180
2181 The final example I have—and that pool was constructed—they moved in the same
2182 year that we did, so 2014. They constructed the pool a year later.

2183
2184 The last example I have is the Harrington residence, which is located on Keats
2185 Grove Road [sic] in Henley, which is a neighborhood next door to ours. They

2186 constructed this pool last year. They are on a traditional corner lot. But they have
2187 the exact example of what we are wanting to do. Their pool is right here. It's not
2188 very far. We actually would be further off the road than where they are located,
2189 according to her measurement. But they have the four-foot aluminum security
2190 fence, and they also planted thujas. Our thujas are planted closer, and then we
2191 also have offset the additional row of shrubbery. So ours would actually
2192 immediately provide more of a privacy screen and then as it grows provide more
2193 of a privacy screen. The reason for that—

2194
2195 Mr. Mackey - Under [Unintelligible]?

2196
2197 Ms. Bradshaw - Yes, absolutely.

2198
2199 The reason for that is just for my own security. I want to be able to see that pool
2200 deck at all times. We have wonderful neighbors. We have boys, and we have a lot
2201 of boys in our neighborhood. A little impulsive, a little bit wild. I want to make sure
2202 that I have a view of that pool and that pool deck 24/7. I don't want to have to go
2203 into the backyard, go through the gate, and go in to see if anybody is in there.

2204
2205 I also feel it's necessary that we have that area secured. Sometimes we'll be
2206 swimming and sometimes we're not swimming. So, I want to make sure. If we just
2207 fence the yard, that's not going to cut it for me. I want the actual pool to be secure.
2208 So if people are over, kids are over playing, but we're not in the pool, then I want
2209 to be able to shut a gate and say, "No, we're not going over there right now." That's
2210 just my own personal preference.

2211
2212 Mr. Mackey - I don't think that the conditions were to fence the yard;
2213 it was just around the pool.

2214
2215 Ms. Bradshaw - It was just around the pool.

2216
2217 Mr. Blankinship - It's two separate requirements. The security fence
2218 required by the Building Code all the way around the pool, whatever their
2219 requirement is. And then in addition to that, staff had recommended a privacy
2220 fence. Towards the beginning of your remarks, did you say that your homeowners'
2221 association would not approve a privacy fence in that location?

2222
2223 Ms. Bradshaw - I did not apply for a privacy fence because all of our
2224 neighbors were against it. They approved us with the condition that the
2225 landscaping is installed and maintained. So they were fine with a four-foot—

2226
2227 Mr. Blankinship - Then they've approved it without a fence, but you have
2228 not asked them if they would.

2229
2230 Ms. Bradshaw - Yes. They approved it for a four-foot aluminum fence
2231 with very tall vegetation being used as a privacy screen.

2232
2233 Mr. Green - The privacy fence was six feet.
2234
2235 Mr. Blankinship - Yes sir.
2236
2237 Mr. Green - Not the pool fence.
2238
2239 Mr. Blankinship - Right. The pool fence is whatever the Building Code
2240 requires. We don't want to erect something that might conflict with that.
2241
2242 Ms. Bradshaw - We'll put up a six-foot security fence; that's fine. My
2243 issue is just—I make the argument that the privacy fence actually comprises
2244 security because that means I can't monitor the pool unless I'm actually standing
2245 next to the pool.
2246
2247 Mr. Mackey - Yes, I understand what you're saying. With your son in
2248 the pool, you would be in the pool.
2249
2250 Ms. Bradshaw - Of course.
2251
2252 Mr. Mackey - The privacy fence would serve two purposes—to keep
2253 anyone out and trying to mitigate the view from the road.
2254
2255 Ms. Bradshaw - Yes. And that was why those examples I gave were all
2256 people who have pools. There's a view from the road, a view from the neighbor's
2257 house.
2258
2259 Mr. Mackey - Some of those are rear lots, and it doesn't matter if you
2260 can see it. It's the location of the pool. The problem is where the pool is going.
2261 We're going to do what we can.
2262
2263 Ms. Bradshaw - I understand that. Thank you.
2264
2265 Mrs. Moore - And just one clarification. You want visibility in the pool,
2266 but we're mostly taking about along the street side. You're willing to put in opaque
2267 vegetation. So you're not worried about visibility from the street because there
2268 won't be if you have vegetation there. I just want to clarify.
2269
2270 Ms. Bradshaw - We're making sure that there's a privacy screen so our
2271 neighbors won't see it because they might not want to see a pool. And that's fine.
2272 It's not necessarily our view of the street.
2273
2274 Mrs. Moore - That's what I wanted to clarify, because you said you
2275 wanted visibility. I didn't know where from, so.
2276

2277 Ms. Bradshaw - Yes, I'm sorry. It's mostly protecting our neighbor's
2278 point of view because they may not—although they all said, "We would rather look
2279 at a pool than a six-foot wall." That was their comments on that. But yes, our
2280 intention was to protect the view that our neighbors have. And that was also
2281 something that the HOA had said as well, was that they approved it under the
2282 condition that there is this hedge so that they wouldn't have to look at the pool if
2283 they didn't want to.

2284
2285 Mrs. Moore - Okay, thank you.

2286
2287 Mr. Madrigal - I just had a point of clarification as well. This is more so
2288 a question directed to Ms. Bradshaw. This is the proposed pool plan. The
2289 application originally came in as a variance, and then we determined that it was
2290 really a conditional use permit, that that was more appropriate. But the variance
2291 application listed a thirty-foot setback on it. Looking at the drawing, from the
2292 property line they've got fifteen feet and then the pool. I'm wondering if they were
2293 somewhat confused with respect to including the curbing area and where the
2294 drainage goes. So I just want to clarify. Is it fifteen or is it thirty feet?

