

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING
2 APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY
3 ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM
4 AND HUNGARY SPRING ROADS, ON THURSDAY MARCH 26, 2015 AT 9:00
5 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-
6 DISPATCH MARCH 9, 2015, AND MARCH 16, 2015.
7

Members Present: Gentry Bell, Chairman
Greg Baka, Vice Chairman
Dennis J. Berman
Helen E. Harris
James W. Nunnally

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

8
9 Mr. Bell - Good morning. Welcome to the March meeting of the
10 Henrico County Board of Zoning Appeals I ask you all to please stand and join
11 me in pledging allegiance to the flag of our country.

12
13 Thank you. The Board takes pleasure in welcoming the newest member to the
14 Henrico Board of Zoning Appeals, Mr. Dennis J. Berman. He will be representing
15 the Three Chopt Magisterial District of the County. Welcome.

16
17 Mr. Berman - Thank you.

18
19 Mr. Bell - Mr. Blankinship, please read our rules.

20
21 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board,
22 ladies and gentlemen, the rules for this meeting are as follows. Acting as
23 secretary, I will announce each case. And as I'm speaking, the applicant should
24 come down to the podium, we will then ask everyone who intends to speak to
25 that case to stand and be sworn in. Then the applicant will speak. And then
26 anyone else who intends to speak will be given the opportunity. After everyone
27 has spoken, the applicant, and only the applicant, will have an opportunity for
28 rebuttal. After the Board has heard all the evidence and asked any questions
29 they may have, they will take that matter under advisement and they will proceed
30 to the next item on the agenda. They will render all of their decisions at the end
31 of the meeting. So if you wish to hear their decision on a specific case, you can
32 either stay until the end of the meeting, or you can check the Planning
33 Department website this afternoon, or you can call the Planning Department this
34 afternoon.
35

36 This meeting is being recorded, so we will ask everyone who speaks to speak
37 directly into the microphone on the podium, state your name, and please spell
38 your last name so we get it correct in the record.

39
40 Finally, in the foyer there is a binder with the staff report for each case, which
41 includes the conditions that have been recommended by the staff. It's particularly
42 important that the applicants be familiar with those conditions

43
44 Mr. Bell - Does anyone here desire to have their case deferred
45 to next month? You are entitled to do that if you so desire. Seeing none, we'll go
46 on. Let's go ahead and call the first case.

47
48 **CUP2015-00009 HERSEY AND COMPANY** request a conditional use
49 permit pursuant to Section 24-95(i)(4) of the County Code to build a detached
50 garage in the side yard at 9811 Lake Meadow Place (RIVERLAKE COLONY)
51 (Parcel 741-738-3408) zoned One-Family Residence District (R-0) (Tuckahoe).

52
53 Mr. Blankinship - Does anyone else intend to speak to this case?
54 Would you please raise your right hand? Do you swear the testimony you're
55 about to give is the truth, the whole truth and nothing but the truth so help you
56 God?

57
58 Mr. Hersey - I do.

59
60 Mr. Blankinship - And state your name, please.

61
62 Mr. Hersey - Todd Kingsbury Hersey.

63
64 Mr. Bell - Spell your last name.

65
66 Mr. Hersey - H-e-r-s-e-y.

67
68 Mr. Blankinship - All right, you may proceed.

69
70 Mr. Hersey - We are looking to build a detached garage in the side
71 yard of 9811 Lake Meadow Place, Richmond, Virginia, for the Hope family. They
72 live in a cul-de-sac, and really the only place to put this thing that makes sense is
73 the side yard. They have a side-loaded garage in their existing house. The door
74 opening will face their existing side-loaded unit. Really that's all we're wanting to
75 do. That's the house. It's really going to go kind of where the basketball goal is
76 now. It's been approved by the ARB. Where that fencing unit is shows the
77 confinements of the garage.

78
79 Mr. Blankinship - Would that fence be removed?

80
81 Mr. Hersey - Yes sir, absolutely.

