

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON**
4 **THURSDAY JUNE 26, 2025 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**
5 **THE *RICHMOND TIMES-DISPATCH* JUNE 9, 2025 AND JUNE 16, 2025.**
6

7
8 **Members Present:** Terone B. Green, Chair
9 Barry R. Lawrence, Vice Chair
10 Walter L. Johnson, Jr.
11 John R. Broadway
12 Joseph S. Massie, III

13
14 **Also Present:** Leslie A. News, Assistant Director of Planning
15 Benjamin Blankinship, Secretary
16 Paul M. Gidley, County Planner
17 Sara Rozmus, County Planner
18 Kayla Shelton, Accounting Clerk
19
20
21

22 **Mr. Green-** Good morning. I'd like to call the June 26, 2025, meeting of the Board
23 of Zoning Appeals to order. For those of you who are able to, please stand so we can say
24 the Pledge of Allegiance.
25

26
27 **[Recitation of Pledge of Allegiance]**
28
29

30 **Mr. Green-** Thank you. Mr. Blankinship will now read our rules.
31

32 **Mr. Blankinship-** Good morning, Mr. Chair, members of the board, and good morning,
33 those of you who are in the room with us. Excuse me. Good morning to those of you in
34 the room with us, I'd also like to welcome everyone who is joining us remotely on Webex.
35 If you wish to observe the meeting, but you do not intend to speak, then welcome and
36 thank you for joining us. For those of you on Webex who would like to speak, we need to
37 know that in advance so we can connect you with the appropriate time. So if you are an
38 applicant or if you have questions or comments on one of the cases, please press the
39 chat button now. It's located in the bottom right corner of the screen and when the chat
40 window opens, please select Janaya Poarch from the list of participants and let her know
41 your name in which case you're interested in. The chat feature will only be used to identify
42 speakers, so please do not type questions or comments into a chat, but please send a
43 chat to Janaya Poarch now. So, for those of us in the room, as secretary, I will call each
44 case, and we will ask everyone in the room who intends to speak to that case to stand
45 and be sworn in. Then a member of the Planning Department's staff will give a brief
46 introduction to the case, and then the applicant will present their case. After the applicant

has spoken, anybody else who wishes to speak will be given the opportunity. We'll hear from people in the room first and then from those on Webex. And after everyone has had a chance to speak, the applicant and only the applicant will have an opportunity for rebuttal. This meeting is being recorded. So for those of you in the room, we'll ask you to speak at the podium in the back of the room there and please speak directly into the microphone on the podium. Please state your name and please spell your last name for us so we get it correctly in the record. And of course once your case is over, you're free to leave, there's no need for you to stay for the rest of the meeting. Mr. Chair, we have two requests for deferral, at the top of the agenda.

VAR-2025-100769 - Blue Steel Construction, LLC: variance from the front yard setback, lot area requirement, and lot width requirement to build a single-family dwelling at 3313 Waverly Boulevard, East Highland Park, Fairfield. Parcel 798-734-5927. Zoning: R-4, One-Family Residence District. Code Section: 24-3105.E.1 and 24-6402.A.2. The applicant has 4,300 square feet lot area, 35 feet lot width, and 20 feet front yard setback, where the Code requires 6,000 square feet lot area, 50 feet lot width, and 35 feet front yard setback. The applicant requests a variance of 1,700 square feet lot area, 15 feet lot width, and 15 feet front yard setback.

The first is **VAR-2025-100769** Blue Steel Construction LLC. Variance at 3313 Waverly Boulevard in the Fairfield magisterial district. Is there anyone here who intended to speak to that case? Nobody who would oppose the deferral of that case? The applicant emailed us yesterday and just said he's not feeling well and thought he be better off waiting until August, so a motion will be in order.

Mr. Green- Is there a motion to defer that particular case?

Mr. Massie- I'll move it to be deferred as requested to July.

Mr. Green- Second?

Mr. Broadway- Second.

Mr. Green- All in favor say I, deferred.

On a motion by Mr. Massie, seconded by Mr. Broadway, the Board **deferred case VAR-2025-100769 until the July 24, 2025 public hearing.**

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

VAR-2025-101185 - Ironwood Investment Group, LLC: variance from the lot area requirement and lot width requirement to build a single-family dwelling at 2223 Bailey Drive, Montrose Heights, Varina. Parcel 805-715-1115. Zoning: R-4, One-Family Residence District. Code Section: 24-6402.A.2. The applicant has 5,200 square feet lot area and 35 feet lot width, where the Code requires 6,000 square feet lot area and 50 feet lot width. The applicant requests a variance of 800 square feet lot area and 15 feet lot width.

Mr. Blankinship- The other request for deferral Mr. Chair is Ironwood Investment Group LLC. This was **VAR-2015-101185** at 2223 Bailey Drive in the Varina Magisterial District. You'll also see on the desk before you we received several emails in opposition. We did not get those to you. Sara, would you please give Mr. Daniel the package of emails that were received for his case? Mr. Daniel is here and he's prepared to present. But because of the opposition that came in at the last minute, he thought it would be better to request deferral. He has another commitment on July 24th, so he is requesting deferral until August the 28th. Is there anybody in the room who intends to speak, who came here this morning to speak? To variance 1185? Is there anyone on Webex waiting to speak on 1185? Staff, is there anyone on Webex looking to speak to this case? Not seeing anything on my chat.

Janaya Poarch- No, there's nobody on Webex for that case.

Mr. Blankinship- Okay, great. Thank you.

Mr. Chair- Mr. Johnson, this is in your district, so do you have a motion to defer?

Mr. Johnson- I'm in favor of the motion for August.

Mr. Chair- Second?

Mr. Lawrence- Second.

Mr. Chair- The motion is made. All in favor to say Aye?

Board- Aye.

Mr. Chair- Those opposed like sign. Deferred. Thank you.

Mr. Blankinship- That will be August 28th for that one.

On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **deferred case VAR-1014-101185 until the August 28th, 2025 public hearing.**

Affirmative:	Broadway, Green, Johnson, Lawrence, Massie	5
Negative:		0

Absent:

0

CUP-2025-100758 Benjamin Harris: conditional use permit to build a detached garage in the front yard at 8871 Battlefield Park Road, Varina. Parcel 809-679-1012. Zoning: R-2A, One-Family Residence District. Code Section: 24-4404.A.1.

Mr. Blankinship- Alright, Mr. Chair, the first case on the agenda is **Conditional Use Permit 2025-100758**, Benjamin Harris: conditional use permit to build a detached garage in the front yard at 8871 Battlefield Park Road, Varina Magisterial District. Mr. Harris is joining us on Webex this morning. Is there anyone else who intends to speak to this case? Alright, Ms. Rozmus if you'd begin.

Ms. Rozmus - Thank you, Mr. Secretary, good morning board. The subject property is located...

Mr. Blankinship- Excuse me, would you get a little closer?

Ms. Rozmus - Oh I'm sorry. The subject property is located adjacent to Richmond National Battlefield Park and it is accessed through Battlefield Park Road. The applicant owns three parcels of land including a thirty-acre parcel that contains his home. His residence is set back five hundred feet and is served by a paved driveway that passes a small storage building before arriving to the home. The applicant is applying to replace this structure with a forty-by-thirty six-foot garage. Construction materials would include a brick foundation and vinyl siding to the sides of the property, with its dense woods the building would not be visible from the road. In reviewing this request, staff determined that our... excuse me, staff, looked at the unique area and the road owned by the National Park Service many of these other lots have homes with larger detached structures. This would not be out of place. As noted, the property is well wooded, and the driveway is quite long and none of these structures will be seen from the road. As a result, staff can recommend approval subject to the conditions included in the staff report and found no detrimental impact.

Mr. Green- Any questions from the staff? Hearing none, we'll now hear from the applicant.

Mr. Blankinship- Mr. Harris, are you there? Mr. Harris. Oh, there we are. Good morning.

Mr. Harris- Good morning. Sorry, I couldn't hear you in person.

Mr. Blankinship- Alright, would you tell us what you're requesting and why?

182 Mr. Harris- Well, we've been on this property in our house for twelve years and
183 we have just grown out of space and we want to build the detached garage just for the
184 things that people accumulate over the years and we just need more room.

185
186 Mr. Green- Any questions from board to the applicant? Is there anyone, is that,
187 is there anyone here to speak for against or on Webex?

188
189 Mr. Blankinship- There's no one else on Webex for this case.

190
191 Mr. Green- Hearing none is there a motion?

192
193 Mr. Johnson- Yes. I move that we approve the conditional use permit subject to the
194 conditions recommended by staff. It is consistent with the comprehensive plan and the
195 zoning ordinance. The garage will not be visible from that road and not have any impact
196 on the neighbors. Again, approval.

197
198 Mr. Green- Is there a second?

199
200 Mr. Lawrence- Second.

201
202 Mr. Green- All in favor say Aye.

203
204 Board- Aye.

205
206 Mr. Green- Those opposed, like sign.

207
208 Mr. Blankinship- All right, that was a motion by Mr. Johnson seconded by Mr.
209 Lawrence.

210
211 On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **approved case,**
212 **CUP-2025-100758** subject to the following conditions:

- 213
214 1. This conditional use permit authorizes a detached accessory building in the front
215 and side yards. All other applicable regulations of the County Code remain in force.
- 216 2. This conditional use permit applies only to a detached garage similar in design to
217 the plan titled "Detached Garage to the Residence of Benjamin Harris," prepared
218 by JB Byers, dated 6/20/2022, filed with the application. It must be located in the
219 area shown on the concept plan submitted with the application. Any substantial
220 changes or additions to the design or location of the improvements will require a
221 new conditional use permit. Any additional improvements must comply with the
222 applicable regulations of the County Code.
- 223 3. The garage must be no more than 40 feet wide and 36 feet deep, and no taller
224 than the dwelling or 20 feet, whichever is less.

4. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.
5. Any exterior lighting must be shielded to direct light away from adjacent property and streets.
6. The new construction must match the existing dwelling as nearly as practical in materials and color.
7. The applicant must obtain a building permit for the proposed garage by June 26, 2027, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

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

CUP-2025-100762 Murtaza Popalzai: conditional use permit to keep up to six hens in the rear yard at 9 W Magruder Street, Sandston, Varina. Parcel 826-717-7826. Zoning: R-4, One-Family Residence District. Code Section: 24-4420.G.

Mr. Blankinship- The next case is **Conditional Use Permit 2025-100762 Murtaza Popalzai: conditional use permit to keep up to six hens in the rear yard at 9 W. Magruder Street, Sandston, Varina Magisterial District.** Would everyone who intends to speak to this case, please stand and be sworn in.

Mr. Green- Is the applicant on Webex?

Mr. Blankinship- Is the applicant here this morning? I spoke to the applicant yesterday and he assured us he was going to be here.

Ms. Rozmus- He said he'd be on Webex.

Mr. Blankinship- Oh. I'm sorry. I know that we have another applicant on a following case. Staff, is there anyone on Webex other than the applicant for that case? Alright, I'm getting a text here. There is no one on Webex for this case. This case was deferred from last month because the applicant did not attend the meeting. The board is required by law to make a decision within ninety days and if it's deferred again it will pass that ninety-day mark.

Mr. Green- Mr. Johnson, since that's in your area, do you think we should proceed and hear the case without the applicant and make a decision or should we defer and have them go through the process again?

Mr. Johnson- Well, if he's not interested in being here, then...

Mr. Blankinship- We could wait. Mr. Massey suggests waiting until a little later in the meeting to see if he pops up. Maybe he's having technical problems.

Mr. Green- Okay then, we will just move to the next case then. We'll defer that case until the end of the meeting.

CUP-2025-101095 Alma Zieve: conditional use permit to keep up to six hens in the rear yard at 9204 Fordson Road, Westbriar, Three Chopt. Parcel 753-752-6926. Zoning: R-3, One-Family Residence District. Code Section: 24-4420.G.

Mr. Blankinship- Okay, all right. Then that brings us to **CUP-2025-101095 Alma Zieve: conditional use permit to keep up to six hens in the rear yard at 9204 Fordson Road, Westbriar, Three Chopt Magisterial District.** The applicant is joining us on Webex. Is there anyone in the room who intended to speak to this case? Alright, nobody being sworn in this morning. Alright, Ms. Rozmus, is this you again?

Ms. Rozmus- Yes.

Mr. Blankinship- All right. Thank you.

Ms. Rozmus- Thank you, Mr. Secretary. The property is located at 9204 Fordson Road and the Three Chopt Magisterial District. The dwelling was built in 1964 as part of the Westbriar subdivision. The area is zoned R-3 One-Family Residence District and is characterized by single-family homes, some with accessory structures on lots ranging from a quarter to a half-acre. The applicant purchased the property in 2024 and is seeking a conditional use permit to keep four hens, no roosters in the rear yard. Although the code allows up to six hens, the applicant has requested only four. The proposed coop will measure thirty-two square feet which complies with the zoning ordinance. The proposed location for the chicken coop will be in the rear yard of the property on the northwest side. It is required to be twenty-five feet from the side lot line, forty feet from the rear, forty feet from the rear, and ten feet from the primary dwelling. The coop would be over sixty feet from the rearmost neighbor, excuse me, from the nearest neighbor on the northeast side and over eighty feet from the neighbor on the southeast side. As you can see, the, the applicant had this, their lot is like kind of a corner lot, so their rear yard kind of looks like the side, but they have some great tree coverage and a fence that will kind of create a natural visual buffer between the street and the coop. Staff found that the coop will be compatible with its surroundings and the recommended conditions limit the intensity of the proposed accessory use. Staff recommends approval subject to the conditions included in the staff report. I can answer any questions.

315 Mr. Green- Does anyone from the board have any questions of Ms. Rozmus?
 316 Okay hearing none, we'll move on to hear from the applicant.
 317

318 Mr. Blankinship- Alright, can we hear from Ms. Zieve, I hope I'm pronouncing it
 319 correctly.
 320

321 Ms. Zieve- As everything was described, we are looking to place the coop in the
 322 backyard pictured area. Our goal was to keep it between those two trees, just to make
 323 sure that the conditions are good for both the chickens, especially on hot summer days
 324 like today. Quick point of clarification, I purchased the home in 2022, not 2024,
 325

326 Ms. Rozmus- Oh, I'm sorry.
 327

328 Ms. Zieve- Nope, it's okay. Just figured I would put that out there for the record,
 329 but yes, everything we would comply with all the conditions as stated in the letter and is
 330 outlined.
 331

332 Mr. Lawrence- Okay, thank you Ms. Zieve. Does anyone from the board have any
 333 questions of Ms. Zieve? No questions? Hearing none, do we have a motion for this case?
 334

335 Mr. Green- Opposition?
 336

337 Mr. Lawrence- Oh, opposition for the case. I'm sorry. Anyone for or against?
 338

339 Mr. Blankinship- There's no one else on Webex. Is there anyone else in the room to
 340 speak to this case?
 341

342 Mr. Lawrence- Okay, hearing no comments from the public, then I think we're ready
 343 for a motion. If you're ready to make one, Mr. Green.
 344

345 Mr. Green- Yes, I move we approve this conditional use permit with the
 346 conditions written by staff. It is consistent with the comprehensive plan and zoning
 347 ordinance. The coop will be forty-five feet from neighbor and partially screened by a fence
 348 and there are conditions to address food storage and pest control.
 349

350 Mr. Lawrence- Do we have a second?
 351

352 Mr. Broadway- Second.
 353

354 Mr. Lawrence- We have a motion for Mr. Green seconded by Mr. Broadway, all in
 355 favor say "Aye."
 356

357 Board- Aye
 358

359 Mr. Lawrence- All opposed "No". Motion carries.
 360

On a motion by Mr. Green, seconded by Mr. Broadway, the Board **approved case, CUP-2025-101095** subject to the following conditions:

1. This conditional use permit authorizes the keeping of four hens (no roosters) in the rear yard. All other applicable regulations of the County Code remain in force.