2295
2296 Ms. Bradshaw - We couldn't find the pin to designate what the property
2297 line was. When I spoke with a gentleman in the Permit Center, he said that based
2298 on his drawing, because the road curved or the drainage ditch curved, a portion of
2299 that drainage ditch is technically our property line. So, what I noted in the variance
2300 application was thirty feet from the road because I could not find the pin and where
2301 the exact property line was. But it was thirty feet from the road.

2302
2303 Mr. Madrigal - So I don't know if we want to clarify that in the
2304 conditions that it's fifteen feet from the property line, thirty feet from the edge of the
2305 curb.

2306
2307 Ms. Bradshaw - It's actually more than fifteen feet at some points
2308 because part of that drainage ditch—and as you go further back, part of that
2309 drainage ditch does become our property line.

2310
2311 Also on that, we are willing to change the shape and gate access of our pool. I
2312 think in that one it had the gate going from the front, which means technically
2313 neighbors or people on the street could see the pool. What we're willing to do is
2314 make a four-to-five-foot hedge of evergreens all across there and change the gate
2315 access to over here on the northern side. That way it would be completely
2316 screened with evergreens and such. So we're willing to do that.

2317
2318 Mr. Blankinship - That dimension is not in the conditions.

2319
2320 Mr. Mackey - Okay. All right. Are there any questions for
2321 Ms. Bradshaw? Okay. Thank you, ma'am.

2322

2323 Ms. Bradshaw - Thank you.
2324
2325 Mr. Mackey - Is there anyone here would like to speak in support of
2326 this application? Anyone to speak in opposition? Can we hear our next case?
2327
2328 **[After the conclusion of the public hearings, the Board discussed the case**
2329 **and made its decision. This portion of the transcript is included here for**
2330 **convenience of reference.]**
2331
2332 Mr. Mackey - What is the pleasure of the Board?
2333
2334 Mr. Green - As the Three Chopt representative, I move to approve.
2335
2336 Mr. Mackey - Okay. Is there a second?
2337
2338 Mr. Reid - Second. I second for many reasons. It will create a
2339 health improvement for her son is one reason. And she spent a lot of time thinking
2340 how the looks of the pool would affect the community. And she cooperated with us
2341 in a very reasonable manner.
2342
2343 Mr. Mackey - Okay.
2344
2345 Mr. Blankinship - The conditions as drafted required a privacy fence.
2346 Condition #7.
2347
2348 Mr. Mackey - Were we in agreement that we were striking the six-
2349 foot-tall privacy fence in the motion?
2350
2351 Mr. Green - Yes.
2352
2353 Mr. Mackey - Do we need to add the language about adding the
2354 shrubbery in place of the privacy fence?
2355
2356 Mr. Blankinship - I think that's all in there.
2357
2358 Mr. Mackey - All right. The motion has been made and properly
2359 seconded, and we have discussed it. All in favor of approving the motion say aye.
2360 Any opposed? That motion is carried.
2361
2362 After an advertised public hearing and on a motion by Mr. Green, seconded by Mr.
2363 Reid, the Board **approved** application **CUP2018-00019, CHRISTOPHER AND**
2364 **JENNIFER BRADSHAW's** request a conditional use permit pursuant to Section
2365 24-95(i)(4) of the County Code to allow a pool in the side yard at 5601 Westin
2366 Estates Terrace (WESTIN ESTATES) (Parcel 733-773-2399) zoned Agricultural
2367 District (A-1). The Board approved the application subject to the following
2368 conditions:

2369

2370

2371

1. This conditional use permit applies only to the placement of an in-ground swimming pool in the street side setback of a corner lot. All other applicable regulations of the County Code shall remain in force.

2372

2373

2374

2375

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

2376

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2381

3. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, distance requirements between an in-ground swimming pool and a septic drainfield and reserve area.

2382

2383

2384

2385

2386

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

2387

2388

2389

2390

5. All exterior lighting shall be shielded to direct light away from adjacent property and streets.

2391

2392

2393

6. All street side landscaping shall be maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.

2394

2395

2396

2397

7. The swimming pool shall be enclosed as required by the Building Code.

2398

2399

2400

Affirmative: Bell, Green, Harris, Mackey, Reid 5

2401

Negative: 0

2402

Absent: 0

2403

2404

2405

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

2406

2407

2408

Mr. Blankinship - Yes sir. We passed over one conditional use permit, which was CUP2018-00013, Regency Square.

2409

2410

2411

CUP2018-00013 REGENCY SQUARE requests a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to hold a special event at 1420 N Parham Road (Parcel 752-743-9774) zoned Business District (B-3) (Tuckahoe).

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

Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board, before you is a request to hold an outdoor special event at an existing shopping center.

Regency Square opened in 1975 and has been a major premier shopping destination within the county. It is forty-seven acres in size, houses approximately one million square feet of gross floor area, and is served by four thousand parking spaces. The applicant acquired the property in 2015 with the intent to revitalize the shopping center. In 2017, the Planning Commission approved a plan of development, a revised master plan with special exceptions which allowed for the renovation of the shopping center. This approval authorized the removal of a 52,000-square-foot parking deck, the addition of 44,000 square feet of retail space, 4 new outparcels, increased building height for two anchor tenant spaces, and exterior building modifications.

In addition to these enhancements, roadway improvements along Parham and Quioccasin Roads were initiated to improve traffic flow, increase safety, and enhance visibility of the shopping center.

As phase 1 of these improvements nears completion, the applicant would like to hold a one-day outdoor festival to highlight the mall's renovation efforts and improvements to Quioccasin Road. The festival is entitled Regency's Rock and Rib Fest and is tentatively scheduled for Saturday, September 15, 2018, from 10 to 5 p.m.