82
83 Mr. Bell - What is the ARB?
84
85 Mr. Hersey - The ARB is the neighborhood association.
86
87 Mr. Bell - Architectural Review Board.
88
89 Mr. Hersey - Yes, the Architectural Review Board. They seemed to
90 really like the plans pretty well.
91
92 Mr. Bell - Have you or any of the owners talked to the
93 neighbors? If you have, what do they think about the garage?
94
95 Mr. Hersey - I don't know if he's talked to the neighbors or not. Like
96 I said, the ARB, which consists of neighborhood folks, really, really liked the
97 plans for it and seemed to be very receptive.
98
99 Mr. Bell - Have you read an understood all of the suggested
100 conditions and agree with them if the conditional use permit is approved?
101
102 Mr. Hersey - No sir.
103
104 Mr. Bell - You haven't read them?
105
106 Mr. Hersey - No sir.
107
108 Mr. Baka - The one question I have to follow up on is whether
109 there a diagram of the house with a side-yard setback?
110
111 Mr. Hersey - I'm sorry?
112
113 Mr. Baka - Actually, let me give you a chance. There are three
114 conditions there. I'll give you a chance to read those first so you can ask any
115 questions if you have any concerns about those three.
116
117 Mr. Hersey - Understood.
118
119 Mr. Bell - Do you agree with them?
120
121 Mr. Hersey - Yes sir.
122
123 Mr. Bell - Thank you.
124
125 Ms. Harris - I have a question.
126

127 Mr. Baka - The question I have, sir, would be on the diagram of
128 the house—of the garage, about how far would the setback be from the side
129 property line? Would it meet the required setbacks of code?
130
131 Mr. Hersey - From the right-hand side of the property?
132
133 Mr. Baka - From that front left corner of the proposed garage
134 facing Lake Meadow? How far would that cover be from the side property line? I
135 guess the second question for staff is how many feet are required, five?
136
137 Mr. Blankinship - Yes. Because it's a detached garage. Zoning requires
138 three feet; the building code requires five unless it's fire rated.
139
140 Mr. Baka - Okay. So since that's not labeled, is it clear to say that
141 it will be at least five feet?
142
143 Mr. Hersey - Yes sir.
144
145 Mr. Baka - All right. Will any of those large trees that I saw when
146 I drove by need to be removed?
147
148 Mr. Hersey - No trees need to be removed.
149
150 Mr. Baka - All right. The closest house that appears might have
151 any impact would be facing River Road. It actually doesn't front Lake Meadow
152 Place. There were only a couple homes in the cul-de-sac, and at first glance they
153 did not appear to be out of character with the neighborhood. It looks like a very
154 suitable location. Thanks.
155
156 Mr. Hersey - Thank you.
157
158 Ms. Harris - Mr. Hersey, I have a couple of questions. Why not
159 use the reverse side? It seems as though there is more land on the reverse side
160 of the house. I notice that in the report it says putting it here will place it close to
161 the driveway.
162
163 Mr. Hersey - Right.
164
165 Ms. Harris - But is that the only reason that you're not using—
166
167 Mr. Hersey - I think that's one of the reasons. The client likes it,
168 and also it has to be a side-load garage for the neighborhood. The door can't
169 face the street. So that's really the reason for its location is it's easy to have a
170 side-load entry there.
171

172 Mr. Blankinship - How does the land lie on the larger rear portion of the
173 lot? Is it level or does it slope down to River Road?
174

175 Mr. Hersey - It slopes down a little bit. Basically what you have is
176 from that driveway you have a pretty good slope. It goes all the way down to the
177 far left portion of the property, which is a really awkward part of the property. It's
178 a very big property, but it's very—as far as its buildable locations, it doesn't offer
179 a lot.
180

181 Mr. Bell - Any other questions?
182

183 Ms. Harris - Yes. The construction of the garage that you're going
184 to build, I did see some brick veneer, can you tell us more about the construction.
185

186 Mr. Hersey - Yes. It's a 2-by-6 exterior wall construction 16 inches
187 on center. Drywall totally inside. Completely brick veneer front, back, sides, with
188 siding in the back. For now. I think he may eventually change to brick. But mainly
189 brick veneer, 2-by-6 construction on stud walls. Very strong.
190

191 Mr. Berman - The garage door itself is going to match the existing
192 garage door?
193

194 Mr. Hersey - Indeed, yes sir.
195

196 Mr. Berman - We wouldn't put it in our suggested conditions, but I
197 believe it's a HOA condition that if he changes the other garage door, it still has
198 to match.
199