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

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

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

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

6. Within 30 days of bringing the hens to the property, the applicant must submit an inspection report from a licensed pest control company addressing recommendations to prevent any infestation of vermin related to the keeping of hens. This condition must be satisfied by June 26, 2027, or this conditional use permit will expire.

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

CUP-2025-101161 Commonwealth Catholic Charities: amend a conditional use permit to allow a children's residential facility at 1307 Lakeside Avenue, Fairfield. Parcel 784-751-0555. Zoning: R-4, One-Family Residence District. Code Section: 24-4205.

Mr. Blankinship- Alright, next case is **Conditional Use Permit 2025-101161 Commonwealth Catholic Charities: request to amend a conditional use permit to allow a children's residential facility at 1307 Lakeside Avenue, Fairfield Magisterial District.** Would everyone who intends to speak to this case please stand and be sworn in. Anybody else? Raise your right hand, please. Do you swear the testimony you're about to give us the truth, the whole truth, and nothing but the truth to help you God? Thank you, Sara.

Ms. Rozmus- Yes, The subject property is located on the south side of Lakeside Avenue between Brook Road and Belmont Golf Course. It was acquired in 1955 by the Missionary Sisters of Verona, of Verona in Virginia Inc., who developed a convent on the property in 1965. The improvements include the convent itself, a chapel, a classroom building and a dormitory building. In 2022, the property was acquired by Commonwealth Catholic Charities who obtained a conditional use permit to operate a children's residential facility. A children's residential facility is defined as any facility, child-caring institution or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care maintenance protection and guidance or for the purpose of providing independent living services to persons between eighteen and twenty-one years of age who are in the process of transitioning out of foster care. They are licensed and supervised by the Virginia Department of Social Services. As part of their approval, Commonwealth Catholic Charities was allowed to offer childcare in a school, but only as part of their overall operation of the property. Commonwealth Catholic Charities has contracted to sell the property to Bold Steps of Virginia LLC who will continue to operate the children's residential facility as well as educational services. The applicant does not intend to build new buildings or make any changes to existing structures. Because the 2022 approval was specifically limited to Commonwealth Catholic Charities, the contract purchaser has applied to amend two of the conditions, three and four in the 2022 conditional use permit. Just changing the language, a bit. Condition number three they would like to add the Department of Behavioral Health and Development Services as an alternative licensing authority, and condition number four, the applicant would like to remove the name of the operator, Commonwealth Catholic Charities to the new operator Bold Steps of Virginia. This property was a site of a convent for over 50 years, and for the last three years, Commonwealth Catholic Charities has operated a children's residential facility at this location. This has occurred or has received no complaints and has had no issues from the surrounding area. And when the original conditional use permit was approved, we did hear from one neighbor who was in support of the application. The use of the property is going to stay consistent, is compatible with the surrounding area and does not pose any issues, so staff recommends approval subject to the conditions included in the staff report.

Mr. Green- Are there any questions from the board to staff? None, now we will hear from the applicant.

Mr. Lloyd- Mr. Chairman, members of the board, staff, my name is Preston Lloyd. I work with the law firm of Williams Mullen appearing on behalf of the applicant in this case. We thank the staff for the very thorough preparation and report that staff has presented to you. I don't have a lot of additional information because all of the relevant facts I think are included in your staff report. I'd be pleased to answer any questions. The only context that I would add that was not included was when the contract purchaser of this property first identified the desire to purchase the property and reviewed the existing CUP. We had a robust discussion with Mr. Blankinship, who suggested that filing an amendment to the CUP and the manner described in this application was the appropriate next step. We do believe that it's a consistent use, not a change in use. The only modification has to do with the licensure of the actual use. Technically, some of the

453 aspects of what my client proposes to do would not be licensed by the authority that's
454 referenced in the existing CUP condition, it would be licensed by a different state agency,
455 but it would still be licensed. And so, this is a use that would have additional regulatory
456 compliance imposed by the state. And I'd be happy to go into more detail should the board
457 desire that additional information, thank you.

458
459 Mr. Green- Any questions from the board to the applicant?
460

461
462 Mr. Lawrence- Yes, Mr. Chairman, I had a couple questions for Mr. Lloyd. Mr. Lloyd,
463 can you explain how children are referred and served in the current facility, by
464 Commonwealth Catholic Charities, and what changes, if any, will be made when the
465 ownership or operation of this is transferred over to Bold Steps?
466

467 Mr. Lloyd- Yes sir. The current use by Commonwealth Catholic Charities is akin
468 to a foster care referral, sort of, process. And so on. Under my client's proposal, children
469 would be referred in one of two ways. It would either be by the state through the
470 Department of Health referral process or by the parents of the child. This is not a
471 hospitalization program. Instead, it's a program where there are individuals who have
472 some educational, therapeutic, or psychiatric need that requires twenty-four hour care
473 and support, and so that would be provided here at the facility upon referral in either of
474 the two manners that I described.

475
476 Mr. Lawrence- Okay, now Commonwealth Catholic Charities, I'm assuming is a
477 nonprofit, organization.
478

479 Mr. Lloyd- It is, yes sir.
480

481 Mr. Lawrence- Is that also the case for Bold Steps?
482

483 Mr. Lloyd- They're not a nonprofit, sir. They take advantage of the Medicaid
484 expansion, which has provided additional resources to help support this need. This would
485 be one of 24 facilities in the state that fulfill this need, and we've seen a 50% increase in
486 Henrico County specifically in having children who fall within the regulatory description of
487 what the services are here that would be provided. And so, it's a need that this community
488 has a growing need for as well as a growing need throughout the state, and we believe
489 that because it's a consistent use with the existing Commonwealth Catholic Charities
490 facility, it's the right use in the right place.
491

492 Mr. Lawrence- Well, Commonwealth Catholic Charities only started operating this
493 about three years ago. Any ideas as to why they, after a fairly short period of time, decided
494 to cease operation and transfer ownership?
495

496 Mr. Lloyd- I can only speculate sir, the speculation would likely be related to
497 things that I think are self-evident that in the service space it's becoming increasingly
498 challenging to find adequate support for these sorts of services. And my client, because

499 of the experience that they have in being able to leverage federal and state programs,
500 believes that they can continue to do so in a sustainable way that'll support this need
501 within the community. But I can't say for certain why Commonwealth Catholic Charities
502 reached that decision.

503

504 Mr. Lawrence- So Bold Steps has twenty-four facilities throughout the
505 Commonwealth, This would be the first one in the Richmond Metropolitan area?

506

507 Mr. Lloyd- Let me clarify, I apologize if I misstated this earlier in my remarks.
508 The nature of this facility is one of twenty-four operated by any operator in the
509 Commonwealth. Bold Steps has, this would be their first facility in the Commonwealth
510 providing the scope of services.

511

512 Mr. Lawrence- Do they have facilities outside of Virginia?

513

514 Mr. Lloyd- They do. Yes sir.

515

516 Mr. Lawrence- So, it's a national company, but just entering Virginia?

517

518 Mr. Lloyd- Yes sir.

519

520 Mr. Lawrence- Thank you, sir.

521

522 Mr. Green- Any other questions from the Board to the applicant?

523

524 Mr. Broadway- I was just wondering where is Bold Steps headquartered?

525

526 Mr. Lloyd- They're based in New Jersey.

527

528 Mr. Green- Any other questions? Is there anyone for or against in the audience
529 or on Webex?

530

531 Mr. Blankinship- There's no one else on Webex for this case.

532

533 Mr. Green- There are none. Is there a motion?

534

535 Mr. Massie- I move that we approve the conditional use permit subject to the
536 conditions recommended by the staff. It's consistent with the comprehensive plan and the
537 zoning ordinance. The service is important to the community. The site is large enough to
538 accommodate the issues, and there have been no complaints from the neighbors.

539

540 Mr. Green- Is there a second?

541

542 Mr. Broadway- Second

543

544 Mr. Green- Discussion? Hearing no discussion. All in favor say Aye.

Board- Aye.

Mr. Green- All like sign.

On a motion by Mr. Massie, seconded by Mr. Broadway, the Board **approved case, CUP-2025-101161** subject to the following conditions:

1. This conditional use permit authorizes the use of the property as a children's residential facility. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the existing improvements on the property. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit.
3. This approval is subject to the licensing and inspection requirements of the Virginia Department of Social Services or Department of Behavioral Health and Developmental Services, as applicable (the "Licensing Authority"). Any violation of those requirements may be grounds for revocation of this conditional use permit.
4. If any school or preschool is operated on the property, it will serve only children enrolled in a program or service licensed by the Licensing Authority.

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

Mr. Green- Can we go back and see if the prior individual is on before we move into the variances? Has the person for the second conditional use permit been identified yet?

CUP-2025-100762 Murtaza Popalzai: conditional use permit to keep up to six hens in the rear yard at 9 W Magruder Street, Sandston, Varina. Parcel 826-717- 7826. Zoning: R-4, One-Family Residence District. Code Section: 24- 4420.G.

Mr. Blankinship- Yes sir, are you Mortaza? All right. Case is **CUP-2025-100762 Murtaza Popalzai: conditional use permit to keep up to six hens in the rear yard at 9 W. Magruder Street, Sandston, Varina Magisterial District.** And you're the only one who's come into the room since we started, so I guess you're the only new person. Would you raise your right hand, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth so help you God? All right, thank you. Ms.

Rozmus is going to give her introduction and then you'll speak at the microphone in the back. Go ahead.

Ms. Rozmus- Thank you. The subject property is located at nine West Magruder Street in Sandston. The property is zoned R-4, One-Family Residence District and is characterized by single-family homes. Most of the lots are under 10,000 square feet, but a few are one acre in size. The home was built in 1943. And the applicant purchased the home in 2006 and is now seeking a conditional use permit to keep up to six hens, no roosters in the rear yard. The chickens are currently on the property, and this case was a result of a complaint from a nearby neighbor who said that the chickens were free roaming. I did discuss with the applicant and the applicant's parents about how the chickens need to be confined to the chicken coup, and I think we're all on the same page. So, the chicken coop that's currently here does meet the requirements as stated in code, and it is the appropriate setback from the rear and the side. The chicken coop is consistent with the character and development pattern of the surrounding area, and if the applicants can keep the chickens confined to the coup. Staff does recommend approval subject to the conditions included in the staff report. I can answer any questions.

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

Mr. Lawrence- Yes. I had one, Mr. Chairman. Ms. Rozmus, can you clarify the required rear yard setback requirement? And I ask this because section two, the staff reports evaluation section states that the rear yard setback must be at least twenty-five feet, but section four states it is thirty-five feet.

Ms. Rozmus- That would be a typo, thirty-five feet is correct.

Mr. Lawrence- Thirty-five is correct?

Ms. Rozmus- Thirty-five, yes.

Mr. Lawrence- So this property owner has to have thirty-five feet?

Ms. Rozmus- Thirty-five from the rear.

Ms. Rozmus- And twenty-five from the side.

Mr. Lawrence- And twenty-five from the from the side yards?

Ms. Rozmus- Yes.

Mr. Lawrence- Okay, thank you.

Mr. Green- Are there any other questions from the board to staff? Hearing none, we'll hear from the applicant.

636 Mr. Popalzai- Yes sir, my name is Martaza Popalzai for Chicken Group at Nine
637 West Magruder Street. And I accept all the conditions that have just been stated.

638
639 Mr. Green- Any questions from the board to the applicant? Hearing none, is
640 there anyone on Webex or anyone in the audience for or against this?

641
642 Mr. Blankinship- There's no one else for this case on Webex.

643
644 Mr. Green- Hearing none, then we'll entertain a motion.

645
646 Mr. Johnson- I move to approve the conditional use permit subject to conditions
647 recommended by staff. It is consistent with the comprehensive plan and zoning ordinance
648 and the applicant understands that the chickens must be confined to a coop, not allowed
649 to roam. The conditions include food storage, and pest control. Again, approve.

650
651 Mr. Green- Is there a second?

652
653 Mr. Lawrence- Second.

654
655 Mr. Green- Discussion? Hearing no discussion. All in favor say Aye.

656
657 Board- Aye.

658
659 Mr. Green- All opposed like sign, approved.

660
661 On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **approved case**
662 **CUP-2025-100762**, subject to the following conditions:

663
664 1. This conditional use permit authorizes the keeping of six chickens (no roosters) in the
665 rear yard. All other applicable regulations of the County Code remain in force.

666
667 2. This conditional use permit applies only to the improvements currently on the property.
668 Any additional improvements must comply with the applicable regulations of the County
669 Code.

670
671 3. The applicants must comply with all of the requirements of Sec. 24-4420.A and G of
672 the Zoning Ordinance. This includes requirements that the hens be kept in a covered
673 enclosure and not allowed to run free, and that the activity must not produce any
674 objectionable odors or vermin.

675
676 4. Any feed stored on the site must be kept indoors, in a metal container with a secure lid
677 or other sealed container impervious to vermin.

678
679 5. Waste from the hens must be composted in a responsible manner or removed from the
680 property weekly. Until composted or removed, waste must be kept at least 100 feet from
681 surface water and wells and covered with an impermeable barrier that will resist wind.

6. No later than July 25, 2025, the applicant must submit an inspection report from a licensed pest control company addressing recommendations to prevent any infestation of vermin related to the keeping of hens.

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

Mr. Green- We will now move to the variances.

VAR-2025-100769 Blue Steel Construction, LLC: variance from the lot area, lot width, and front yard setback requirements to build a single-family dwelling at 3313 Waverly Boulevard, East Highland Park, Fairfield. The applicant has 4,300 square feet lot area, 35 feet lot width, and 20 feet front yard setback, where the Code requires 6,000 square feet lot area, 50 feet lot width, and 35 feet front yard setback. The applicant requests a variance of 1,700 square feet lot area, 15 feet lot width, and 15 feet front yard setback. Parcel 798-734-5927. Zoning: R-4, One-Family Residence District. Code Section: 24-3105.E.1 and 24-6402.A.2.