The festival will be concentrated at the north side of the mall in front of the former Macy's store. Setup and breakdown will occur two days before and two days after the event. The festival area will be fenced off and will have a primary point of entrance to control access. The layout will include a covered 400-square-foot stage for live musical performances, approximately twenty food and novelty vendors, beer trucks, a designated VIP and kids' play areas, and general seating. There will be two price points for admission to the event. The higher price admission will include entrance into the VIP area. Expected attendance is approximately 2,500 guests for the one-day event.

The property is zoned B-3 and is designated Urban Mixed-Use on the 2026 Future Land Use Map. The proposed use is consistent with both the zoning and Comprehensive Plan designations for the property. Over the last four years, the shopping center has hosted two other large-scale temporary events occurring in 2014 and 2017. These events consisted of three-day car shows and sales events

2461 bringing together local car dealers, financial, and insurance service providers on
2462 the property. The proposed festival is consistent with these prior events and should
2463 not pose any substantial or lasting detrimental impacts to adjacent or nearby
2464 property.

2465
2466 The proposed festival will be located, again, at the north end of the mall across the
2467 street from other big box commercial uses. Essentially, it's in this area. And you
2468 have Walmart and a former Toys-R-Us across the street. The closest residence is
2469 over 800 feet southwest of the proposed event and is buffered by the mall building
2470 and BJ's warehouse. That is down in this area. So the mall building itself will buffer
2471 it, and then this is BJ's.

2472
2473 Although parking has been slightly decreased by the mall improvements, there is
2474 still an abundance of parking available throughout the property. Additionally, the
2475 mall is currently at 64 percent occupancy, creating less demand at the shopping
2476 center. Because of the temporary nature of the event, the regional scale of the
2477 center, reduced occupancy, and ample on-site parking, Planning staff does
2478 anticipate any detrimental impacts if the applicant's request is approved.

2479
2480 The only significant concern is the completion of the parking lot improvements
2481 found in front of Macy's, in that general area. This is in front of Macy's. Again, in
2482 front of Macy's, this is the new building that's been constructed. And then we have
2483 some parking lot improvements going on there. This is the west side. If you're
2484 looking at Macy's, on the west side of Macy's in front of it. This is along Quioccasin,
2485 again on the west side of Macy's. And this is on the east side of Macy's. So, there's
2486 quite a bit of parking lot improvements that are going on.

2487
2488 The new driveway entrances off of Quioccasin Road are occurring, the removal of
2489 fencing around the construction, and staging areas in time for the event are also
2490 of concern. The applicant has assured staff that the parking lot improvements will
2491 be complete and there will be approximately 3,600 parking spaces available
2492 throughout the mall for the proposed event.

2493
2494 In conclusion, although the proposed event will temporarily displace approximately
2495 200 parking stalls, it should not negatively impact the shopping center, which is
2496 currently under construction and has limited occupancy. The proposed use is
2497 consistent with the underlying zoning and Comprehensive Plan designations. It is
2498 also consistent with past events held at the shopping center. No lasting detrimental
2499 impacts are anticipated, and specific conditions of approval have been prepared
2500 to mitigate any significant impacts associated with the one-day event.

2501
2502 Based on these facts, staff recommends approval subject to conditions. I haven't
2503 received any phone calls in opposition to this or concern. That concludes my
2504 presentation. I'll be happy to answer any questions.

2505

2506 Mr. Mackey - Thank you. Mr. Madrigal. Any questions from the
2507 Board?
2508
2509 Ms. Harris - Mr. Madrigal, on the conditions we have the dates,
2510 September 13th. Should that be September 20th, Friday the 21st. Condition #1,
2511 Saturday the 22nd [distorted audio; unintelligible], rather than the dates that we
2512 have in number one.
2513
2514 Mr. Madrigal - I'm sorry; what is the question?
2515
2516 Mr. Blankinship - The dates were changed.
2517
2518 Mr. Madrigal - Yes. The dates were changed. Initially when it came in,
2519 it was a little bit later in the month. And then they found out that that coincided with
2520 NASCAR. They didn't want to create any burden on our safety personnel, so they
2521 decided to shift it a week.
2522
2523 Mr. Blankinship - So the dates in the condition are correct.
2524
2525 Mr. Madrigal - Yes, the dates in the condition are correct. And that's
2526 so it doesn't coincide with the NASCAR event the following week.
2527
2528 Ms. Harris - Okay. I noticed in their operation plans that they said
2529 parking attendant were not needed. But in condition 2 we're saying that they should
2530 be provided as necessary.
2531
2532 Mr. Madrigal - Right. Again, I'm thinking about the parking lot
2533 improvements and construction fencing, new buildings that are going on,
2534 remodeling of an existing building. So, if there's still some fencing and staging
2535 occurring, not as much as there is today, that if necessary they'll hire parking
2536 attendants to help guests navigate that.
2537
2538 Mr. Bell - I think you've answered it, but I'll ask it my way. Can
2539 you see on the screen where the stage is?
2540
2541 Mr. Madrigal - Yes sir.
2542
2543 Mr. Bell - If you go to the left and that corner of the building that
2544 goes over to the front of Regency Fair is now, the restaurant, once the construction
2545 is done, is that going to still be open? If so, then you've got all that parking over on
2546 that side. But if it's going to be closed that parking goes away.
2547
2548 Mr. Madrigal - My understanding is that that will be completed by the
2549 time this festival occurs in September.
2550

2551 Mr. Bell - Is it going to be open all the way over to the corner of
2552 the building there?

2553
2554 Mr. Madrigal - Yes, I believe so. In fact, here's where you can see it.
2555 There's a grade difference there. So that will remain, and then this will be all paved.
2556 So essentially, that's like a natural fenced-in area because of that grade difference
2557 there for the event area. The event is going to be occurring right in this area in front
2558 of the store. And they want the stage in front of that entrance I think because
2559 they're going to be running electrical lines to tap into the electrical within the
2560 building.