200 Mr. Hersey - Indeed, yes.
201

202 Mr. Berman - Okay. Thank you.
203

204 Ms. Harris - Is there a garage already attached to the house?
205

206 Mr. Hersey - There's an attached garage, yes ma'am.
207

208 Ms. Harris - So this will give you additional garage space.
209

210 Mr. Hersey - Yes. He has a car that he very much wants to put in
211 this garage. It's a Ferrari.
212

213 Mr. Bell - Thank you.
214

215 Mr. Hersey - Thank you.
216

217 Mr. Bell - Is there anybody else who wishes to speak to this
218 matter? Thank you.

219
220 **[After the conclusion of the public hearings, the Board discussed the case**
221 **and made its decision. This portion of the transcript is included here for**
222 **convenience of reference.]**

223
224 Mr. Bell - Do I hear a motion on this case?

225
226 Mr. Baka - I'll make a motion that we approved case CUP2015-
227 00009 with the three conditions as presented in the staff report on the grounds
228 that this request will not adversely affect the health, safety, or welfare of any of
229 the adjoining properties and will not detract from the enjoyment of the other
230 adjacent parcels.

231
232 Mr. Bell - Do I hear a second?

233
234 Mr. Berman - I second the motion.

235
236 Mr. Bell - Do I hear any discussion? If there is no discussion,
237 let's go ahead and vote on the motion. All in favor say aye. All opposed say no.
238 The ayes have it; the motion passes.

239
240 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.
241 Berman, the Board **approved** application **CUP2015-00009, HERSEY AND**
242 **COMPANY's** request for a conditional use permit pursuant to Section 24-95(i)(4)
243 of the County Code to build a detached garage in the side yard at 9811 Lake
244 Meadow Place (RIVERLAKE COLONY) (Parcel 741-738-3408) zoned One-
245 Family Residence District (R-0) (Tuckahoe). The Board approved the conditional
246 use permit subject to the following conditions:

247
248
249 1. This conditional use permit applies only to the accessory structure location
250 requirement. All other applicable regulations of the County Code shall remain in
251 force.

252
253 2. Only the improvements shown on the plot plan and building design filed with
254 the application may be constructed pursuant to this approval. Any additional
255 improvements shall comply with the applicable regulations of the County Code.
256 Any substantial changes or additions to the design or location of the
257 improvements shall require a new conditional use permit.

258
259 3. The new construction shall match the existing dwelling as nearly as practical
260 in materials and color.

261
262

263 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
264 Negative: 0
265 Absent: 0

266
267

268 **[At this point, the transcript continues with the public hearing on the next**
269 **case.**

270

271 **CUP2015-00010 EKREM OMEROVIC** requests a conditional use
272 permit pursuant to Section 24-12(d) of the County Code to allow a pigeon loft at
273 9311 Three Chopt Road (PINEDALE FARMS) (Parcel 752-749-4174) zoned
274 One-Family Residence District (R-2A) (Tuckahoe).

275

276 Ms. Omerovic - Good morning. My name is Sanela Omerovic, and I'm
277 Ekrem Omerovic's daughter.

278

279 Mr. Blankinship - Does anyone else intend to speak to this case?
280 Would you stand, please, and raise your right hand? Yes, everyone who intends
281 to speak. All right. Would you stand and raise your right hand, please? Raise
282 your right hands, please. Do you swear the testimony you're about to give is the
283 truth, the whole truth and nothing but the truth so help you God?

284

285 Ms. Omerovic - Yes.

286

287 Mr. Blankinship - Thank you. You all can be seated, and you can
288 proceed.

289

290 Mr. Bell - How do you spell your last name?

291

292 Ms. Omerovic - O-m-e-r-o-v-i-c.

293

294 Mr. Bell - Thank you.

295

296 Ms. Omerovic - Okay. I have a letter here from one of our neighbors
297 across the street. Dr. Brian Adams and his wife, Bailey Adams. He's a brain
298 surgeon at MCV. And he and his wife took the time to write this, so I'm going to
299 go ahead and read it

300

301 It says:

302

303 To whom it may concern

304

305 I'm writing to you as a neighbor of Ekrem Omerovic in support of
306 the pigeon loft at 9311 Three Chopt Road. My husband, Brian
307 Adams, and I have lived across the street from the Omerovic family
308 for almost three years and are very familiar with the Omerovic

309 family. On many occasions, Ekrem has invited Brian and I over to
310 their home to see their garden and pigeon loft, which we find to be
311 aesthetically pleasing and not unsightly. In addition to the pleasing
312 appearance of the pigeon loft, there is virtually no smell or sound
313 pollution that is emitted from the area.