Mr. Blankinship- All right, the first variance for this morning has been deferred, so if anybody was here for **VAR-2025-100769**, that case will not be heard until the July meeting.

Mr. Green- Is there anyone in the audience or Webex for that case? If not, we'll move to the next variance.

VAR-2025-101185 Ironwood Investment Group, LLC: variance from the lot area and lot width requirements to build a single-family dwelling at 2223 Bailey Drive, Montrose Heights, Varina. The applicant has 5,200 square feet lot area and 35 feet lot width, where the Code requires 6,000 square feet lot area and 50 feet lot width. The applicant requests a variance of 800 square feet lot area and 15 feet lot width. Parcel 805-715-1115. Zoning: R-4, One-Family Residence District. Code Section: 24-6402.A.2.

Mr. Blankinship- Second one has also been deferred. **VAR-2025-101185** has been deferred to the August 28 meeting.

Mr. Green- Is there anyone in the audience on Webex to speak for or against that? Hearing none, we'll move to the next variance.

VAR-2025-101200 Sterling Development Corp.: variance from the lot area, lot width, and public street frontage requirements to build a single-family dwelling at 2798 Pennington Road, Tuckahoe. The applicant has 9,600 square feet lot area, 74 feet lot width, and 0 feet public street frontage, where the Code requires 11,000 square

729 feet lot area, 80 feet lot width, and 50 feet public street frontage. The applicant
730 requests a variance of 1,400 square feet lot area, 6 feet lot width, and 50 feet public
731 street frontage. Parcel 761-751-7988. Zoning: R-3, One-Family Residence District.
732 Code Section: 24-3309.D and 24-4306.E.1.
733

734 Mr. Blankinship- Alright, the next case is **VAR-2025-101200** Sterling Development
735 Corp.: variance from the lot area, lot width, and public street frontage requirements to
736 build a single-family dwelling at 2798 Pennington Road, Tuckahoe Magisterial District.
737 Would everyone who intends to speak to this case, please stand and be sworn in. Raise
738 your right hand. Do you swear the testimony you're about to give us the truth, the whole
739 truth, and nothing but the truth to help you God. Thank you. Alright, Ms. Rozmus?
740

741 Ms. Rozmus- Here I am again. The subject property today was never designed or
742 approved as a buildable lot. It was originally part of 2717 Skipwith Road. When the
743 property to the northeast was subdivided as Skipwith Heights, a stub street as was shown
744 on the subdivision plat indicating future plans to extend the street from Pennington Road
745 to Skipwith Road. The subject property is only twenty-four feet wider than the proposed
746 street. When Skipwith Heights was recorded in 1956, the subject lot extended from
747 Skipwith Road to the edge of the subdivision. Then in 1962, Sterling Development Corp
748 bought the property and built the dwelling at 2717 Skipwith Road. When they sold the
749 house, the Sterling Development Corps divided the lot and retained an unbuildable parcel
750 in the rear, which is the subject property. The subdivision of the lot was not reviewed or
751 approved by the county. The unbillable parcel has remained in ownership of the Sterling
752 Development Corp since it was divided. It measures 9,600 square feet in lot area where
753 the code requires 11,000 square feet, 74 feet in width where the code requires 80 feet. It
754 is also landlocked, the only access to the process parcel is through a proposed right of
755 way that was never developed into a public street. As you can see here, it has been
756 assessed at a value of \$6,000 for tax purposes. The owners have applied for a variance
757 to allow them to market the property as a buildable lot. The plan shows an oddly shaped
758 dwelling with 1,200 square feet of floor area set at an angle to the street, the elevation
759 drawing shows a single-story house with the basement. Taken by itself, the subject
760 property has no reasonable beneficial use. However, it was subdivided by the owner
761 without county approval and the original parcel has been developed into a single-family
762 dwelling. The lot area lot with and public street frontage requirements were already in
763 effect when the property was subdivided. The county did not review or approve the
764 subdivision. The applicant for the variance Sterling Development Corp subdivided the
765 land without county review or approval, the hardship, if any, is self-imposed. The
766 proposed dwelling would sit awkwardly among the rear yards of the adjoining lots and
767 would not fit into the development pattern along the street. As you can see, here's the
768 rear lots, here's this other side property with a fabulous garden, and then the left side
769 neighbor and then the right-side neighbor's fence is right here and here's the view of the
770 end of the street. The neighbor most directly affected contacted staff to express
771 opposition to the variance. Their neighbor is this right-side neighbor. The application does
772 not meet any of the legal requirements for a variance, therefore staff recommends denial,
773 and I can take any questions.
774

775 Mr. Green- Does this, if those things were not potentially violated earlier, would
 776 this meet that new rule that has small houses on smaller lots?
 777

778 Ms. Rozmus- It would still require a variance, it still doesn't meet the current zoning
 779 ordinance, even if they hadn't illegally...
 780

781 Mr. Green- Okay, thank you. Any other questions from board to staff?
 782

783 Mr. Lawrence- I had one, Mr. Chairman. I'm just curious, Ms. Rozmus, how can
 784 property be subdivided and recorded without county approval?
 785

786 Ms. Rozmus- That's a great question.
 787

788 Mr. Blankinship- Yeah, I'll answer that, Mr. Lawrence. It can't anymore. That was one
 789 of the changes we made with the code update in 2021. Prior to that, the last major
 790 amendment to the subdivision ordinance... Up to that time, there was quite a lot that you
 791 could do without receiving approval. At that point, the county wanted to move toward
 792 reviewing everything, but it was seen as too drastic of a change, so we put a rule in place
 793 that's known colloquially as one free split. Anybody in the county was allowed to take the
 794 lot that they had the date that ordinance was adopted and split it once without review or
 795 approval, but if you split it more than once, it would be reviewed. So that was in place for
 796 about 40 years before we finally said, okay, the race to the courthouse is over. Anybody
 797 who needs to split property without going through the process has had plenty of time to
 798 do it. So now we do review every lot split.
 799

800 Mr. Lawrence- Under the previous process, that property was split. Any property
 801 owner could do that?
 802

803 Mr. Blankinship- Yes.
 804

805 Mr. Lawrence- I could take my property down to the courthouse and split off 4,000
 806 square feet?
 807

808 Mr. Blankinship- Yes. And we would not even be aware of it until it was done and then
 809 when you came in and applied for a building permit. We would then tell you, I'm sorry the
 810 lot you created is not a buildable lot. We spent a lot of time doing that.
 811

812 Mr. Lawrence- I learned something today.
 813

814 Mr. Blankinship- Which is why staff was glad to have that... well most of staff was glad
 815 to have that rule changed. The staff that has to review all those subdivisions is not as
 816 thrilled
 817

818 Mr. Lawrence- And when those under the previous process... when those were
 819 taken to the courthouse, they could be recorded and the courts weren't requiring any sort
 820 of evidence of county approval for that.

821
822 Mr. Blankinship- Right, it was not a requirement but now they are requiring county
823 approval.
824
825 Mr. Lawrence- But now they would?
826
827 Mr. Blankinship- Now they would, yes.
828
829 Mr. Lawrence- Thank you.
830
831 Mr. Blankinship- Yes sir.
832
833 Mr. Green- Any other questions from board to staff?
834
835 Ms. Rozmus- I would just like to make note that this little sliver of a parcel belongs
836 to this owner here, so it kind of further complicates the process. I just wanted to point that
837 out.
838
839 Mr. Green- We'll hear now hear from the applicant. Is the applicant here?
840
841 Mr. Bilder- Hello, good morning. I'm Joshua Sterling Bilder. I'm the
842 representative for Sterling Development Corporation. And, should I, how should I start?
843
844
845 Mr. Green- Just tell us what you want to do.
846
847 Mr. Bilder- Okay, thank you for hearing this case this morning. I'll just go through
848 the staff report and offer my counter points to it. Okay, it says that the single-family lot
849 consists of 9,622 square feet. Minimum lot area for the zoning district is 10,000 square
850 feet. The applicant requests a variance to build on the lot, a single-family dwelling Okay,
851 I will just say that according to the county's own zoning ordinance, in the R-3 district, you
852 only need an 8,000 square feet lot size and 65 feet of street frontage for nonconforming
853 lots, and that's from the county zoning ordinance. I would also like to say that this lot, and
854 I've brought some handouts, if you'd like to see for yourself, this lot has both county water
855 and sewer to it. This is from the county website. If the lot wasn't intended to be built on.
856 water and sewer would not be run to this lot. You can clearly see, and if I can bring it up
857 to you, you can clearly see there's stubs all over here for water and sewer, and I'd like to
858 give this to the commission. If you would like to see it after I speak or if this, the secretary
859 would like to take it and I mean there's a couple of different screens, but I mean you can
860 I did a close up on some of them, but you can see clearly that was from the county
861 website, from the GIS. Okay let me just... I'm just going to read here. I would like to be
862 thorough with my response because I can tell that you took a lot of time and I appreciate
863 you reviewing this application. This says that the property does not meet the required
864 10,000 square feet minimum lot area, as I've shown you, that's not the case, I mean it's
865 referenced here that it can be in 8,000 square feet, so that would mean that my 9,622
866 square feet exceed the minimum lot area. The lot area, lot width and public street frontage

requirements were already in effect when the property was subdivided, the county did not review or approve the subdivision. The conditions in effect today were already in effect when the property was subdivided. Okay, I would just reference that this subdivision was approved. The first subdivision of the, of this tract of land in this neighborhood surrounding the property was originally approved in the 1940s and again in 1956, and those were done and they were filed with the county, and as you've referenced them today. My grandfather Larry Sterling, who probably built the first subdivision in Henrico County on Newsome Court, if any of you have been near Freeman High School. Newsome Court was one of the first subdivisions, so my grandfather built this and many others in the county. And this subdivision where this lot is located, he ended up buying it, to my understanding from someone. And he built the homes along Pennington Road, and I think he actually built Pennington Road. And so, Gould Street was actually deeded to the county, from this lot, so I contend that the subdivision of a lot was for a street that Henrico County at some point wanted to connect to Skipwith Road. And I mean, you could look this up. I don't have the deed with me, but Gould Street was deeded from this property to the county. That street was never put in. So, therefore, I don't feel like it's just a paper street and I know it's a formality and it's, you know, a confusing one, but I don't feel that that was ever put in or was ever intended to be put in. So, I feel like the lot is being held for a hardship that was not created by my company or my grandfather. At some point in the past a portion of the lot was deeded to Henrico County and this created the hardship. That's what I just said. Thank you for bearing with me. I'm just going through so I can show you that I've thought these points out and I have a counterpoint for every point that is here. As I said, the hardship is not self-imposed. The zoning code, as Henrico County understood it, was not even developed at the time that this subdivision was put in that my grandfather built. And, as Mr. Blankinship mentioned, we were allowed one free split, so I think that says it right there. And if it was changed in 2021, this lot existed and the address existed before 2021. Therefore, it's a legal lot of record that we've been paying taxes on since the lot's creation. It says there, it says there would be not a negative impact on other properties in the area, the lot would be able to achieve the same setbacks and quality of the other homes on the block.

Well, I agree with you that the fenestration of the house might be a little different than some of the others. That can be easily changed by my architects and my engineers. We can change the fenestration of the building if you'd like us to face it more on a 90-degree angle if you do so approve this plan at your discretion. And the reason that we angled it was because that's where we would have put a driveway. Or some sort of access to the rear of the property, to have a garage or something of that nature, but it can be easily switched. And if you notice, it's in a mid-century modern style like the rest of the block. It's a Sterling built home. And it resembles the other homes on the block in the spirit of the architecture of the other homes that my company has built. In keeping with the neighborhood, this one would be a beautiful addition to the neighborhood as a single-family structure, which we intend to build. I'm committing that to you today that we will build this home if approved. Hold on, I'm just going through here and just say that, like it's been mentioned here before, regulations change all the time. So, you know, there may be, you know, some questions about this property, but I feel like with everything that I've said here today, I've answered that. It can either be done through a subdivision, correction

913 or a change in the county code. If allowed for this my company would be happy to, if
914 there's anything that the county would like us to do, we'd be happy to fill out a correction
915 to the subdivision or whatever we want to do just to make sure that everyone would be
916 comfortable with the building of the new home. Sorry, just bear with me. Yes, we, the, the
917 county code allows for a modification to the subdivision. And I'd just like to say again, that
918 this subdivision was built to the regulations of the times. And, now I would like to say that
919 the staff recommendations, if the board sees so fit to approve our variance application,
920 I've reviewed what staff has said and I'm in agreement with what they're saying. I realize
921 that this is a more established, older neighborhood and there are residents who care
922 about their property. You know, change can be something difficult and I would just like to
923 say that myself, Joshua Builder, I've worked with many neighborhoods in the city of
924 Richmond and Henrico. I've worked in Church Hill and done successful projects and have
925 had positive feedback from the community. I've worked in Carver, I've built homes in
926 Carver, some of the first live roof homes in the city of Richmond. And I have a record of
927 completing projects that benefit the community and bring something to the community,
928 not that this community has many great aspects of the location. It's a beautiful area and I
929 feel like the project that I would build here would only benefit the community and raise the
930 property values in the area for everybody. I understand that there are some
931 encroachments on the property, you know, I don't want to get into that. I mean, we're just
932 here for the case here. But you know, the neighbors have been encroaching, and you can
933 even see from this picture they're piling up things on the property. They're, putting gardens;
934 or I think it's some sort of trash area where they're, you know, compact. I forget what you
935 exactly call it, but they're composting, outdoor composting with no covers on it. There's
936 some sort of dog pound out there in the rear of the property. I mean, you know, it's
937 becoming more of an eyesore than anything. And I feel like the single-family home that
938 we would build there would only benefit the neighbors and they would have a new
939 neighbor in their neighborhood who would care for their home. So, with that I respectfully
940 request that you approve my application based on the evidence that I've given you and
941 my points here and thank you very much.

942
943 Mr. Green- Are there any questions from the board to the applicant?
944

945 Mr. Broadway- I do have one question. Mr. Bilder you said you had gone through
946 the staff report. Besides the placement of the house, what is your response to the finding
947 that the dwelling has to be architecturally consistent? With others.
948

949 Mr. Bilder- Is that number three?
950

951 Mr. Broadway- Yes.
952

953 Mr. Bilder- Even if we have to change the plan to suit the County and
954 yourselves, I'm willing to do even a complete redesign. I wouldn't want to make a home
955 that isn't fitting with the community nature, and I would want everything to be approved
956 before we even started construction. I can even sign off on something with Planning and
957 development review on the design. But yes, I'm committed to putting something in the
958 neighborhood that will be consistent with the other homes.