2561
2562 Mr. Bell - But it's going to be empty from the side coming around.
2563 Move your cursor over to the corner of the building. To the right, yes. Stop it right
2564 at the side of the building. Oh, I see what you're doing. That's the area that I'm
2565 talking about. Is that going to be fenced in? If so, that pretty much gets rid of all
2566 that parking over there by the entrance.

2567
2568 Mr. Madrigal - This area is going to be available for parking down
2569 here. At the base of that grade difference, that's going to be the event area.

2570
2571 Mr. Bell - Got you. That answers my question. Thank you.

2572
2573 Mr. Reid - If all this construction was not completed by
2574 September, would they move over in another area of the shopping center around
2575 Penney's in that area where there is all kinds of parking?

2576
2577 Mr. Madrigal - That's a good question. That's something we would
2578 have to evaluate. Part of the conditions is that by September 1st they have to
2579 submit to the director of Planning a letter as to the status of the project to see
2580 where we're at. We want to make sure that the parking lot is complete to avoid any
2581 issues with fencing, construction, staging. So that way they can have a safe event.
2582 If they were to relocate this—let me go over here. Right now it's here. If they were
2583 to relocate it somewhere in this area, we would have a concern because that's
2584 closer to the residential areas around the mall. Again, it would be in this area here,
2585 and we're closer to the residences. So, we're sensitive to that. This is the best
2586 location because, again, it's in the middle of a heavy commercial area. We prefer
2587 it here, so that's why we put that condition in there that by September 1st give us
2588 a letter, tell us where you are to ensure that you will have all those improvements
2589 complete in order to have this event.

2590
2591 Mr. Reid - It appears to me that the construction has moved sort
2592 of slowly. I live in that general area and drive down Parham Road a lot. At the
2593 corner of Parham and East Ridge, they've had that, and they've had the orange
2594 things up for months now. It just really seems to have moved slow.

2595

2596 Mr. Madrigal - Yes. You can pose that question to the applicant, but
2597 we have had a lot of rain. And I'm sure the rain has added to the delay of the
2598 project.
2599

2600 Mr. Mackey - All right. Any other questions for Mr. Madrigal?
2601

2602 Ms. Harris - Will there be any insurance requirement?
2603

2604 Mr. Madrigal - We have not conditioned that.
2605

2606 Ms. Harris - You don't see the need for it?
2607

2608 Mr. Blankinship - The applicant may be able to address that. The mall
2609 has insurance, and this I think would be covered by whatever covers the mall
2610 generally.
2611

2612 Ms. Harris - Okay.
2613

2614 Mr. Mackey - All right. Thank you, Mr. Madrigal. Can we hear from
2615 the applicant?
2616

2617 Ms. Gordon - Good morning. Julie Gordon. J-u-l-i-e, G-o-r-d-o-n. I'm
2618 the marketing director at Regency. Thank you for allowing me to speak to you after
2619 everyone else. I appreciate that.
2620

2621 Regency does have insurance for the entire center, which encompasses the
2622 parking lot area. But we also have additional event insurance that covers anything
2623 that happens in our parking lot areas. So, we kind of have double coverage on
2624 that.
2625

2626 As far as moving the space, construction should be completed as far as our parking
2627 lot. Right now, everything has been milled down and deconstructed in the parking
2628 lot areas. They are diligently working to make sure in the next two weeks the entire
2629 thing is paved and striped. So it should definitely be ready by September 15th.
2630

2631 Mr. Blankinship - You have a month.
2632

2633 Ms. Gordon - We have a month. Hope we don't have more rain.
2634

2635 We are looking at a couple different things. We've talked to a few people who said
2636 2,500 attendees for a first-year event is really aggressive. So, we are looking at
2637 maybe more like 1,000. And that's talking to Brown Distributing. We've reduced
2638 the number of beer trucks. We decided to do just one. We've reduced the cost.
2639 Initially we planned to have a higher price point. We want to make it family friendly.
2640 We are going to have kids' activities there. So we'd love to showcase what's going
2641 on at Regency right now and really get people out there. Chipotle, MOD Pizza, and

2642 Starbucks will all be open by that point. And so, their areas will also be paved and
2643 ready to go.

2644
2645 Mr. Mackey - All right. Any questions for Ms. Gordon?

2646
2647 Ms. Harris - Ms. Gordon, I noticed that the Henrico Environmental
2648 Health regulations stipulated you have to have running water for hand washing.
2649 How are you going to comply with that?

2650
2651 Ms. Gordon - We have hand-wash stations that are mobile that you
2652 can bring out. So we'll have enough to cover everyone. And then we're requesting
2653 that we have mall access. Anyone who needs to go in can come in. Hand washing,
2654 I think it's 300 feet that you have to have restrooms within that distance. And we
2655 have that plus the port-a-potties. So we have adequate hand-washing stations and
2656 restroom facilities.

2657
2658 Ms. Harris - Okay. And your designated VIP area, what will be
2659 included in that?

2660
2661 Ms. Gordon - We will have all-you-can-eat food, all-you-can-drink
2662 beverages. And then it is an area that they will have their own port-a-potties. They
2663 will have seating, and it will be roped off, and it will be monitored by Henrico County
2664 Police, our security staff. We are putting lower-alcohol-content beer in that facility
2665 so that we can kind of monitor a little bit more there. We're trying to make controls
2666 in the best way we can. It'll be in close proximity to the band. It will be wrist-banded.
2667 Everything will be in place to make sure that the VIP stays contained.