314
315 As residents of Henrico County, who also enjoy gardening and
316 landscaping, we see the value that these pigeons bring to the
317 Omerovic's property. Ekrem using the manure from the pigeons as
318 a natural compost and fertilizer for his vegetable garden and fruit
319 trees, allowing for them to flourish. As a result of the high yields
320 their garden produces, the Omerovic family shares their fruits and
321 vegetables with many of the neighbors, creating a sense of
322 community. This sense of community is something that has been
323 lost over the years and is crucial to keeping Henrico County safe for
324 families.

325
326 Thank you.

327
328 Mr. Blankinship - All right, thank you for reading that into the record.
329 Would you tell us a little bit about your request and what you want to do and
330 why?

331
332 Ms. Omerovic - We're been living at 9311 Three Chopt Road eleven
333 years now, and we've had the pigeon loft pretty much ever since we've been
334 there. It's just something that's sentimental to us. My father growing up in his
335 childhood, he always had pigeons. We use the manure for our garden. And we
336 don't see that it's harmful. It doesn't emit any pollution. They're quiet. I mean you
337 can't even hear them. They're inside, you can't even see them. There's a door if
338 you want to let them outside, but you can close it so they wouldn't be visible at
339 all.

340
341 Mr. Bell - How many pigeons are you keeping?

342
343 Mr. Omerovic - [Off microphone.] It really depends, you know.
344 Sometimes between forty and sixty.

345
346 Mr. Blankinship - Sir, I'm not sure we can get you on the microphone
347 there. If you would just—yes, thank you.

348
349 Mr. Omerovic - Between forty and sixty.

350
351 Mr. Bell - Will you repeat that again?

352
353 Mr. Omerovic - Between forty and sixty.

354

355 Mr. Bell - How often do you exercise them?
356
357 Mr. Omerovic - Between May and September because after that it's
358 winter and the hawks will try to keep them. So I close them until next year.
359
360 Mr. Bell - Do you remember the two complaints we had in 2011
361 about also keeping chickens?
362
363 Mr. Omerovic - Yes.
364
365 Mr. Bell - Are you still keeping chickens?
366
367 Mr. Omerovic - No, I did give them away. In the last couple of days, I
368 did. I don't have any more chickens.
369
370 Mr. Bell - Were you advised in 2011 that no chickens could be
371 kept there, I guess is what I'm getting after.
372
373 Mr. Omerovic - My kids read some Henrico County Google map.
374 They say they're allowed some chickens, but no roosters. Because my kids,
375 especially here, have some health issues, I try to raise organic eggs and food for
376 them. She has some kind of health issue.
377
378 Mr. Berman - I have a question about the chickens as well. Staff, is
379 it a condition that it's a 400-foot setback in Henrico County for keeping chickens?
380
381 Mr. Blankinship - Yes, from any residential lot. Any lot zoned
382 residential, the coup has to be 400 feet from the property line.
383
384 Mr. Berman - And is the shelter that's in between your shed and the
385 pigeon coup where the chickens were?
386
387 Ms. Omerovic - Yes.
388
389 Mr. Berman - And just to be clear, there are no more chickens there
390 right now—
391
392 Ms. Omerovic - No.
393
394 Mr. Berman - —nor are there plans to have any.
395
396 Ms. Omerovic - No, we have gotten rid of them.
397
398 Mr. Berman - Okay.
399
400 Mr. Gidley - Can I ask a question Mr. Chairman?