959
960 Mr. Green- Any additional questions from our board to the applicant?
961
962 Mr. Lawrence- I had a question, Mr. Chairman. Can you clarify again how this
963 property would be accessed since there's no public street frontage, and it looks like the
964 property does not have public street frontage. So, can you clarify again how the access
965 would be gained to the property?
966
967 Mr. Bilder- Well, I mean there's several ways that I feel that the property could
968 achieve access. I mean, I personally feel that there is street frontage there even though
969 there is a paper street, it does have a Pennington Road address.
970
971 Mr. Lawrence- Well let me ask you this question. I hate to cut you off,
972 but who owns the property? Can you put up the aerial with the red line? Yeah. So, who
973 owns the property from where the front of that diagonal red line is up to Pennington Road?
974
975 Mr. Bilder- Well, I'm not really sure. I have it on the survey. However, I feel like
976 a driveway permit would... Just if you granted us a driveway permit and some street
977 frontage variances that would achieve what we need and we could be able to achieve the
978 setbacks.
979
980 Mr. Blankinship- That is unimproved right-of-way that's owned by county.
981
982 Mr. Lawrence- So that's actually county property.
983
984 Mr. Blankinship- Yes sir. And there is also a little sort of triangular portion, yes, that
985 Ms. Rozmus is indicating there, that's owned by the owner of the property to the north.
986
987 Mr. Lawrence- Okay.
988
989 Mr. Blankinship- But in between is county right-of-way.
990
991 Mr. Lawrence- Okay.
992
993 Mr. Bilder- I don't know much about that property.
994
995 Mr. Lawrence- So the county would have to, how would that work? The county
996 would have to grant him access through?
997
998 Mr. Blankinship- Yes. He would have to have a private driveway in public right-of-way,
999 which is something that the Public Works can do by a waiver, but it's not their normal
1000 approval process.
1001
1002 Mr. Lawrence- Okay, thank you.
1003

1004 Mr. Green- Any other questions from the Board to the applicant? Ms. Rozmus,
1005 do you have anything to refute or respond to before we could move to the opposition?
1006

1007 Mr. Blankinship- I'm going to jump in and do that if you don't mind because I actually
1008 reviewed this case myself. First of all, the 8,000-square-foot, lot area that he referenced,
1009 that would apply if this lot had been subdivided prior to 1960. But the lot was not
1010 subdivided prior to 1960. By the time it was subdivided, the 11,000-square-foot minimum
1011 lot area had already been adopted in 1960. Ms. Rozmus, would you put up the extended
1012 arial, expanded arial? Whatever we call that? Yes. You see the diagonal line running from
1013 northwest to southeast that yes, thank you, creates the eastern boundary of this property
1014 and also the eastern boundary of several adjoining properties. That line, everything on
1015 the west side between that line and Skipwith, that was subdivided in the 1940s. And at
1016 that time, this lot was one lot all the way through to Skipwith Road. Then when the
1017 Pennington Road subdivision was created, that's when that little stub of right-of-way was
1018 dedicated. You know, with the future possibility of being extended through to Skipwith
1019 Road. So, Mr. Bilder was incorrect in saying that that right-of-way came from his property,
1020 it did not, it came from the property to the east. It was part of the Pennington Road
1021 subdivision. And because the land was not large enough for a buildable lot, they didn't
1022 create another lot there, but as is commonly done still today, they created a stub street
1023 so that in the future there would be the potential of connecting through to Skipwith Road.
1024 But that was not done. A house instead was built on the Skipwith Road side of the property
1025 and that was again that lot was subdivided prior to 1960, so even though it didn't meet
1026 the lot width, it is nonconforming with respect to the lot width requirement. But when they
1027 cut off the back half of the lot, that was after 1960. And at that point, the lot area and lot
1028 width and public street frontage requirements were in the code, and, and they were not
1029 complied with. The water that he handed out, that's indicating a fire hydrant. There is a
1030 fire hydrant on the corner there. And that's what is indicated by that.
1031

1032 Mr. Bilder- But there is water, I mean.
1033

1034 Mr. Blankinship- There is not a water meter for the vacant lot. There is a water line.
1035

1036 Mr. Bilder- To the site?
1037

1038 Mr. Blankinship- There is a water line where a water meter could be put.
1039

1040 Mr. Bilder- And the sewer was extended to where this property is.
1041

1042 Mr. Blankinship- The sewer is not extended to this property. The sewer is extended to
1043 the house across the street. But there's no sewer hookup on this side of the street.
1044

1045 Mr. Bilder- The sewer extends past the house across the street to this property.
1046

1047 Mr. Blankinship- The line extends.
1048

1049 Mr. Bilder- It's clearly right on there.

1050
 1051 Mr. Blankinship- The line is on there where a sewer tap could be installed. But nobody
 1052 has ever...
 1053
 1054 Mr. Bilder- Was run to the property. So therefore it was intended to be built on.
 1055
 1056 Mr. Blankinship- There is no tap from the sewer line to this property and there is no
 1057 tap from the water line.
 1058
 1059 Mr. Bilder- I got that from Henrico County.
 1060
 1061 Mr. Green- Excuse me. We had an opportunity to listen to staff and then we
 1062 would listen to those for and against. Then you can rebut.
 1063
 1064 Mr. Bilder- I apologize.
 1065
 1066 Mr. Green- No no no no. Then you can rebut later, but we just don't like folks to
 1067 rebut while staff is getting...
 1068
 1069 Mr. Bilder- Okay. I apologize.
 1070
 1071 Mr. Blankinship- I'm trying to remember if there was anything else.
 1072
 1073 Ms. Rozmus- The encroachment.
 1074
 1075 Mr. Blankinship- That I was going to reply to. I'm sorry.
 1076
 1077 Ms. Rozmus- The encroachment.
 1078
 1079 Mr. Blankinship- I don't know who, you know, the adjoining property owners, whether
 1080 they encroach on this property or not, I don't know. The GIS map is not particularly
 1081 accurate here in some of the older subdivisions, you know the map is not accurate to the
 1082 foot, so it's a little difficult to tell exactly where the property lines are and where the
 1083 buildings are. The mapping is just not accurate to that degree of precision. Was there
 1084 anything else that was my response?
 1085
 1086 Mr. Green- Well, Mr. Bilder said that there was water and sewer that could go.
 1087 So you're saying that it is not?
 1088
 1089 Mr. Blankinship- The water line and sewer lines are present and they could be tapped,
 1090 but they are not currently tapped into. There is no water or sewer service to this property
 1091 at this time. It could be provided but it's not at this time.
 1092
 1093 Mr. Green- Is that typical?
 1094

1095 Mr. Blankinship- Yeah, if there had been other vacant lots on the street, you know, the
1096 waterline and sewer line are continuous lines that run down the street, so he did mention
1097 that they have paid taxes on this property since 1962 or 1963, which is as far as I know
1098 accurate. But I would point out that it's taxed at a value of \$6000. It's not taxed as a
1099 buildable lot. If it was considered a buildable lot, it would be about ten times that at least.
1100 And so his tax bill would have been ten times. I think that was the answer.

1101
1102 Mr. Lawrence- I did have one more question, Mr. Blankinship. Pennington Road
1103 ends right where that tree, those trees are. I guess it's a tree shadow or something you're
1104 showing, right?

1105
1106 Mr. Blankinship- Yes sir.

1107
1108 Mr. Lawrence- So, but did the Thoroughfare Plan show Pennington Road
1109 extending?

1110
1111 Mr. Blankinship- If you go back to the extended aerial again, Ms. Rozmus? It really
1112 can't, unless it was going to be, there is a little bit more unbuildable land there. Yeah, so
1113 it could be extended to serve that lot.

1114
1115 Mr. Lawrence- But not to another road though.

1116
1117 Mr. Blankinship- Right yes, unless it was going to connect to Chowning Court, which
1118 really would not be done today, typically.

1119
1120 Mr. Lawrence- It looks like Chowning Court was intended as just a cul-de-sac.

1121
1122 Mr. Blankinship- Yes, so you see it's a permanent cul-de-sac where you have houses
1123 built on all sides facing the cul-de-sac. Whereas what we have on the right side there,
1124 Pennington Road is a temporary cul-de-sac. So that there's room for the neighbors to turn
1125 around and the potential that a street could be built to the west. But there's no plan that
1126 I'm aware of to ever extend that street to the west. Yeah, that's looking south at the stub
1127 there.

1128
1129 Mr. Lawrence- Okay. Thank you.

1130
1131 Mr. Blankinship- Sure.

1132
1133 Mr. Green- Okay, can we hear from those in the audience.

1134
1135 Mr. Bilder- Can I just say...

1136
1137 Mr. Blankinship- You'll be able to speak after they've had their time. So that way you
1138 can rebut all of us at once.

1140 Mr. Green- Yeah, what happens is you made your presentation then understand
1141 all the folks will speak for or against and then you can come back and speak again sir.

1142
1143 Mr. Builder- Okay, okay thank you.

1144
1145 Mr. Green- Are you for or against?

1146
1147 Mr. Sharp- Good morning members of the board. My name is Ben Sharp and
1148 I'm the owner and resident at 2801 Skipwith Road. Which if you're looking at the aerial
1149 view is the property to the rear right of the lot. I would like to thank the Planning
1150 Department staff for the work that they've done and I'm not going to spend too much time
1151 reiterating the points made there, but I would like to say that I agree with their findings
1152 and I would like to join you with the recommendation that this variance not be granted.
1153 Primarily for reason that none of the threshold requirements required by statute can be
1154 met here. As staff pointed out, this was an issue that was a hardship created directly by
1155 the applicant in this situation, with the 11,000-square-foot requirement being in place at
1156 the time of the subdivision. But furthermore, if the board were to find that any of these
1157 threshold requirements have been met, I would like to speak to the secondary
1158 requirements which the applicant would still have to prove including the lack of substantial
1159 detriment to adjacent and nearby property owners. As an adjacent property owner myself,
1160 I can testify a little bit too basically, the fact that, as you can see from the aerial footage,
1161 sorry, that there are what was labeled encroachments. These are, in fact, gardens and
1162 improvements and some of the other owners who are also here with me will testify to a
1163 number of years of them being used as gardens. So, there's in fact been a long history of
1164 decades of these portions of property, at least probably six to eight feet encroaching on
1165 both sides that have been used by the adjacent property owners. And I can tell you that
1166 if you can see there where the yard is cut, I've been cutting it myself and certainly the
1167 other property owners have been cutting it long time before I have. But that we take care
1168 of this property and use it and we aren't paid in any way by the current property owner.

1169
1170 Mr. Green- So I have a question.

1171
1172 Mr. Sharp- Yes sir.

1173
1174 Mr. Green- So what you're saying is that you're using someone else's property.

1175
1176 Mr. Sharp- Yes, your honor. Sorry. Yes, sir. and like I said,

1177
1178 Mr. Green- So you are encroaching upon his property. Without permission.

1179
1180 Mr. Sharp- I'm sorry?

1181
1182 Mr. Green- With or without permission?

1183
1184 Mr. Sharp- So sorry, I've never actually spoken to the property owner. My
1185 understanding because I've only lived there for less than a year, is that the previous my

1186 predecessor in title, has used parts of the property as a garden and that there may have
1187 been some kind of understanding with the property owner, but I don't know what that was.
1188 All I know is that the property is not maintained unless it's by myself and the adjacent
1189 property owners. And we do care about our community and make sure that that that it
1190 doesn't grow wild.
1191

1192 Mr. Green- No, that's not my concern. My concern is you and others have taken
1193 the opportunity to put a garden on somebody else's land without their permission. True,
1194 yes or no? Yes or no?
1195

1196 Mr. Sharp- Yes sir.
1197

1198 Mr. Green- Thank you. Okay. I understand what you did, but I just wanted to
1199 clarification.
1200

1201 Mr. Sharp- Yes sir. That is all and I'd like to cede the rest of my time.
1202

1203 Mr. Green- Thank you.
1204

1205 Mr. Smiley- Hello, my name's David Smiley. I'm the property owner at 2800
1206 Pennington, which is the property directly north, I also own the small parcel down at the
1207 bottom to that. Thank you to the board for taking time today. I'll be brief because I know
1208 we have a lot to get done today. Thank you for the staff for your in-depth research on this.
1209 And I agree with the board, this should be denied. The rules weren't followed from day
1210 one. As a developer, they should have known those rules in effect. As Ben spoke about
1211 maintaining the property. I've gotten encroached by, and you can see I butt up against
1212 the county's little bit of road property and nothing encroaches there. I think the only
1213 encroachment's the bottom part garden. I'm the owner that put that fence in, had it
1214 surveyed, made sure I followed property lines, can see, things like that, had that fence
1215 put in five years ago when I bought the property there. But long and short of it, like I said,
1216 the property when I bought it, I looked into acquiring different land, the county land,
1217 different things like that and was always told as an unbuildable lot. It's just a green space
1218 that's going to be there. Talked with the neighbors who have helped mow, clean up the
1219 property, make sure this always stays presentable, for our neighborhood. And, you know,
1220 it seems like now, you know, it's been this way for 50 60 years and now a non-
1221 neighborhood resident developer wants to make a quick profit with the housing market
1222 and pricing being the way it is right now to potentially cash in and push through this. I
1223 received an unsolicited offer for money for that little, small lot to help make this deal go
1224 through. I never responded because I had no interest in moving forward with that. But I
1225 see no reason why anything should be done to this property. If we're looking for the
1226 community and best thing for the community. Honestly the best thing would be Henrico
1227 County acquired and potentially put a little small park there or something like that if we
1228 really are looking for what's best in the community. But for right now, like I said at the end
1229 of that cul-de-sac, if you go, if you zoom up, zoom out just a little bit where Prestwick
1230 comes into that neighborhood, Prestwick Road, that road comes to the left that comes
1231 under Pennington. There's a lot of kids that live on our street and people run that stop

1232 sign and kind of turn through there and cut through there. So, we've directed a lot of the
1233 kids and it's been that way. We'll play at the end of the cul-de-sac in a safer area, you
1234 know, rode their bikes, you know, kick a ball around, you know, on that area right there
1235 and more traffic, more construction, things like that is not going to make this safer or better
1236 for our community. Many of the neighbors would all, you know, agree with that no one
1237 here supports this that actually lives in this neighborhood. And that's all I have.

1238
1239 Mr Green- I'm curious, that little plot that you bought, how that's an odd piece.
1240 How did that happen?

1241
1242 Mr. Smiley- So it came with the property. So, when I bought it, you know, when I
1243 made the purchase or whatever, they said, Yeah, this little piece is here, the county owns
1244 the Gould Street part. So, I'm part of the property I reached out to the county, to the staff
1245 here and said, well, have you all ever thought about selling this, you know, because I
1246 could just connect the whole thing, make the thing nice and clean. And they said, no, we
1247 can't sell that because it would landlock the other person's property. And I said, well, could
1248 that person buy mine, and that response was no because it would cut off your property.
1249 So, if a driveway went through there, you're cutting me off to part of my property. Like I
1250 said, it was a weird scenario, this never should have been done in the first place. And
1251 unfortunately, you make mistakes, you gotta kinda stick with those mistakes
1252 unfortunately.

1253
1254 Mr. Green- I was just curious about it. It's an odd little shaped property.

1255
1256 Mr. Smiley- Yeah, yeah, yeah. It just came with the property, it was It was weird.