2668
2669 Ms. Harris - Do you have a rain date?

2670
2671 Ms. Gordon - We don't. It's going to be rain or shine. Only because
2672 the people who are involved in the barbecue aspect of it are putting their money
2673 into buying food products. And we feel like we don't want to have them purchasing
2674 twice.

2675
2676 Mr. Bell - Will there be cooking there on site?

2677
2678 Ms. Gordon - They will be cooking on site. So, they'll be bringing
2679 smokers, and they will go through their health inspections. They have done this
2680 before. They are barbecue caterers. We will make sure the building inspector and
2681 the health inspector are out there to take care of all that.

2682
2683 Ms. Harris - Thank you.

2684
2685 Mr. Mackey - All right. Any other questions?

2686

2687 Mr. Bell - Will there be more than one barbecue or just one main
2688 vendor?

2689
2690 Ms. Gordon - There will be more than one vendor out there. We are
2691 looking to have a minimum of ten, but no more than fifteen. We don't want to have
2692 so many that it doesn't showcase any one person. But we are going to plan to have
2693 about ten novelty vendors. It could be anything from an insurance company who
2694 wants to just promote their business to Gelati Celesti who is going to be selling ice
2695 cream there as a food truck.

2696
2697 Mr. Mackey - Any other questions for Ms. Gordon? All right, thank
2698 you. Thank you, Ms. Gordon.

2699
2700 Ms. Gordon - Thank you.

2701
2702 Mr. Mackey - Is there anyone else who would like to speak in
2703 support? Anyone to speak in opposition? All right.

2704
2705 **[After the conclusion of the public hearings, the Board discussed the case**
2706 **and made its decision. This portion of the transcript is included here for**
2707 **convenience of reference.]**

2708
2709 Mr. Mackey - What is the pleasure of the Board?

2710
2711 Mr. Reid - I move that we approve CUP2018-00013 to allow
2712 Regency Square to hold their event at 1420 North Parham Road in September.

2713
2714 Mr. Mackey - All right. There is a motion on the floor. Is there a
2715 second?

2716
2717 Ms. Harris - Second.

2718
2719 Mr. Mackey - Seconded.

2720
2721 Ms. Harris - There may be problems with this date or whatever, but
2722 they seem to have the bases covered as far as the construction area is concerned.

2723
2724 Mr. Mackey - Is there any more discussion? All right. The motion has
2725 been moved and properly seconded. All in favor say aye. Any opposed? The
2726 motion is carried.

2727
2728 After an advertised public hearing and on a motion by Mr. Reid, seconded by Ms.
2729 Harris, the Board **approved** application **CUP2018-00013, REGENCY SQUARE's**
2730 request for a conditional use permit pursuant to Section 24-116(d)(1) of the County
2731 Code to hold a special event at 1420 N Parham Road (Parcel 752-743-9774)

2732 zoned Business District (B-3) (Tuckahoe). The Board approved the request
2733 subject to the following conditions:

2734
2735 1. This conditional use permit is for the approval of a one-day temporary outdoor
2736 event to be held at Regency Square Mall. All other applicable regulations of the
2737 County Code shall remain in force. Setup shall not begin before 7:00 am,
2738 Thursday, September 13, 2018. The event shall take place Saturday, September
2739 15, 2018, from 10:00 am to 5:00 pm. All fencing, tents, stages, and festival items
2740 appurtenant to the event shall be removed from the property no later than 9:00 pm,
2741 Monday, September 17, 2018, at which time this permit shall expire.

2742
2743 2. Only the temporary improvements shown on the layout plan filed with the
2744 application may be erected pursuant to this approval. Any additional improvements
2745 shall comply with the applicable regulations of the County Code or as specified in
2746 the conditions of approval. Any substantial changes or additions to the festival
2747 location or design shall require a new conditional use permit.

2748
2749 3. The applicant shall clearly designate event parking areas on the day of the
2750 festival. Temporary directional signage shall be used to direct festival patrons to
2751 on-site parking areas. Traffic and parking attendants shall be provided as
2752 necessary to ensure that the internal roadways of the shopping center are not
2753 obstructed during the festival. Pedestrian traffic across Quioccasin Road shall be
2754 prohibited. Parking fees shall be prohibited.

2755
2756 4. The applicant shall clearly delineate the perimeter (footprint) of the event area
2757 with temporary fencing and shall install traffic barriers at affected parking drive
2758 aisle entrances to block vehicular traffic from entering the event area to the
2759 satisfaction of the Divisions of Police and Fire. Main traffic drive aisles (providing
2760 general internal traffic circulation) leading in or out of the shopping center shall be
2761 kept free and clear of equipment, vehicles, and obstacles associated with the
2762 event. Fire lanes shall be maintained in accordance with the Fire Prevention Code.
2763 Access to on-site fire hydrants and fire department connections shall not be
2764 impaired.

2765
2766 5. The applicant shall obtain all required building permits for items including but
2767 not limited to tents (in excess of 900 square feet), elevated stages, amusement
2768 devices, electrical generators and electrical connections to be used during the
2769 event. The applicant shall request building permits no later than two weeks prior
2770 to the event and shall schedule required inspections which are to be completed no
2771 later than Friday, September 14, 2018. All temporary tents shall be property
2772 tethered as required by the Building Inspections Department and the Division of
2773 Fire.