401
402 Mr. Bell - Yes, go ahead.
403
404 Mr. Gidley - You were saying they needed to be kept away
405 permanently. Someone told me they would go away, and then as soon as this
406 was over they would come back.
407
408 Ms. Omerovic - No, no, they are permanently gone, yes.
409
410 Mr. Berman - But you understand one of the conditions is, if they
411 are known to come back, then this request for the pigeon coup is void.
412
413 Ms. Omerovic - Right. Yes, we understand.
414
415 Mr. Berman - Okay.
416
417 Mr. Bell - Have you read and understand all of the suggested
418 conditions and agree with them if this conditional use permit was permitted?
419
420 Ms. Omerovic - Yes.
421
422 Mr. Nunnally - Mr. Blankinship, when was the last time the County
423 checked out there regarding the chickens?
424
425 Mr. Blankinship - We do have two members of the staff from
426 Community Maintenance here if you'd like to hear from them.
427
428 Mr. Nunnally - Yes I would like to.
429
430 Mr. Blankinship - I guess it would be appropriate to wait until the
431 applicant is finished. If you look at the screen now, I believe that's the building
432 where we saw chickens when we went out there. You can just barely see one.
433
434 Ms. Omerovic - Right. There were two. We had the one in between
435 and then we had that one.
436
437 Mr. Blankinship - Oh, there were chickens in the other one as well?
438
439 Ms. Omerovic - Right.
440
441 Mr. Blankinship - All right.
442
443 Mr. Bell - What do you know about the January complaint of
444 this year from the Department of Community Revitalization? What was that
445 about?
446

447 Ms. Omerovic - I'm sorry?
448
449 Mr. Bell - I understand we had a complaint in January of 2015
450 that came from the Department of Community Revitalization.
451
452 Ms. Omerovic - What was that one about?
453
454 Mr. Blankinship - The chickens as well as the pigeon loft.
455
456 Ms. Omerovic - Right. That's what we're aware of, the chickens and
457 the pigeons.
458
459 Mr. Bell - So you had the pigeons as recently as January of this
460 year, and had them off and on since 2011 when you knew you weren't supposed
461 to have them. Is that correct?
462
463 Ms. Omerovic - Yes. The pigeons we've had ever since we moved to
464 the house there, so we've had them—
465
466 Mr. Bell - I'm referring to the chickens.
467
468 Ms. Omerovic - Oh, okay. Yes, we had the chickens. We didn't want
469 to kill them, so we wanted to give them away. So we had to find the right home
470 for them. But now they're all gone, yes.
471
472 Mr. Bell - Thank you.
473
474 Ms. Harris - Have you seen the staff report about the front part of
475 the pigeon loft not being two feet off the ground. That was a requirement. And if
476 we can see the front of the pigeon loft. This is the front, right? Okay. It's not two
477 feet off the ground according to the report we have received. Were you aware
478 that was a requirement?
479
480 Ms. Omerovic - No. We were aware that it couldn't be longer than ten
481 feet and then the width as well. But we didn't know it had to be two feet off the
482 ground.
483
484 Ms. Harris - The staff report also said that when the visit was
485 made, there was some odor.
486
487 Ms. Omerovic - That was probably from the chickens. The pigeons,
488 they don't really have an odor because they're all enclosed. That was probably
489 from the chickens.
490
491 Ms. Harris - When did you get rid of the last chicken?
492

493 Ms. Omerovic - In the last ten days.
494
495 Ms. Harris - Within the last ten days?
496
497 Ms. Omerovic - Yes.
498
499 Mr. Berman - So when I was there last week, there were no
500 chickens, correct?
501
502 Ms. Omerovic - No, correct.
503
504 Mr. Berman - Because I observed no smell.
505
506 Ms. Omerovic - Right.
507
508 Ms. Harris - In the conditions, we have a line saying *no more than*
509 *blank pigeons shall be kept on the property*. What realistic number should we
510 place there? Is it sixty? I notice that forty to sixty pigeons are normally kept.
511
512 Ms. Omerovic - It's always between forty and sixty, depending on if
513 they have babies or not. We try to keep it around forty-five just because the
514 house isn't huge, and we don't want to keep them cramped in there. So yes, we
515 try not to keep more than sixty.
516
517 Ms. Harris - So no more than sixty? It's okay to place "sixty" in
518 this—
519
520 Ms. Omerovic - Correct.
521
522 Ms. Harris - You have the condition before you, right?
523
524 Ms. Omerovic - Correct.
525
526 Ms. Harris - Okay. So we can place sixty there.
527
528 Mr. Berman - Before we set on sixty, I'm no expert, but there's a
529 precedent back in 2003. Mr. Nunnally, actually you were on the case as well.
530 There was a case very similar to this where they limited it to fifteen pigeons by
531 attrition. In other words, you didn't have to kill them, they would just die off.
532
533 Ms. Omerovic - Correct.
534
535 Mr. Berman - And I know that you recently had a birth of one of
536 them so that would increase the numbers. A chick, yes. So, my question is how
537 do we arrive at a reasonable number or is that something that this Board is
538 meant to do?