1257
1258 Mr. Green- Okay, thank you.

1259
1260 Mr. Smiley- Thank you.

1261
1262 Mr. Griffin- Mr. Chairman board and staff, thank you for hearing this case today.
1263 I'm Robert Griffin, and I think you asked to spell the last name G R I F F I N. I am the
1264 owner of 2717 Skipwith Road. I acquired that property in 1997 from the previous owner
1265 that had acquired the property in 1990. That rear lot, like it's been said, has been taken
1266 care of by the previous owners of all the surrounding lots for over 30 years now. It's
1267 probably been 40 years now. Sterling Development has done nothing to maintain or
1268 improve that property. As to the encroachment, when I bought the property, there was a
1269 fence line that was supposedly on that back lot. Fence line and shed, and there were
1270 some issues with the title, but they titled it as is, and that fence line and shed stayed on
1271 that property since I bought it in 1997. I did send an email yesterday, you know, with my
1272 approval of the staff's recommendation for denial to the extent of that we've maintained
1273 that property and, and it was divided from 2717 Skipwith and at the time it was unbuildable
1274 and it should remain unbuildable. Thank you.

1275
1276 Mr. Blankinship- We do have Mr. Griffin's email I left it for you on the table and Ms.
1277 Rozmus is giving a copy to the applicant.

1278

1279 Mr. Griffin- Any questions on my behalf?

1280

1281 Mr. Green- Any questions from the board to the person speaking? Thank you.

1282 Mr. Bilder you can go back and rebut to anything you heard.

1283

1284 Mr. Bilder- Okay, well I'm glad to see some of the people who are still living in
1285 the Sterling built homes and I'm and they seem like nice people. So that's just more to
1286 prove my point of the type of work we do in the community. And we've been here for 79
1287 years. My grandfather started the company in 1946. I'm not going anywhere. I'm here to
1288 improve, only improve Henrico County. I would just like to say to Mr. Griffin, sir, we signed
1289 an agreement several years ago saying you would not do what you just did. Okay, I don't
1290 know if you remember you and your wife signed it. There was an encroachment on the
1291 property. I can provide this documentation to Planning. He agreed to move those
1292 structures when I got approval to build. And I'm surprised sir, that you would show up
1293 here and speak on this because I have the records, okay? And I'm happy to share them
1294 with Planning. And I would just like to say in closing, if the board sees fit, I would like to
1295 build a home here and please put this to rest. It's not going to impact the community in
1296 any way. Other than positively, which is what we've been doing in Richmond for the entire
1297 history of our company. And you can call me, we're at the same office that we've been for
1298 79 years. We have the same telephone number except in the old days it was letters and
1299 not numbers, okay, but we have the same number. I sit in my grandfather's chair every
1300 day. Okay, and, you know...

1301

1302 Mr. Green- Mr. Bilder, I have one question.

1303

1304 Mr. Bilder- I'm sorry. I'll just end cause I'm saying too much.

1305

1306 Mr. Green- You seem to take very good pride in building and all that but why
1307 haven't, why would you allow the neighbors to maintain and cut the grass of property and
1308 you not do it. And so, you know, over years people do feel some kind of ownership of that
1309 and protection. But why would you let it go? Why?

1310

1311 Mr. Bilder- I understand that they may think that they've been maintaining it. I
1312 employ a full-time maintenance staff for all of our properties, which we've done for many
1313 years. If they did put something or take something away from the property, I'm not here
1314 to say, I've never witnessed that. All I've witnessed from the surrounding properties is
1315 taking their refuse and dumping it on ours. And I've paid to have things cleaned up. I
1316 employ a full time landscaping staff and maintenance staff. So, you know, it's my word
1317 against theirs. I should have taken some pictures, but even today there's things that have
1318 been put on the property. I mean you can see from your own pictures here, you know, so,
1319 you know, I don't want to speak ill of anyone, I'm just here from my experience of what I
1320 know, to be fact.

1321

1322 Mr. Green- I guess my other question is, if there's refuse and trash and all that,
1323 then when they extended and encroached and put gardens in... I'm trying to understand

1324 why somebody would put a garden in to grow? The trash would draw rodents and all
1325 kinds of things that could mess with the garden. And then you if you've been paying
1326 attention, so you apparently by default, you've allowed them to just use that and encroach
1327 and do a garden. I mean, was that a cooperative thing between you and the neighbor?
1328 Because what I'm trying to assess is understand is that, that they encroach, you didn't
1329 pay attention, property was not being looked at until now, and so now all of a sudden this
1330 is an issue. And then what do you tend to do with the fact that they've been maintaining
1331 and cutting the grass? I mean we did three different applicants, three different folks that
1332 they've been maintaining and cutting the grass and we take people at what they say. And
1333 what are you going to do with that garden that they've encroached on your land about?
1334

1335 Mr. Bilder- I've been in communication with, with the neighbor to the south of
1336 the property. We've never received a response. I've had several lawyers write the woman
1337 letters. I've complained to the county, to the property maintenance division. She has an
1338 open compost pile there. You can see, I think there's like a little shed or like a little
1339 enclosure, you know, that's where it is right there, that little enclosure. I'm looking at the
1340 left of the, I guess it's would you be your right, not that, that little, there's like a fence or
1341 something there's yeah like right there, that little, there's like a compost pile there. I mean,
1342 I don't know if that's allowable in Henrico. I mean that's above my knowledge, and you
1343 know, I mean it's, she's letting the plants grow over the property line.
1344

1345 Mr. Green- I mean that's another issue.

1346
1347 Mr. Broadway- Mr. Chairman, I'm not sure I see how this is pertinent...
1348

1349 Mr. Green- I'm prepared to stop that.
1350

1351 Mr. Bilder- But, I mean if you allow me to build something here, they won't have
1352 to say that they're maintaining anything. There'll be somebody there who will be paying
1353 taxes on a home and be maintaining the property.
1354

1355 Mr. Green- Okay, thank you. Any other questions from the board to staff and or
1356 applicant?
1357

1358 Mr. Lawrence - I just had a question to staff. I don't know if staff can answer this
1359 question or not, I guess it's a legal question, it's beyond our purview. But, isn't there a law
1360 of adverse possession in Virginia where someone uses someone else's property for a
1361 period of like 15 years or greater that they basically acquired rights to that property?
1362

1363 Mr. Blankinship- I can answer that yes, there is such a law, but as Mr. Broadway has
1364 pointed out, it's not really on this table for us.
1365

1366 Mr. Lawrence- Thank you.

1367
1368 Mr. Green- All right, close hearing is in motion.
1369

Mr. Broadway- Yes, sir. Let me preface the motion by saying that, you know, I think this board makes every effort to be accommodating of property owners for the reasonable use of their property, but this in accordance with law and regulations. And I think in this case the staff has pointed out several problems with this application. The lot was subdivided without county review or approval, it never met the requirements of a buildable lot and the drawing of the proposed house is out of character with the neighborhood. So, for those reasons, I would move that we deny the application.

Mr. Green- Is there a second?

Mr. Massie- I second.

Mr. Green- Any discussion? Hearing no discussion, all in favor say Aye.

Board- Aye.

Mr. Green- All opposed like sign. It has been denied.

On a motion by Mr. Broadway, seconded by Mr. Massie, the Board **denied** case **VAR-2025-101200**.

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

Mr. Blankinship- Next case.

VAR-2025-101205 Trek Properties, LLC: variance from the lot area requirement to build a single-family dwelling at 4307 2nd Street, Windsor Place, Varina. The applicant has 5,200 square feet lot area where the Code requires 6,000 square feet lot area. The applicant requests a variance of 800 square feet lot area. Parcels 808-721-9450 and 809-721-0051. Zoning: R-4, One-Family Residence District. Code Section: 24- 6402.A.2.

Mr. Blankinship- Next case is **VAR-2025-101205** Trek Properties, LLC: variance from the lot area requirement to build a single-family dwelling at 4307 2nd Street, Windsor Place, Varina Magisterial District. Would everyone who intends to speak to this case please stand and be sworn in? Raise your right hand, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth so help you God?

Attendees- I do.

Mr. Blankinship- Thank you. Mr. Gidley.

Mr. Gidley- Thank you, Mr. Secretary. Good morning, Mr. Chair, members of the board. The subject property as you can see here is located this east of the Masonic Home in the Windsor Place subdivision. Here's the street here, Second street, where the lots front upon, and the subject property consists of lot twelve right here, not this lot twelve, but this one right here.

Mr. Blankinship- Let me just interrupt you to say the North Arrow is pointing down on this plat. It took me several minutes when we first started looking at this case to figure out I was on the wrong side of the street.

Mr. Gidley- That's why I pointed out the street is down here, so everything is reversed. So anyway, the subject property consists of this lot twelve right here and it's only twenty-five feet wide. As a result, the applicant is proposing to consolidate it with lot thirteen right here, along with two and a half feet of lot fourteen. The combined lot should measure 52.5 feet in width. This would meet the 50-foot lot width requirement and the 50-foot public street frontage requirement. There is a requirement, however, for 6,000 square feet of lot area, and at 5,200 square feet it is 800 square feet shy of that. As a result, the applicant is requesting a lot area variance to allow a dwelling to be constructed here.

In evaluating the tests, staff believes threshold test one is met, that it would be an unreasonable restriction on the use of the property. The subdivision was recorded in 1921, prior to the first zoning ordinance, with twenty-five-foot-wide lots that were combined in the buildable lots. The applicant is doing that here. He's acquiring a second lot and a portion of another one. The home to the east, however, is too close to the lot line, so they can't cede any more land. And then the home to the east would be left with exactly 6,000 square feet of lot area. So, they can't give up any more land. Thus, absent a variance the property would lack a reasonable and beneficial use. As noted in your staff report, we believe the second threshold test is met too, especially since the subdivision predates the zoning ordinance.

Due to at least one threshold test being met, we can look at the five subtests. As noted in your staff report, staff believes all five are met. This includes the lack of detrimental impact as the proposed lot would comply with the lot with the public street frontage requirements. The proposed home would also comply with the setbacks. And as you can see here, the ultimate lot would be pretty similar in size to what you have on the street right here. The proposed home would be a Cape Cod-style structure with a front porch. The home would fit in with the surrounding neighborhood, so the only deficiency would be the lack of 800 square feet of lot area. As a result, staff does not believe there would be any detrimental impact on nearby property if this were approved. So, in conclusion, in staff's view, the applicant meets two threshold tests. First, the lot is unreasonably restricted, and second, the physical condition, the lack of lot area predates the zoning ordinance. In addition all five subtests are met including the lack of a detrimental impact on nearby property. As a result, staff can recommend approval of this request subject to the conditions in your staff report. If you have any questions, I'll be happy to answer those. Thank you.

1462
1463 Mr. Lawrence- Does the board has any questions?
1464

1465 Mr. Lawrence- I have a question, Mr. Gidley. So, the applicant owns lots twelve and
1466 thirteen, correct? And they're going to combine, they're proposing to combine both lots.
1467 They're also proposing to use two-and-a-half feet of lot fourteen?
1468

1469 Mr. Gidley- Yes.
1470

1471 Mr. Lawrence- Who owns lot fourteen, and how are they going to acquire that
1472 property?
1473

1474 Mr. Gidley- The applicant, I believe, also owns this property here, lot fourteen,
1475

1476 Mr. Lawrence- So, these are all rental properties basically, is that the case?
1477

1478 Mr. Gidley- That would be correct, yes.
1479

1480 Mr. Lawrence- Okay. So, the applicant actually owns lots twelve, thirteen, and
1481 fourteen.
1482

1483 Mr. Gidley- And lot fifteen down here is my understanding, yes.
1484

1485 Mr. Lawrence- Alright, thank you.
1486

1487 Mr. Johnson- The adjacent lot, yes.
1488

1489 Mr. Lawrence- Anybody else on the board?
1490

1491 Mr. Green- Can we hear from the applicant?
1492

1493 Mr. Janocka- Hi, my name is Nathan Janocka. J A N O C K A. I don't have too much
1494 to add to the staff's report. The only thing to say is this is a very similar scenario to what
1495 we did just across the street at 4306. We were in front of the board, I think late 2023. And
1496 did something somewhat similar, very similar floor plan or very similar set of house plans
1497 and will hopefully do the same. House construction, it's very hard to get new construction
1498 in Henrico under 350, but on some of these smaller infill lots like this, it is possible.
1499

1500 Mr. Green- Are there any other questions from the board to the applicant? Is
1501 there anyone for or against on Webex?
1502

1503 Mr. Blankinship- There's no one on Webex for this case.
1504

1505 Mr. Green- Hearing none, the hearing is closed and I'm ready for a motion.
1506

1507 Mr. Johnson- Okay, I move that we approve this variance subject to the conditions
1508 recommended by the staff. Property is suitable for the dwelling and the hardship was
1509 caused by the change in the zoning. The applicant is adding as much as land as possible,
1510 and the other tests are met as stated in the staff report. Move for approval.

1511
1512 Mr. Lawrence- Second.

1513
1514 Mr. Green- Any discussion? Hearing no discussion, all in favor say Aye.

1515
1516 Board- Aye.

1517
1518 Mr. Green- All opposed, like sign, approved.

1519
1520 On a motion by Mr. Johnson, seconded by Mr. Lawrence, the Board **approved** case **VAR-**
1521 **2025-101205** subject to the following conditions:

- 1522
- 1523 1. This variance applies only to the lot area requirement for one dwelling only. All
1524 other applicable regulations of the County Code remain in force.
 - 1525 2. This variance applies only to the improvements shown on the plot plan
1526 prepared by Balzer and Associates dated 05-05-2025 and the building design
1527 prepared by River Mill Development dated 8-31-2023, filed with the application.
1528 Any substantial changes or additions to the design or location of the
1529 improvements will require a new variance. Any additional improvements must
1530 comply with the applicable regulations of the County Code.
 - 1531 3. Before a building permit will be approved, the applicant must obtain approval
1532 of and record a minor subdivision adjusting the boundary between 4307 2nd
1533 Street (GPIN 808-721-9450) and 4309 2nd Street (GIPN 809-721-0051) as
1534 proposed on the plot plan prepared by Balzer and Associates dated 05-05-
1535 2025.
 - 1536 4. Before beginning any clearing, grading, or other land disturbing activity, the
1537 applicant must obtain approval from the Department of Public Works. The
1538 applicant may be required to analyze and provide solutions to minimize
1539 drainage impacts on downstream properties. Corps of Engineers and DEQ
1540 permits may be required.
 - 1541 5. Any dwelling on the property must be served by public water and sewer.
 - 1542 6. The applicant must obtain a building permit for the proposed dwelling by June
1543 26, 2027, or this variance will expire. After that date, if the building permit is
1544 cancelled or revoked due to failure to diligently pursue construction, this
1545 variance will expire at that time.