2774
2775 6. The applicant shall provide adequate restroom facilities (standard and handicap)
2776 and hand wash stations as required by the Building Inspections Department (see

2777 comments dated June 7, 2018). Portable restroom and handwash facilities shall
2778 be disbursed throughout the festival area, not concentrated at one location.
2779
2780 7. The applicant shall obtain the appropriate license from the Virginia Alcoholic
2781 Beverage Control Authority. Consumption of alcoholic beverages shall be limited
2782 to the area approved in that license.
2783
2784 8. All food vendors shall obtain the necessary permits, clearances, and inspections
2785 required by the Health Department as outlined in their memorandum dated May
2786 21, 2018.
2787
2788 9. The proposed event shall comply with all requirements of the 2012 Virginia
2789 Statewide Fire Prevention Code.
2790
2791 10. Safety and emergency response protocols shall be developed in accordance
2792 with the requirements of the Division of Fire as outlined in their memorandum dated
2793 June 14, 2018.
2794
2795 11. Safety and security protocols shall be developed in accordance with the
2796 requirements of the Division of Police as outlined in their memorandum dated June
2797 14, 2018.
2798
2799 12. Landscaping planters shall be kept free of equipment and displays. All
2800 approved landscaping shall be maintained in a healthy condition at all times. Dead
2801 plant materials shall be removed within a reasonable time and replaced during the
2802 normal planting season.
2803
2804 13. On or before September 1, 2018, the applicant shall submit a letter to the
2805 Director of Planning outlining the status of all phase one improvements, including
2806 parking lot modifications, driveway entrances, and construction-related staging
2807 areas. The applicant shall also certify that there will be no less than 3,400 parking
2808 spaces available on the day of the event.
2809
2810 14. The applicant shall maintain the property so that debris is controlled during the
2811 event. Adequate trash receptacles shall be provided throughout the festival during
2812 the event.
2813
2814 15. The applicant shall prohibit loitering on the property.
2815
2816 16. Speakers for amplified sound and music shall be directed toward the main
2817 event to limit its impact on adjoining properties and shall not exceed 65 dB
2818 measured at the property line.
2819
2820 17. This approval is subject to all conditions placed on the property associated with
2821 POD2016-00569.
2822

2823

2824 Affirmative: Bell, Green, Harris, Mackey, Reid 5

2825 Negative: 0

2826 Absent: 0

2827

2828

2829 **[At this point, the transcript continues with the public hearing on the next**
2830 **case.]**

2831

2832 Mr. Blankinship - That completes the conditional use permit portion of
2833 the agenda. There is one variance on this morning's agenda, VAR2018-00012.

2834

2835 **VAR2018-00012 JORDAN JEFFERSON AND EDMOND RENNOLDS**

2836 request a variance from Section 24-9 of the County Code to build a one-family
2837 dwelling at 1551 Kimbrook Lane (Parcel 830-721-2187) zoned Agricultural District
2838 (A-1) (Varina). The public street frontage requirement is not met. The applicant
2839 proposes 0 feet public street frontage, where the Code requires 50 feet public
2840 street frontage. The applicant requests a variance of 50 feet public street frontage.

2841

2842 Mr. Blankinship - Would everyone who intends to speak to this case
2843 please stand and be sworn in. Raise your right hands, please. Do you swear the
2844 testimony you're about to give is the truth, the whole truth, and nothing but the truth
2845 so help you God? Thank you. Mr. Gidley?

2846

2847 Mr. Gidley - Thank you, Mr. Secretary, members of the Board.

2848

2849 The subject property today is a one-acre parcel that's located off of Kimbrook Lane.
2850 Kimbrook Lane is a private road that comes eastward off of Hanover Road. The
2851 subject property was created from a larger 5.75-acre parcel back in 1962. The
2852 current owners are the Maybrys, and they acquired the property in 2002. And the
2853 Maybrys have a contract to sell the property pending approval of the variance for
2854 lack of public street frontage.

2855

2856 This is the property right here. The property is to the left here, and this is Kimbrook
2857 Lane looking northwestward toward Hanover Road.

2858

2859 In 2000, a total of three variances were approved along this road. One of the
2860 conditions of approval was that it be graveled to a width of twenty-two feet. In 2003
2861 at the request of one of the applicants, this condition was removed. Instead, it was
2862 decided the owners of property along this road would share in the ownership and
2863 maintenance of the road. So, there was a subsequent maintenance agreement
2864 between the property owners that calls for the shared maintenance. And also
2865 following any construction, the lot owner where the construction occurred must
2866 return this road to its original condition. So that would come into play here. As you
2867 can see the road is, for a private road, in quite good shape.

2868

2869 In evaluating this, is the property unreasonably restricted or does it alleviate a
2870 hardship predating the ordinance. The public street frontage requirement came
2871 into play in 1960, and this was created two years later in 1962. So ideally it
2872 shouldn't have been created. But at the time it was quite common, especially in
2873 Varina, for these lots to be created and then people to go ahead and acquire a
2874 variance for them. That's just how it was back then. The reality is the property has
2875 been in its current shape for fifty-six years, and absent a variance there would be
2876 no reasonable beneficial use of the property because you couldn't build a home
2877 on it.

2878

2879 As far as the five subtests are concerned, the applicant did not cause the hardship.
2880 In fact, they're taking the necessary steps to build a home on the property by
2881 applying for the variance today.

2882

2883 Substantial detrimental impact. Since 1960, the Board has granted a total of eight
2884 variances along this road. This request is a continuation of that pattern. If you look
2885 here at the applicant's tentative home plans, you'll see the proposed home here
2886 and its floor plan. The homes along this street right now are ranchers, and they
2887 range in size from 1,000 to 2,000 square feet. As you can see, the proposed home
2888 is also a rancher. Its proposed size is 1,336 square feet. This would be similar to
2889 the other homes in the area. So long as the applicant and any future owners of the
2890 property agree to be bound by the maintenance agreement for the road, staff does
2891 not anticipate any substantial detrimental impact from this request due to the
2892 similarity of the home being proposed to what's out there now.