539

540 Mr. Baka - I think it's a very good question to ask. I think it would
541 be appropriate to consider that after hearing all of the testimony from not just the
542 neighbors, but also from the Community Revitalization Department. That's a
543 concern that I also had, Mr. Berman, is how do we put a number on the number
544 of migrant birds that have the ability to fly away.

545

546 Ms. Harris - Because we go case by case, I think we rely a lot on
547 the testimony. If you're saying that sixty pigeons is the maximum number, I think
548 that's what we need to rely on. I don't know if other members of the Board would
549 agree. But probably in that case, the applicant had a lot to do with the number
550 that we set.

551

552 Mr. Omerovic - Yesterday, I talked to my friend. He has pigeons.
553 We—association member. He had a permit—I don't know which year—for
554 seventy-five pigeons. The name is Bobby. I don't know his last name. He lives
555 right there on Washington Highway in Henrico County. We are good friends. I
556 don't have room for that, but because I know exactly how many I can keep, I can
557 keep fifteen pairs of breeders, you know, and—. And then I can keep—. I have
558 two separate boxes for fifteen to fly them, you know. That's the maximum I can
559 keep, sixty, because I don't want to hurt my birds. Those birds I have are so
560 expensive.

561

562 Mr. Baka - If I could add a question. One of my concerns isn't the
563 total number of pigeons, but it's the cumulative smell. You mentioned an odor
564 and the effect on neighboring properties. You mentioned the chickens are away,
565 so it may not smell as much, but with forty to sixty pigeons, there is still a
566 minimum smell. How would you describe the minimal smell then?

567

568 Mr. Omerovic - It's not a smell. I clean every week, mostly, because I
569 drive eighteen-wheeler truck; I'm on the road most of the time. If they have a
570 baby, I clean every two or three days because the baby has a plastic nest. My
571 kids help me and my wife. Because I love. I grew with that. I'm sorry for the
572 chickens, and I'm sorry for my neighbor. If you guys want it, I can pull her health
573 record for the medical. But I don't know. That's especially because of her I keep
574 fruit trees and my garden and everything. She was born in 1994 in war in Bosnia.
575 It's some kind of maybe health issue.

576

577 Mr. Baka - We mentioned earlier about the need for any pigeon
578 lofts, if they were approved, to be more than two feet off the ground. That allows
579 for better cleanliness. The second question I have is that the pigeon loft is
580 apparently four feet away from the shed. Is it my understanding, Mr. Blankinship,
581 that would have to be moved if that use were to remain on the property?

582

583 Mr. Blankinship - Yes. The code requires six feet.

584

585 Mr. Baka - So that loft cannot remain in that position.
586
587 Mr. Omerovic: I can do that. Right now it's very, very wet. I don't
588 know why. There is sewage across the street. Somebody needs to take a look
589 and fix it because we have big sewage—and maybe six, seven feet deep. And all
590 water goes behind my house, you know. I cannot walk in my backyard in winter
591 because it is all mud. In the next couple weeks, I can try to move.
592
593 Mr. Baka - Stormwater is another issue separately. But I think
594 what happens is any time a landowner has a use on their property, they're
595 responsible for the effects that it has on their property and to minimize any
596 adverse affect on neighboring properties. The other question I had—so you're
597 convinced there is no smell at all with forty to sixty pigeons.
598
599 Ms. Omerovic - No. We believe the smell is definitely from the
600 chickens.
601
602 Mr. Baka - From the chickens. Tell me about the release. If you
603 have this many birds there, what prevents—explain to me what prevents more
604 birds from coming to the property and staying there, if the number suddenly
605 grows from other birds flying in? How do you limit the number of birds?
606
607 Mr. Omerovic - Oh, I keep fifteen pair of breeder. The rest of those,
608 you know, are the youngest. Sometimes I lose, oh, twenty pigeons because
609 those pigeons are high-fliers. You cannot see them for three or four hours. They
610 fly, oh, I don't know how many thousand feet. And sometimes I lose some.
611
612 Mr. Baka - So in the summertime over a week, how many times
613 are they released and they come back? Is it every week?
614
615 Mr. Omerovic - Oh, I release them on the weekend. They fly six or
616 seven hours and then come back.
617
618 Ms. Omerovic - On weekends, mainly.
619
620 Mr. Baka - Okay. So basically on the weekends the birds leave
621 and then they come back in. So I guess my question is what prevents other birds
622 of other breeds from flying in and staying with the pigeons? Why doesn't that
623 happen?
624
625 Ms. Omerovic - Oh, no. There are doors there, so there would be no
626 way for other birds to fly in either way. The cage is right there, the doors. And
627 then there is also a second door that you can't see—yeah.
628
629 Mr. Omerovic - Right there in the middle they have a small—
630