1546
1547
1548 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Massie** **5**
1549 **Negative:** **0**

Absent:

0

VAR-2025-101223 Zachary R. Poprocky: variance from the rear yard setback to build a screened porch at 10163 Berrymeade Place, Berrymeade, Fairfield. The applicant has 30 feet rear yard setback where the Code requires 35 feet rear yard setback. The applicant requests a variance of 5 feet rear yard setback. Parcel 782-764-0279. Zoning: R-4, One-Family Residence District. Code Section: 24-3311.D.

Mr. Blankinship- Alright, the next case is **VAR-2025-101223 Zachary R Paparaki**, a variance from the rear yard setback to build a screened porch at 10163 Berrymeade Place in the Berrymeade subdivision in the Fairfield Magisterial District. 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 us is the truth, the whole truth, and nothing but the truth so help you God? Finally, someone who's not uncomfortable being sworn in! (Police officer)

Mr. Green- Yeah, but he has a gun. So, that's going to force us to...

Ms. Rozmus- To be on our best behavior. The subject property is located in the Berrymeade subdivision, south of Interstate 295 and west of Brook Road. The Berrymeade subdivision consists of single-family homes zoned R-4, One Family Residence District on lots ranging from 8,000 to 28,000 square feet. A lot is located on the cul-de-sac of the Berrymeade Place and is improved with a 1,386-square-foot home with three bedrooms and a deck in the rear. The zoning ordinance requires a rear setback of thirty-five feet and allows a deck to extend ten feet into the setback. The plat of the property shows a dwelling located forty feet from the rear lot line in the deck extending to a setback of thirty feet. The applicant is requesting to build a screened porch in place of the existing deck, and although the zoning ordinance allows a deck to extend into the setback an enclosed structure with a roof is not permitted to encroach in the required setback. After evaluating all of the requirements for a variance, staff determined that this does not meet the legal requirements for a variance. The rear yard setback is reasonable as applied to a property, the thirty-five-foot yard setback was in effect when the property was developed. The application does not mention a person with the disability. If there is a hardship, it is self-imposed. And there are no conditions specific to size, shape, typography or other physical conditions of this lot that would justify a variance. I will say if the board would like to approve this variance, the one benefit that they do have is that their rear neighbor, is on a rather large lot and with a ton of wooded area, so there's no impact to their rear neighbor, but they do have neighbors on the left and right side. With that being said, staff does recommend denial, and I can answer any questions.

Mr. Massie- Has anyone complained?

Ms. Rozmus- No, not heard anything from this one.

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Mr. Green- Before we hear from the applicant, I'm a proponent of, I think that things are changing in the county as it relates to decks, enclosed, pools, chickens, goats, all these other things. I'm a strong proponent of individuals who want to enclose, their property, given the heat that we're experiencing now you know. None of us can really use our deck unless you look up there and burn up. And, so enclosing does give you the opportunity to potentially use your deck. And as we know when the pollen season becomes just ridiculous to do that. I also think that, you know, it adds value to the house. It creates economic opportunities for those builders who are building those particular things and just ultimately raises the property value. Typically, you know, when you don't hear any complaints and you don't see anything in the back, like you're seeing, you know, I just have a hard time not wanting to support expansion of decks. I'm saying that not because he's standing back there with a gun, because I believe it. But right now we'll hear from the applicant.

Mr. Poprocky- Good morning board. My name is Zachary Paprocky, That's P O P R O C K Y. I'm standing before you today just to request, as said, a screened in porch over the existing deck. The deck is in need of repair as is, and as you mentioned, sir, I'm just attempting to invest in my property. I have good rapport with most of my neighbors or all of my neighbors, including the gentleman in the back. One of the main reasons we wanted to screen in the porch was more for comfort and for investment into the property. When I bought that house in 2017 I had no intention on it being a forever home, it was going to be a starter home, but with the way things have gone and the way property values have gone, I figured now's the time to invest in that property. We plan on staying in that long-term and simply put from the months of May through October, those woods are a breeding ground for mosquitoes and we are unable to even use our backyard half the time, especially in the evenings when it's hot out, things of that nature. So this is just more a request for a variance to use our backyard and invest in our property.

Mr. Green- Are there any other questions from the board to the applicant?

Mr. Massie- I know this is the only place on the property where you could put the deck. Is that correct?

Mr. Poprocky- That's correct. There's a utility shed in the middle of the back of the house and the other side is a bedroom, so the kitchen area is where that deck comes out, so it's the only place I can put that deck.

Mr. Green- Are there any other individuals here to speak for or against?

Mr. Poprocky- That's just my builder.

Mr. Green- Okay. Do you have anything to say sir?

1640 Mr. Barauna- I know, I mean most of the, how you say, is more for his comfort, also
 1641 due to the heat waves that you mentioned. They have two dogs, two big dogs, and they
 1642 sit outside. So, I'm here for the approval of the project, more for his comfort.
 1643
 1644 Mr. Green- Well, as a builder, are you seeing more individuals begin to do things,
 1645 take the existing decks and convert them?
 1646
 1647 Mr. Barauna- Yes
 1648
 1649 Mr. Green- The eleven-month rooms, whatever you want to call them, but that's
 1650 what I'm seeing, the trend.
 1651
 1652 Mr. Barauna- Yeah, for anything enclosed.
 1653
 1654 Mr. Blankinship- Tell us your name please.
 1655
 1656 Mr. Barauna- Oh Raphael. My name is Raphael Barauna.
 1657
 1658 Mr. Blankinship- Thank you.
 1659
 1660 Mr. Green- Okay, are there any other questions from the board to the applicant
 1661 and or the builder? Hearing none, is there anyone on Webex for and against this?
 1662
 1663 Mr. Blankinship- There is no one on Webex for this case.
 1664
 1665 Mr. Green- Alright, the hearing is closed, is there a motion?
 1666
 1667 Mr. Broadway- Oh, I was just going to say Mr. Chairman, I agree with your
 1668 comments. For me it's hard to see it a great distinction between a deck and a screened
 1669 porch. In fact, in some ways the stream porch provides more privacy both for the owners
 1670 and for the neighbors.
 1671
 1672 Mr. Green- Yeah, and just to add to that, I am beginning to see more and more
 1673 of that. My neighbor across the street from me whose back side faces me. They did a
 1674 beautiful job of enclosing their deck in. It definitely has raised the property value and it's
 1675 just a nice attraction and then, you know, those of us with wives and we get the pressure
 1676 from the wives that want to do those kinds of things, we have to acquiesce because we
 1677 don't want any problems. Mr. Massie?
 1678
 1679 Mr. Massie- Yes, I move that we approve this variance subject to the conditions
 1680 recommended by the staff. The proposed addition would not have much impact on the
 1681 neighbors. The adjoining property to the rear is large and wooded.
 1682
 1683 Mr. Green- Is there a second?
 1684
 1685 Mr. Broadway- Second.

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Mr. Green- All in a favor to say Aye.

Board- Aye.

Mr. Green- Motion passes, no discussion, thank you sir. Thank you for your service.

On a motion by Mr. Massie, seconded by Broadway, the Board **approved** case **VAR-2025-101223** subject to the following conditions:

1. This variance applies only to the rear yard setback requirement for a screened porch. All other applicable regulations of the County Code remain in force.
2. This variance applies only to the improvements shown on the plot plan and building design filed with the application. Any substantial changes or additions to the design or location of the improvements will require a new variance. Any additional improvements must comply with the applicable regulations of the County Code.
3. The applicant must obtain a building permit for the proposed screened porch by June 26, 2027, or this variance will expire. After that date, if the building permit is cancelled or revoked due to failure to diligently pursue construction, this variance will expire at that time.

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

VAR-2025-101244 9801 Drouin Dr LLC: variance from the public street frontage requirement to build a single-family dwelling at 9785 Drouin Drive, Kingsbridge, Tuckahoe. The applicant has 0 feet public street frontage where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage. Parcel 740-736- 9339. Zoning: R-0, One-Family Residence District. Code Section: 24-4306.E.1.

Mr. Blankinship- All right, the last case on this morning's agenda is **VAR-2025-101244 9801 Drouin Dr LLC: variance from the public street frontage requirement to build a single-family dwelling at 9785 Drouin Drive, Kingsbridge Subdivision, Tuckahoe Magisterial District. For 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**

1730 give is the truth, the whole truth, and nothing but the truth so help you God? Thank you.
1731 Mr. Gidley.

1732
1733 Mr. Gidley- Thank you, Mr. Secretary. The subject property is located southwest
1734 of the intersection of River Road and Gaskins Road. It is a vacant 2.93-acre parcel that
1735 is located behind 9801 Drouin Drive, which is also owned by the applicant for the variance
1736 here. The applicant would like to construct a two-story dwelling with a basement and an
1737 attached garage with a deeply pitched roof. Despite its size, the property is landlocked,
1738 lacking the required public street frontage. The applicant is proposing to provide access
1739 across the front property, again that he owns, through an easement where a driveway
1740 would be placed, providing access to this property. However, despite the easement, a
1741 variance for lack of public street frontage is still needed.

1742
1743 In reviewing this request staff believes the first subtest is met dealing with an
1744 unreasonable restriction. This is because when the Kingsbridge subdivision was
1745 developed, the property to the east was undeveloped and its future development could
1746 have been expected to provide public street frontage for the subject property. However,
1747 when it was developed, rather than the stub street, it was developed with a cul-de-sac
1748 and that precluded any future public street frontage possibly for this lot. Otherwise, the lot
1749 is certainly large enough and well suited for a dwelling, leaving it with no reasonable use,
1750 absent a variance to allow construction of a home. Because one of the threshold tests is
1751 met, we can look at the five subtests. As noted in your staff report, we believe all five are
1752 met. This includes the lack of a detrimental impact. Again, the lot is almost three acres in
1753 area. Access to it would again come across 9801 Drouin Drive, which is also owned by
1754 the applicant. So, the proposed dwelling would not detract from the surrounding
1755 neighborhood. Finally, five of the six neighbors have been reached by the applicant and
1756 have not expressed any opposition. In conclusion, the lot is suitable for a dwelling, but
1757 cannot be used for that purpose, as future development that occurred eliminated the
1758 possibility of public street frontage. The applicant did not cause a hardship and staff does
1759 not anticipate any detrimental impact on nearby property. As a result, we can recommend
1760 approval of this request subject to the conditions in the staff report.

1761
1762 Mr. Green- Any questions from the board to the staff?

1763
1764 Mr. Lawrence- I had a couple, Mr. Chairman. Mr. Gidley, condition number five, or
1765 proposed condition number five if this variance is granted, addresses putting in an on-site
1766 sewage disposal system. Does this area of the county in Western Henrico not have public
1767 sewer?

1768
1769 Mr. Gidley- I don't believe it does.

1770
1771 Mr. Blankinship- I understand from Public Utilities that there is a project either
1772 underway or in planning to extend sewer into this area.

1774 Mr. Lawrence- But there's none there currently? That's surprising. And the second
 1775 question I had, Mr. Gidley. The R-0 District, what are the setback requirements in terms
 1776 of both lot frontage and rear and side setbacks?
 1777
 1778 Mr. Gidley- From memory, front and rear are fifty feet in the R-0 district, and I
 1779 believe the side is its either twenty or twenty-five feet. I don't have the code on me today.
 1780
 1781 Mr. Blankinship- Its twenty.
 1782
 1783 Mr. Gidley- Its twenty, okay.
 1784
 1785 Mr. Lawrence- So, basically residential goes from R-0 to R-5, correct? And R-0 is
 1786 the least dense of any of the residential subdivision classifications.
 1787
 1788 Mr. Gidley- Correct. Absent A-1, of course.
 1789
 1790 Mr. Blankinship- Yeah, it has the same lot area requirement as A-1, which is one acre,
 1791 but it actually has a greater lot width requirement of 200 feet.
 1792
 1793 Mr. Lawrence - R-0?
 1794
 1795 Mr. Blankinship- The only district that has a 200-foot lot width requirement.
 1796
 1797 Mr. Lawrence- So R-0 requires 200 feet of frontage, whereas A-1 requires...
 1798
 1799 Mr. Blankinship- 150
 1800
 1801 Mr. Lawrence- Wow, okay I didn't know that either.
 1802
 1803 Mr. Green- Any other questions? Hearing none, we'll hear from the applicant.
 1804
 1805 Mr. Condlin- Mr. Chairman, members of the board, Mr. Secretary, Andy Condlin
 1806 here from Roth Jackson on behalf of the applicant. I believe we have a PowerPoint
 1807 presentation. I don't know if that can be pulled up. Just to make it a little bit easier for
 1808
 1809 Mr. Blankinship- We do indeed.
 1810
 1811 Mr. Gidley- Oh, I'm sorry.
 1812
 1813 Mr. Blankinship- You know what? We don't have a remote, I guess you'll just. Oh,
 1814 okay there is. I'm sorry, I didn't realize there was one.
 1815
 1816 Mr. Condlin- Again, this is for a variance of the lot that sits behind 9801 Drouin
 1817 Drive. As Mr. Gidley had said, it's a three-acre parcel, and as you can see it is landlocked,
 1818 and this is only request for you today is for public road frontage. We're not asking for any
 1819 variance of any side yards or any, and which I'll discuss in a second, nor are we asking

for any exceptions with respect to the home itself, but only with respect to the fact that this property has no public road access as required by the code. It's zoned R-0 for residential use, which is exactly what the purpose we want to make of it. This particular, owner did not cause a hardship as was already discussed. In 1963, the Kingsbridge subdivision built around it, was part of Kingsbridge. It was not even labeled initially in some of the plots as a lot, just with a reference to the owner. And then when the additional subdivision came in to east, Country Club Colony, they did not extend it. So, the county was actually involved in, I assume, in 1963 in the approval of the subdivision, certainly in 1984, but that's when these lots were created. And this is also consistent with, as you can see to the left, where the word Kingsbridge is there with respect to 9744 Old Dell Trace. This lot was in the exact same situation as the lot we're talking about today, and that was granted a variance in 1999, which expired and then again in 2006. So, we believe as I'll show, and as staff has already pointed out, that we are consistent with previous approvals by this board, but also consistent with the requirements of the state statute with respect to granting a variance, including the strict application in terms of the ordinance would unreasonably restrict the utilization of the property. Without this variance, we can't make any use of the property regardless. Because it's zoned R-0 we want to use it for exactly the purpose it was intended. The one thing I will mention as well is that, and I'll be happy to go over all the specifics that Mr. Gidley has talked about as to specific requirements, and go through those, but I think. I think for our purposes here, you can see that this property is very well wooded, and we've tried to site the house on the property, and you can see the main house, which is also owned by the same owner. These two houses are going to be used by two sisters, and it's owned through an LLC, through their father, they wanted to be able to access this, so they're accessing the back lot that we're asking for the variance from, as you can see in the bottom up through, the existing home which is on septic, and this property as well will be on septic, out to Drouin Drive. So, we're not imposing any access or any impact on any surrounding property owner. I will point out that at the time that the variance was approved for the property to the left in 2006, the question was asked would that involve getting access to the lot that we're talking about today and the answer was no that there is no access to that other lot. This is the access that we're going to be able to provide for, and from a practical standpoint, again, it's the only way we can use this property from a local landlock situation.