2893

2894 As far as a general recurring situation, the BZA has received an average of six
2895 applications each year for lack of public street frontage. The Board of Supervisors
2896 went ahead and adopted legislation that deals with new lots that lack public street
2897 frontage. For those lots already in existence, however, it's best for the BZA to
2898 review these on a case-by-case basis.

2899

2900 This is not a use variance. The property is zoned A-1, Agricultural District, and the
2901 proposed dwelling is permitted by right in the A-1 District. So, it would not be a use
2902 variance or a change to the Zoning Ordinance.

2903

2904 And finally, a special exception or modification is not an option for the applicant.

2905

2906 In conclusion, the property has been in its current configuration since 1962. Absent
2907 a variance, it would lack a reasonable, beneficial use. The proposed dwelling is in
2908 keeping with the other homes along Kimbrook Lane. As I mentioned, so long as
2909 the applicant adheres to the road maintenance agreement, there should be no
2910 substantial detrimental impact on nearby property owners. As a result, staff can
2911 recommend approval of this case subject to the conditions in your staff report.

2912

2913 This concludes my presentation, and I will be happy to answer any questions you
2914 may have.

2915

2916 Mr. Mackey - Thank you, Mr. Gidley. Does anyone from the Board or
2917 staff have any questions? All right. Can we hear from the applicant, please.
2918

2919 Mr. Jefferson - Hello. How are you doing? My name is Jordan
2920 Jefferson. I'm applying for a variance for 1551 Kimbrook Lane. The house would
2921 be 1300 to 1500 square feet. It would not pose a negative effect on any of the
2922 adjacent properties or anyone on that road. It actually should bring a rise in the
2923 neighborhood being a newly constructed house. All the homes on that lane had to
2924 get a variance as well. We've already met with the local septic company and the
2925 Health Department, and it does pass the soil evaluation. And we do agree to
2926 maintain the road during the construction or get the road back to good standard if
2927 damaged during any of the construction phase.
2928

2929 Mr. Mackey - All right. Also, you agree to the road maintenance
2930 agreement going forward?
2931

2932 Mr. Jefferson - Yes sir.
2933

2934 Mr. Mackey - Okay. Have you seen the conditions, if it were
2935 approved, all five conditions?
2936

2937 Mr. Jefferson - Yes sir, I have.
2938

2939 Mr. Mackey - And you agree to all five of those?
2940

2941 Mr. Jefferson - Yes sir.
2942

2943 Mr. Mackey - Are there any questions from the Board?
2944

2945 Ms. Harris - Yes. Mr. Jefferson, do you know the width of that
2946 private road?
2947

2948 Mr. Jefferson - Kimbrook Lane, no ma'am, I don't. I think it is wide
2949 enough to have two vehicles go down side by side if they're coming in different
2950 lanes. If not, you can veer to the right or the left. I know the width of the property
2951 we're looking to build on is 212 feet wide, and it is just a little bit over an acre. But
2952 I do not know the exact width of the private road.
2953

2954 Mr. Blankinship - As I recall, it's fourteen feet.
2955

2956 Mr. Jefferson - Yes sir, it's close to that.
2957

2958 Mr. Mackey - Anyone else have a question for Mr. Jefferson? All
2959 right, thank you, sir.
2960

2961 Mr. Jefferson - Yes sir. Thank you.
2962
2963 Mr. Mackey - Is there anyone else here who would like to speak in
2964 support?
2965
2966 Ms. Bowery - Good morning. My name is Meredith Bowery. M-e-r-e-
2967 d-i-t-h. Last name B-o-w-e-r-y. I'm also a resident and homeowner on Kimbrook
2968 Lane. We welcome anybody new that's coming provided again that they road
2969 maintenance agreement is binding to the new owners as well. I've talked to some
2970 of the other neighbors. Nobody has any real concerns other than the fact that we
2971 want everybody on the road to be subject to the same requirements that we are.
2972 We do work together to maintain it. We contribute to a fund to take care of gravel
2973 and grading and things like that. And provided that the same provisions of the
2974 agreement are met by the new residents, we really don't have any objections at
2975 all.
2976
2977 Mr. Mackey - Thank you, Ms. Bowery. Anyone have any questions?
2978
2979 Ms. Harris - Yes. Will you give those regulations to Mr. Jefferson?
2980
2981 Ms. Bowery - Oh, absolutely. And they're also recorded at Henrico
2982 County. So the provisions are all—it's very basic, but I'm happy to give him any
2983 information he needs.
2984
2985 Mr. Mackey - Anything else?
2986
2987 Mr. Blankinship - Thank you for coming and waiting almost 2-1/2 hours.
2988
2989 Ms. Bowery - That's all right. We live at the end of the road, so we
2990 have to drive the whole thing. [Distorted audio; unintelligible], so we're happy to
2991 wait for that.
2992
2993 Mr. Mackey - All right. Thank you.
2994
2995 Ms. Bowery - Thank you.
2996
2997 Mr. Mackey - That being our last case, we'll move on to the motions
2998 portion.
2999
3000 **[After the conclusion of the public hearings, the Board discussed the case**
3001 **and made its decision. This portion of the transcript is included here for**
3002 **convenience of reference.]**
3003
3004 Mr. Mackey - What is the pleasure of the Board? Being the Varina
3005 magistrate, I would like to make a motion that we approve the variance. Without
3006 the variance I don't believe that the land would be able to be developed as anything

3007 else substantial for the community. And the applicant has agreed to meet all the
3008 conditions and to join in with the street maintenance as well.

3009
3010 Ms. Harris - Second the motion.

3011
3012 Mr. Mackey - It's been moved and seconded. Discussion? All in favor
3013 of approving the variance say aye. Any opposed? The ayes have it; the variance
3014 is carried.

3015
3016 After an advertised public hearing and on a motion by Mr. Mackey, seconded by
3017 Ms. Harris, the Board **approved** application **VAR2018-00012, JORDAN**
3018 **JEFFERSON AND EDMOND RENNOLDS's** request for a variance from Section
3019 24-9 of the County Code to build a one-family dwelling at 1551 Kimbrook Lane
3020 (Parcel 830-721-2187) zoned Agricultural District (A-1). The Board approved the
3021 request subject to the following conditions:

3022
3023 1. This variance applies only to the public street frontage requirement for one
3024 dwelling only. All other applicable regulations of the County Code shall remain in
3025 force.

3026
3027 2. Only the improvements shown on the plot plan and building design filed with the
3028 application may be constructed pursuant to this approval. Any additional
3029 improvements shall comply with the applicable regulations of the County Code.
3030 Any substantial changes or additions to the design or location of the improvements
3031 will require a new variance.

3032
3033 3. Approval of this request does not imply that a building permit will be issued.
3034 Building permit approval is contingent on Health Department requirements,
3035 including, but not limited to, soil evaluation for a septic drainfield and reserve area,
3036 and approval of a well location.

3037
3038 4. Clearing, grading, or other land disturbing activity shall not begin until the
3039 applicant has submitted, and the Department of Public Works has approved, an
3040 environmental compliance plan.

3041
3042 5. The owners of the property, and their heirs or assigns, shall accept responsibility
3043 for maintaining Kimbrook Lane as provided in the Kimbrook Lane Road
3044 Maintenance Agreement recorded in Deed Book 3439 Page 1751.

3045
3046
3047 Affirmative: Bell, Green, Harris, Mackey, Reid 5
3048 Negative: 0
3049 Absent: 0

3050
3051

3052 Mr. Mackey - Is there a motion for the approval of the minutes from
3053 the last meeting, May 24, 2018?

3054
3055 Mr. Green - So moved.

3056
3057 Ms. Harris - Second.

3058
3059 Mr. Mackey - It's been moved and seconded. All in favor say aye.
3060 Any opposed? The motion is carried; the minutes are approved.

3061
3062 On a motion by Mr. Green, seconded by Ms. Harris, the Board **approved as**
3063 **submitted** the **Minutes of the May 24, 2018**, Henrico County Board of Zoning
3064 Appeals meeting.

3065
3066
3067 Affirmative: Bell, Green, Harris, Mackey, Reid 5
3068 Negative: 0
3069 Absent: 0

3070
3071

3072 Mr. Mackey - Any new business? We have a little bit.

3073
3074 Mr. Blankinship - There is one item of new business.

3075
3076 Mr. Mackey - I'd like to take this time for a few personal comments.
3077 As everyone knows by now, I had to resign from the position on the BZA to take a
3078 position on the Planning Commission because of a vacancy.

3079
3080 I want to first thank everyone on the Board for everything they've done to help me
3081 in this brief time I was here. It was a very enjoyable time on the Board. I'd like to
3082 thank the staff. I have to say you're second to none. Your tireless efforts don't go
3083 unnoticed, and it makes everyone's job up here a lot simpler. We really appreciate
3084 that.

3085
3086 I'm definitely going to miss everyone up here. Hopefully, our paths will cross going
3087 forward. I will not forget you.

3088
3089 Ms. Harris - Mr. Chairman, I do have one thing. I need to ask you
3090 to join me at the podium down there.

3091
3092 If I can get you to stand with that. On behalf of the Board of Zoning Appeals and
3093 the staff, we would like to present you with this plaque which reads: Presented to
3094 Mr. William M. Mackey Jr. for service as Chairman, Henrico County Board of
3095 Zoning Appeals, August 24, 2017 to June 30, 2018.

3096

3097 You mentioned being on the Board a short period of time. And we know longevity
3098 has its merits. But I think in the time that you have served, you've served us well.
3099 It's a pleasure to have served with you, and I think I speak for many of the members
3100 of the Board. And we do wish you well in your new endeavor.

3101
3102 Mr. Mackey - Well, I appreciate it. Thank you again. Like I said
3103 before, I really appreciate everything everyone has done. It seems like I just got
3104 here, but I enjoyed every minute of it. Thank you very much.

3105
3106 Mr. Blankinship - Did you want to introduce Mr. Johnson?

3107
3108 Mr. Mackey - Yes, I do. Mr. Johnson, will you please come down?
3109 This is Mr. Walter Johnson. He will be replacing me as the Varina magistrate on
3110 the Board. We've known each other just for a brief amount of time, but I'm sure
3111 you're getting a very good man, and he'll be a great addition to this great Board
3112 that we already have. I think I've introduced him to everybody except for
3113 Ms. Harris, and we'll take care of that later. Would you like to say anything?

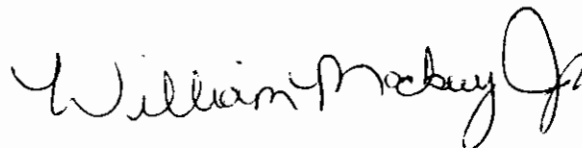
3114
3115 Mr. Johnson - It's been great to listen to what was going on today,
3116 seeing how you operate. I'm very interested in getting in and the class as well. I'm
3117 looking forward to working with everyone. Thank you.

3118
3119 Mr. Green - I've known Mr. Johnson for a number of years. He's a
3120 good guy.

3121
3122 Mr. Mackey - Thank you again. I appreciate it.

3123
3124 I think that takes care of all the new business. We are adjourned. Thank you.

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William M. Mackey
Chairman



Benjamin Blankinship, AICP
Secretary