We have tried to minimize the impact on surrounding properties, as you can see because this property has a lot of topography, it's got a twenty-foot vertical fall from the right side over to the left side. And so as is often the case, we have a basement that's an English-style basement that adds a floor down at the bottom, but the front of the house has been pushed forward to the existing house on Drouin Drive as much as possible. Also, this is not a recurring or general condition. I think this is the only one, along with the other house that was already granted the variance on 9744 Old Dell Court. You can see that particular property that's circled in blue that was approved previously. And there is no other relief available. We literally have no other avenue in order to build a house on this lot. And the bottom line is that this lot has been taxed since at least 1964 with an assessment at the time of \$1,000 and is now assessed by the county at \$220,500. It's been assessed, it's being taxed. It's actually being assessed as if it's a buildable lot, but it's not a buildable lot without this variance, and there could be no use made of this property without this

variance. I will point out that we did ask for, and this is a little hard to read, so I'm going to point it out, we've circled the 216 feet to the west. We're required to have, and I'll pull up my chart here, I believe that's probably our rear setback. That's our side yard setback. All right, I'm standing corrected. I believe that's our side yard setback, would be twenty feet, and we're providing 216 feet to the west. We also have a hundred and twenty feet to the south, to that boundary line. It's over 500 feet from any other house in that area and then 86 feet to the right. So, we've tried to place this location, we've also placed the driveway, so it'll have as little impact on everyone else by placing it where it is to the side of the house, at that location. And you can see, this is the same plat that also has significant treescape on the property. We think this is important as we're building the home, but there's also significant foliage which can be seen on this picture on the oversight. This is standing at where the house location would be and looking to the home that's to the west. That's adjacent to us, but it's again 200 feet plus away from us. And this particular view standing on our property line looking back from the west to the where the home would be built. As you can see, there's a significant amount of trees at this location. Finally, we are willing to accept all the conditions. I would like to point out two things if I may, with respect to the conditions. Condition number three talks about addressing the question of minimizing the impacts with respect to the drainage, and that has been done as far as the drainage impacts, the analysis has been done. That's been submitted to Mr. Scott Jackson, I believe it's DPW, that's already been addressed. The condition is fine, I just wanted to let you know that we've already addressed that point, so that's going to be easy to prove. The second one is number two, and the only reason I bring this up is that it specifies how the building must be located for this variance. This is not a variance for the actual home itself. When Mr. Middleton was granted his variance there was no condition with respect to the house itself. And here I don't believe it's actually necessary. We're okay with it, but from the standpoint, I found it just slightly confusing with respect to the last two sentences. Second to last sentence says that any substantial changes to the design or location or additions will require a new variance. And then the last sentence says any additional improvements must comply with the applicable regulations to the county code. The only reason I mention that is that what's being requested is not anything with respect to the house, it's the lot frontage. I would prefer to have that condition taken off. But if we leave it on, I'd at least like clarification of the record here that if we want to change anything in the house after it's built, you know, sometimes people like to either enclose a deck or put a small office that's a home office addition or add to the garage that we can do that without having to come back. We'll still meet all the code requirements, were still obligated to meet everything within the code with respect to setbacks and height and size etc. But we just didn't want this condition ten years from now to be looked at and said, well, you have to do exactly that footprint that you're showing today. We want to be able to, you know, expand the house if we need to or change something if in ten years if they want to remodel for some reason. Otherwise, if you'd like to keep it the same, we'll work with that as well. It's really more of a clarification. We prefer to have it off. With that, we believe we've met all legislative requirements for approval of the variance. I have a number of folks here to answer any specific questions that you may have at this time.

1911 Mr. Green- Any questions from the board? So, if I understand if the house has
1912 ever sold, the access was not going to be a problem.

1913
1914 Mr. Condlin- That's correct.

1915
1916 Mr. Gidley- But there's an easement.

1917
1918 Mr. Blankinship- Yeah, one of the conditions would require them to record an
1919 easement.

1920
1921 Mr. Condlin- We just haven't done that because we haven't gotten the variance,
1922 but he owns both lots so we can do that immediately. Certainly, before building permit or
1923 whenever, we'll get that recorded. That's easy to do.

1924
1925 Mr. Green- His concern about the conditions, what's the staff's position on that.

1926
1927 Mr. Blankinship- This is our standard condition and of course the board can change
1928 any of the conditions to suit its own concerns for any individual case. He is correct, the
1929 second to last sentence addresses what is shown on the plan and essentially it means
1930 that we expect the builder to build what he shows you that what you approve is, is what
1931 you're going to see. But of course, there are cases where minor changes are made
1932 afterwards and staff looks at those and you've all had experiences where we've come up
1933 to you before a meeting and said, hey, let me show you something. We're not sure
1934 whether this is substantial or not. Do you want us to bring this back to the board, or do
1935 you think this is consistent enough to go forward with? Sometimes we can make those
1936 determinations without even troubling you that much. And sometimes we do come back
1937 to the board and say they want to amend the conditions. The last condition is for additional
1938 improvements, so if they wanted to build another garage. Or if they wanted to build an
1939 accessory structure of some other...a pool, that is not bound by this approval, but they
1940 would have to comply with the county code. Just to make sure that ten years from now
1941 somebody doesn't say, but we got a variance on this lot, so now we can do anything we
1942 want. It doesn't mean that. We could certainly combine the two conditions, and I think that
1943 might ease the applicant's mind. In this case, we could just say any substantial changes
1944 or additions to the design, or any additional improvements must comply with the
1945 applicable regulations of the county code.

1946
1947 Mr. Condlin- With your explanation, we're comfortable with that or if you would like
1948 to combine those as you said, that's fine too. That clarification was exactly what we
1949 wanted to make sure that we knew what you were expecting.

1950
1951 Mr. Blankinship- Sometimes it is critically important that what's approved you know is,
1952 if it is visible to the neighbors particularly, so we do like to use that as our standard
1953 condition. But it doesn't have to be applicable in every case.

1954
1955 Mr. Condlin- I like the idea of merging as Mr. Blankinship just announced it.

1957 Mr. Green- What is the square footage of the house?
 1958
 1959 Mr. Condlin- The house I believe is about a little over 9,000 square feet is the
 1960 house. Again, it's a three-acre lot and part of that is with the basement because it's, you
 1961 know, it's built on a hill and it falls down towards the west, towards the left. That includes
 1962 the basement.
 1963
 1964 Mr. Blankinship- Is anyone else going to speak?
 1965
 1966 Mr. Condlin- No, unless you had any specific questions.
 1967
 1968 Mr. Blankinship- We did have one.
 1969
 1970 Mr. Green- Okay, I'm just curious about the 9,000 square feet house, that's a
 1971 pretty large house and so you said ten years you might want to do something else. Why
 1972 not do it? Okay. You see a smaller house you want to expand, but a 10,000-square-foot
 1973 house?
 1974
 1975 Mr. Condlin- Sure, I'm over lawyering it potentially. I'm just looking at my client's
 1976 standpoint. Again, we're fine with the condition as it is with that explanation. Comfortable
 1977 with that. This is keeping with a number of houses in the area, that size that's expected
 1978 again almost three-acre lot. That's what's being planned for and it's consistent with the
 1979 surrounding neighborhood, that sized house.
 1980
 1981 Mr. Green- Let me ask this question. If in ten years, if you build a house in ten
 1982 years, you sell a house and someone wants to put a pool in, do we have to come back to
 1983 us?
 1984
 1985 Mr. Blankinship- No, if it's in the rear yard, no. That would be an additional
 1986 improvement and as long as it complies with the code it would be allowed.
 1987
 1988 Mr. Condlin- And that's the clarification I wanted, was just to make sure that, you
 1989 know, what we're showing here that's a hundred percent forever unless we come back.
 1990 That's exactly what the kind of thing we were thinking of. The pool is probably a perfect
 1991 example correct.
 1992
 1993 Mr. Blankinship- But if somebody came back in ten years and wanted to demolish this
 1994 house and build another one all the way at the western end of the property that might
 1995 have an impact on the neighbor on that side, the board might want to see that again even
 1996 though what they are applying for is public street frontage.
 1997
 1998 Mr. Green- We would want to see that. I mean we want to keep that condition in.
 1999 We just don't...
 2000
 2001 Mr. Condlin- And we're fine with that.
 2002

2003 Mr. Green- We just don't want someone to build then think they could demolish,
2004 we would want to see that.

2005
2006 Mr. Condlin- I appreciate all the conversation. They are going to build what they're
2007 showing in the plans. That's why we provided the plans; they've already engineered it.
2008 They've already looked at the site itself and done all the necessary engineering to be able
2009 to build this. They're going to build this house. My question really was with respect to how
2010 those last two sentences played with accessory uses. A pool is a perfect example. If they
2011 want to put in a pool at a later time, we wouldn't have to come before the board to do that
2012 as long as we meet the code, we're not asking for a variance otherwise for anything other
2013 than public road frontage for the lot, and that's it. And we have to meet the code and we
2014 will meet the code.

2015
2016 Mr. Green- Point of clarification, if they want to put a pool in then they can do
2017 that without coming back, right?

2018
2019 Mr. Blankinship- As long as it's in the rear yard, yes sir.

2020
2021 Mr. Green- And what else?

2022
2023 Mr. Blankinship- Or in the side yard they would need a conditional use permit.

2024
2025 Mr. Condlin- Or a detached garage or something of that nature or shed.

2026
2027 Mr. Green- Based on the size of the house. I just don't see them not doing what
2028 they are supposed to do.

2029
2030 Mr. Condlin- Yeah, I don't think they're going to be doing much with it. And plus, with the
2031 topography of the lot too, as it goes west, it falls pretty substantially, so there's not going
2032 to be a whole lot after the backyard that they're going to put in back there.

2033
2034 Mr. Green- Any other questions?

2035
2036 Mr. Broadway- Just for clarification, returning to Mr. Lawrence's question, this
2037 neighborhood does not have public sewer?

2038
2039 Mr. Condlin- That is my understanding. Phil, do you want to speak to that? If you
2040 can? I only know about this lot and the one that they're going to get access to that would
2041 be owned by the other sister. That is on septic system as well does not have public ...

2042
2043 Mr. Parker- Good morning, I'm Philip Parker at Parker Consulting. There is a
2044 county project to run sewer, in my conversations with the utility department, along the
2045 western boundaries of this subdivision. It's approximately, I'd say 800, 900 feet west of
2046 here. It will kind of come up Kingsbridge Road and that will lead back up and across River
2047 Road. Back behind the fire station there is a pump station back there. These lots in this

whole area, this particular lot, the lot above it to the north, to the west. None of that has sewer available to it, nor is that part of that expansion.

Mr. Broadway- I was really just wondering, I mean that's not pertinent as to whether we approve it. But like Mr. Lawrence, I'm really surprised. Okay, thank you.

Mr. Green- The other person, are you for or against this project sir? For or against?

Mr. Middleton- Against.

Mr. Green- Spell your name and give us your name, spell it.

Mr. Middleton- Yes, my name is Stephen Middleton M I D D L E T O N I live at 9740 Old Dell Trace. We also own the little house there at 9744 Old Dell Trace. It's a little awkward to be here speaking against my neighbor who I've gotten to know over the last couple days who, I think is a nice man, so my comments are not necessarily directed towards him or his family or their character. But I have a couple points I'd like to make. I feel a little bit like this is potentially a bait and switch when we're shown a plan of a house with a totally wooded lot, and it's a 9,000-square-foot house that needs to be served by a septic field, which will require a lot of that land to be cleared. So, what they show as heavily wooded, which in fact is fairly heavily wooded, is not going to be heavily wooded. And the part that's going to be cleared is the downhill side of their lot from the back of the house coming towards both of our houses. So, it's going to open up the view from their house to our house. And then secondly, I think it was the second condition that y'all were talking about what could happen in the future. You know, to show a house there and then come back next year and put a big garage right on the corner or right on the property line seems that's totally out of keeping with the discussion we're having here and what we're trying to do. So, I would ask that the condition not be clarified so that they can do whatever they want to do, but it'd be clarified so that if they do anything else back there that they come back in and get a variance for that. Because what they're promising us is that it's going to look like that, not that they're not going to make any changes in the future.

Two other points, the staff and the applicant maintain that they have satisfied the statutory requirement approving by a preponderance of the evidence that they acted in good faith with respect to their acquisition of the property. We've heard a lot about whether there's a hardship and what the hardship is, but in reality this piece of land was created and platted with the name Libert, which was also the owner of the first owner of the house up front. So, while the staff seems to think now, not when we got our variance, but now that it was obvious they were going to connect through the property to the east. I would say based upon the plat that was filed, it was obvious that it was meant to be part of the same parcel as the house at 9801. In my experience, it's pretty unusual to create a tract of land that you expect someone joining you to connect to a public road. And if in fact they had intended it to be a developable lot that could easily have tied a stubbed in a cul-de-sac off of Dr. In to those two back lots. So, I'm not sure that if you buy a house that sits on six

acres, and the back lot is restricted, and you cannot develop it because it doesn't have street frontage that you've been harmed and that there's a hardship. It seems to me more like it's a windfall if you then can turn around and develop it with another home. We had to obtain the same street frontage variance for both of the two lots that we own back there. One of the differences is that both of those two lots at that time were standalone lots. They weren't connected to another house. And the second one is that when we purchased those two lots, we included in our purchase contract a provision that we would first obtain the street variance, I mean a variance for the street frontage. Which we filed for and then got and then closed on the property and then built the houses. The opposite seems to be the case here where the applicant has purchased the property and now claimed a hardship because he can't develop what was clearly an undevelopable lot in the back. So, I'm a little concerned that from now on, any lot that anyone has that has a restriction on it that keeps them from developing it, all of a sudden can claim a hardship and now get a variance. I don't think that's how that's intended to work. That lot clearly has value. The county thinks it's worth \$220,000. It doesn't have to be developed with a single-family home. It could be developed with a swimming pool. It could be developed with an auxiliary guest house, I think as long as it doesn't have a kitchen. It could have a pool house, it could have tennis courts. It certainly adds value to the big house up front by being on a six-acre lot versus a two-acre lot. So, I don't think there's no utility with the lot as it's currently situated. I guess my second point is whether or not the proposed house is in keeping with the character of the neighborhood. When we first saw the house that was proposed, I went and met with the applicant, and we talked to his designer. And I made an effort to try to get the overall height of the house lowered, because it towers about fifty-five feet. I know this is not how the code measures it or the county measures it, but it towers about fifty-five feet from the bottom floor of the basement to the tip of the roof. That's the side of the house that we look at from our house. I drove the surrounding neighborhoods of Club Colony, Drouin Hills, and Carter Oaks, some of which have very big houses. Most of those houses with the exception of three were between twenty-five to and thirty-five feet tall measured from the lowest point to the tip. Three of the houses exceeded that and they were forty-two feet tall. This house, I think is about fifty-five feet tall. So, it's about thirteen feet taller than any house in the neighborhood, and it sits on one of the highest points of the neighborhood. So, to put it in perspective, it's about the height of a five-story office building that we're going to be now walking past on our driveway and staring the backside from the other house that we've built over there, the guest house. It doesn't seem like to me that that's in the public interest or in keeping with the neighborhood. So, I would ask that if you do grant the variance that you impose an additional condition that would limit the height of that house to forty-five feet from the basement ground floor to the tip of the roof. I don't know how that would be measured in terms of the county standards, but from a pure purely visual standpoint, that's what I would ask. It still would be the tallest house in the neighborhood, sitting on one of the highest points. I will say, going back to my earlier comment that we did work to try to resolve these issues with the applicant. When we talked about lowering the roof, they said they had some lofts that were over in the attic space over top of the bedrooms so they couldn't lower the roof. I suggest that they could add a dormer on the front or a dormer on the back or both to give them some additional space up there for the loss, but apparently that didn't work either. I suggested I would meet with their designer to try to see if we could

2140 understand, how to accomplish something that worked for both of us, but there was no
2141 opportunity to do that. I suggested we have a deferral for thirty days perhaps try to, work
2142 something out, but, there was no ability to pause. We actually negotiated to purchase a
2143 strip of land from them adjacent to our property and install a twenty-foot landscape buffer,
2144 excuse me, at our cost, but those discussions failed, so there didn't appear to be any
2145 compromising here relative to at least the height of the building. So, in conclusion, I would
2146 ask you to deny the variance, but if you are going to grant the variance to add a condition
2147 relative to the height of the property.

2148
2149 Mr. Green- Excuse me sir, your name is?

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2151 Mr. Middleton- Stephen Middleton.

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2153 Mr. Green- Can I see where most of the Middletons' home is?

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2155 Mr. Gidley- Yes, sir. He lives right here.

2156
2157 Mr. Green- Mr. Middleton couple of things. One.

2158
2159 Mr. Middleton- I'm having a hard time hearing.

2160
2161 Mr. Green- Oh, one if the owner, they own a house in the front, correct? If they
2162 wanted to come and clear all of that land, they can do that, correct? So, if they put a septic
2163 in, they have to clear some of it, that's better than having just making a decision to clear
2164 all of it. I think sometimes we tend to overstep because what I'm hearing you say is you
2165 want to meet with their designer to design their house, and that is not your property, that
2166 is their house. And in looking at it, that's well over, I suspect a million dollar piece of
2167 property, a couple million dollars, so I think that they've done you know, and it looks a
2168 beautiful how home. Second thing is you said something about a guest house. Well, what
2169 I heard earlier was that they wanted to put something behind there because another sister
2170 or sister or something wanted to have a home. Well, I would make the assumption that
2171 the sister, whoever's in a house and their sister, they've designed a house that they want,
2172 not the house that you want. And then, you know, I suspected when you built your house,
2173 I don't know if anybody came and told you, but they who didn't have an interest in your
2174 home to tell you what you should and should not do. So, because this is such an
2175 expensive property, you see a multitude of individuals here, I would think that all of those
2176 height, all of that stuff has been taken into consideration, and the clearing of the land. And
2177 we can't make the assumption that just because they clear the land to build a septic tank
2178 that they won't necessarily go back and, and re-landscape it so it could look better. When
2179 you're building those kinds of houses, you have resources to do that. So, I don't want us
2180 to get in the business of telling somebody how they want to build a house. If they said
2181 that they built it, they have the dormers or whatever a certain way, then that's their choice,
2182 and if the county says no, through Building Inspections or whoever else, then that's fine.
2183 But I just don't want to get into us telling people what to do because then, now you've got
2184 to go back and do a redesign and no offense but, you know, for you to want to meet with

2185 their designer, that's their house, that's their property and unless they do something, I
2186 don't see that that's necessary.

2187
2188 Mr. Middleton- Well, there is a standard, I think in the code, that it needs to meet the
2189 character of the neighborhood, so I would say that that's what I was trying to do, not
2190 redesign their house, but trying to make sure that they met that standard, which in my
2191 opinion, they clearly don't because the house towers over everything else that's around
2192 there.

2193
2194 Mr. Green- I'm going to ask them, thank you. I'm going to ask them because they
2195 can rebut and I'm going to ask you to come back and talk about the character, talk about,
2196 you know, because I would assume all that has been taken into consideration. So, thank
2197 you. They have time to rebut.

2198
2199 Mr. Green- First and foremost, the estimated cost of this house is what?

2200
2201 Mr. Condlin- The actual construction costs would be about \$2.5 million for the
2202 house itself. You know, that doesn't count for the lot and the assessed value. I'll try to
2203 address your point and touch on a couple of things. I just wanted to respond to Mr.
2204 Middleton who, again, I respect, we've worked together a lot and I take it absolutely face
2205 value that, you know, it's tough for him to come here and what he said about the client.
2206 There's no bait and switch. I mean. Like when we showed the wooded area, we just had
2207 a map with the woods, and I asked my engineer to put that on there. And with respect to
2208 the good faith, the hardship, I did want to distinguish, this lot, while, it was labeled with a
2209 gentleman's name, it's also been labeled as lot fifteen on certain plats. It's a separate lot
2210 from where the house is that we're talking about at 9801 Drouin where we'll go through.
2211 They've always been a separate lot. Have they been owned by the same people for...
2212 yes. I haven't gone back and done total title search, have they been owned forever since
2213 the subdivision, but they do currently, and they did originally. That has no distinction. It's
2214 been taxed as a separate lot. It's been plotted as a separate lot. And just like Mr. Middleton
2215 did in 2006 for his lot, I see absolutely no distinguishing factor between what he requested
2216 in those times, and then what we requested, where he specifically said without the
2217 variance on his lot, which is a subdivided and platted lot, it doesn't have any reasonable
2218 or beneficial use. The exact same thing applies to our situation in this case too. So, I
2219 would say I would distinguish the fact that you can't put these two lots together even if
2220 they're owned by the same property owner. They're two separate lots, the one in the front
2221 that we're getting access through and the one that we're asking for today. And the
2222 question of character, I'm a little confused from a standpoint of in driving around. I know
2223 a number of people I don't live in the area, that there are a number of homes that are of
2224 this size. I don't know if it's the size of the height that's the question or both. We've tried
2225 to place the house away from Mr. Middleton in that area. As much as possible, it just
2226 happens to be that's on the rise. That's where the flat area is where it can be best placed
2227 and best placed away from everyone. We're meeting all code requirements with respect
2228 to both setbacks as we discussed, but also with respect to height. The height allowed is
2229 forty feet per the code and that's at your front yard. Mr. Blankinship will correct me if I say
2230 anything incorrect here, which is likely. We're actually at thirty-three feet. We're actually

at the front, we're at thirty-three feet. As we've done in many cases, the property falls back from the hill. We build, I think they're called English basements, for whatever reason, but we have the English basement in the back. That is forty-three feet per the measurement from the back side. Yes, it's three feet over code, but the code is measured from the front. And the reason that is, is because you couldn't have these basements, otherwise if you measured in the back from that standpoint, because we have the two floors on the top and then the basement on the back. Again, this property falls. We would be willing, and we totally get what Mr. Middleton is concerned about, and, you know, having a view in the view shed, he talked about purchasing the property, absolutely right. He wanted almost a quarter of an acre was sixty feet on the backside. They weren't inclined to give up a quarter of an acre of their property. What we are inclined to do is we could make a forty-foot no build area. If we could add that as a condition, maybe the board would see that as appropriate. On our western side, we have a forty-foot no-build area where we couldn't clear that area for any purpose. If, we needed to put landscaping in because it is heavy pines, we could do that. We certainly aren't prepared to describe exactly what we're going to do. We think a forty-foot, no-build, no clear area, in that backside, I said no build, but it's probably Mr. Blankinship more of a no clear area, where it would be retained, the trees would be retained. Unless they're dead or diseased so we can take those out if needed, but that way he's always assured that that wooded area is staying the same for that purpose. Again, we thought we thought sixty feet, you know, we just did want to try to come to resolution and it just seemed a quarter-acre seemed to be too much for that property. So, with that, we do believe it's in character. I've got a couple of examples of the size of various homes that are in the area that include 9711 Craigmont, which is at 9,400 square feet, and then a number of them that are at 7,000 square feet. So, I don't think it's the size of the home and we're meeting the code requirements for the height, and so we do believe it's within the character of the area and very consistent with the surrounding properties. With that I'll be happy to answer any questions.

Mr. Green- Well it's my opinion, and I'm just going to give my opinion. I'm not necessarily going to be in support of you wanting to put in a no-build area. That's your land. When you spend \$2.5 million on a home, I'm sure the integrity and how it's built is going to be fine. And then, then it raises the question down the road if somebody wanted to do something, then you run into that. You know, a lot of times we have to just trust what people are going to be doing and nobody's going to build that kind of house and it's not going to be done with integrity and I suspect it's going to look well.

Mr. Condlin- I appreciate it.

Mr. Green- And I don't want to I don't want anybody to put any restrictions on my house. For an example, and I'll use my neighborhood as an example. I live in a mainly brick neighborhood. Georgian brick colonial neighborhoods for all hard purposes. Neighbors are coming in there, three sets of neighbors are coming there and decided to paint to brick white. I wouldn't have done that because I just like the brick. But then now that it's done, it's just beautiful. And sometimes you just gotta wait to see, what happens. And, you know, one, two have painted it, one is have stained it. And they've changed it. People come in with different ideas and I'm fine with it. I'm sitting there saying, well, that's

2277 not my property. They have that right to do that and if they can do it, I'm not going to say
2278 yes or no. And, and so I would not be supportive of no-build personally.

2279
2280 Mr. Condlin- Right, it was it was an offer we're willing to do and to that point, we do have
2281 the condition number two, what we've shown, we've agreed and we're okay with that,
2282 we're going to build what we've shown and that's and that's what it is.

2283
2284 Mr. Green- And you should by right.

2285
2286 Mr. Condlin- And this is the variance for a lot. For the frontage on the lot, it has nothing
2287 to do with the house, so, you know, getting in, I appreciate your comments, getting into
2288 the design of the house, I think is a little too far afield beyond what we're requesting, which
2289 is, can we build something on here?

2290
2291 Mr. Green- Because I suspect that the individuals who build, like he said, if it's
2292 someone building for their daughter, people have already talked about what they want
2293 and designed what they want, and I'm just going to leave it at that. Any other discussion?
2294 Questions?

2295
2296 Mr. Condlin- Thank you.

2297
2298 Mr. Broadway- Do we have a general agreement on amending the conditions?

2299
2300 Mr. Blankinship- The suggestion was that rather than two sentences, the last two
2301 sentences would be combined to read something like any substantial changes or
2302 additions to the design or location, or any additional improvements must comply with the
2303 applicable regulations of the county code.

2304
2305 Mr. Broadway- Okay, alright.

2306
2307 Mr. Green- You're in agreement with that? No, you don't have to go back, you're
2308 just nod.

2309
2310 Mr. Lawrence- So we're taking out the reference to variance.

2311
2312 Mr. Blankinship- Yeah yes, right.

2313
2314 Mr. Condlin- I'm in agreement, we're in agreement with that. Yes sir, thank you.

2315
2316 Mr. Green- Any other discussion? Any motion?

2317
2318 Mr. Broadway- Yes, sir. I would, I would move that we approve the request based
2319 on compliance with all the conditions of recommended by the staff and number two as
2320 amended.

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2322 Mr. Massie- I second.

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Mr. Green- Any discussion, no discussion. All in favor say Aye.
Board- Aye.

Mr. Green Opposition, hear none. Approved.

On a motion by Mr. Broadway, seconded by Mr. Massie, the Board **approved** case **VAR-2025-101244** subject to the following conditions:

1. This variance applies only to the public street frontage requirement for one dwelling only. All other applicable regulations of the County Code remain in force.
2. This variance applies only to the improvements shown on the plot plan prepared by Parker Consulting LLC dated 5/15/2025 and the elevations drawings titled “Kelley Residence” prepared by Starwood Design-Build and dated June 6, 2025, filed with the application. Any substantial changes or additions to the design or location of the improvements, or any additional improvements, must comply with the applicable regulations of the County Code.
3. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.
4. Any dwelling on the property must be served by public water. A private utility easement must be provided across 9801 Drouin Drive to serve this property. An extension of approximately 270 feet of water main is required if the private utility easement is along the proposed driveway to this lot.
5. At the time of building permit application, the applicant must provide evidence of Health Department approval of an onsite sewage disposal system applying current VDH standards, including identification of primary and 100% reserve drainfield areas.
6. At the time of building permit application, the applicant must present evidence that legal access to the property has been obtained. Prior to certificate of occupancy, the driveway must be improved with a durable asphalt or compacted gravel surface sufficient to provide access for police, fire, emergency medical services, and other vehicles. The surface must be at least 10 feet wide with 12 feet of horizontal clearance and 14 feet of overhead clearance. The owners of the property, and their heirs or assigns, must maintain access to the property.
7. The applicant must obtain a building permit for the proposed dwelling by June 26, 2027, or this variance will expire. After that date, if the building permit is cancelled or revoked due to failure to diligently pursue construction, this variance will expire at that time.

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

Mr. Blankinship- Alright Mr. Chair, that completes your agenda. I apologize, we do not have minutes for you this month, but we will have two sets for you next month. Oh, and you may have noticed on the cover page of the agenda, we also have a new member of staff. I don't know if Janaya introduced her when you made the phone calls. She made the phone calls yesterday. We have hired Kayla Shelton who was going to take this position and she'll be the one calling you in the future.

Mr. Massie- Okay.

Mr. Green- I hope to get those calls.

Mr. Blankinship- That's right.

Mr. Lawrence- Are we adjourned?

Mr. Blankinship- You can make a motion to that effect?

Mr. Lawrence- I would move we adjourn.

Mr. Blankinship- There's a motion to adjourn, Mr. Chairman.

Mr. Green- Is there a motion to adjourn?

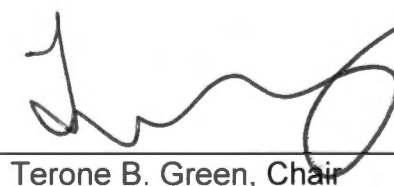
Mr. Johnson- Second.

Mr. Green- Adjourned.

Mr. Blankinship- Thank you.

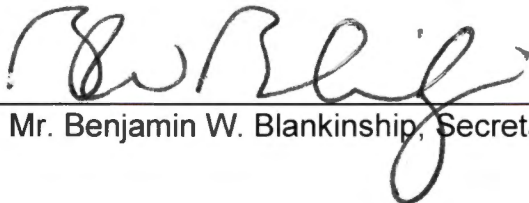
On a motion by Mr. Lawrence, seconded by Mr. Massie, **the Board adjourned.**

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



Terone B. Green, Chair

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Mr. Benjamin W. Blankinship, Secretary