631 Ms. Omerovic - Door.
632
633 Mr. Baka - Do the pigeons attract other animals other than birds?
634
635 Ms. Omerovic - No. We've never had a problem with that.
636
637 Mr. Baka - That's all the questions I have for now.
638
639 Ms. Harris - Mr. Chairman, I noticed that in Condition #3, we did
640 not mention the—oh, that was mention in Condition #2—at least two feet above
641 the ground. Okay, I see it; I'm sorry. I didn't see Condition #2. So we're
642 addressing that problem.
643
644 Ms. Omerovic - Right. We can fix that, yes.
645
646 Ms. Harris - And Mr. Omerovic, you said something about a
647 neighbor living on Washington Highway. Do they live in a residential subdivision
648 sort of like yours?
649
650 Ms. Omerovic - Yes. It's Henrico County, yes.
651
652 Mr. Omerovic - Mr. Bobby—I don't know his last name. I believe he
653 works as a janitor in Henrico County Schools.
654
655 Ms. Harris - I'm concerned about the subdivision where you have
656 neighbors who live close to you.
657
658 Ms. Omerovic - Yes, he does.
659
660 Mr. Omerovic - A long time ago I believe he told me he paid \$315.
661 Maybe six, seven years ago; I don't know how much. We talked yesterday.
662
663 Mr. Baka - Again, the comment from the staff report was on the
664 day of the site visit, staff noticed a slight smell from the pigeon coop. So I guess
665 my question is, is there something other than pigeons that could have created
666 the smell from the pigeon coop?
667
668 Ms. Omerovic - No. We believe that was definitely from the chickens
669 because the house is still there. We have to knock down that house. But like he
670 said, it's really muddy, so we try not to go around that muddy area. It's gross.
671 That's where the smell is coming from, definitely not the pigeons.
672
673 Mr. Baka - Even if the coop were moved a couple of feet, higher,
674 and to the side, you still have an area of difficult drainage to deal with. So I guess
675 my question is how would you prevent that from remaining muddy and no longer
676 being muddy in the future and minimizing any effect of smell?

677
678 Ms. Omerovic - We used to have wooden plates right there in
679 between the shed and the pigeon house so that way it wasn't muddy and you
680 could actually step on them. We've removed them now, but we can put them
681 back because that made it a lot easier so that our shoes wouldn't get all muddy.
682
683 Mr. Omerovic - Pigeon manure doesn't have any contact with the
684 outside—
685
686 Mr. Baka - What, sir? I'm sorry.
687
688 Mr. Omerovic - The manure from pigeons doesn't have any contact
689 with the outside because I have a green plywood floor, three-quarter, on there.
690 They don't go outside.
691
692 Mr. Baka - Thank you.
693
694 Mr. Omerovic - And I can lift maybe in the next couple of weeks.
695 That's going to be easy for me.
696
697 Mr. Baka - Are the pigeons loud when they fly away, forty or sixty
698 at a time?
699
700 Ms. Omerovic - No.
701
702 Mr. Omerovic - No. I have a military guy across the street. He doesn't
703 even know I have them because they're not loud, they don't smell. The chickens,
704 they do, you know. And I feel sorry for my neighbor and they complain. I
705 understand, but the pigeon is not—
706
707 Mr. Baka - All right, thanks. No other questions now. Thanks.
708
709 Mr. Bell - Any other questions?
710
711 Ms. Omerovic - Thank you.
712
713 Mr. Bell - Thank you.
714
715 Mr. Blankinship - Mr. Chairman, do you want to hear from staff now or
716 from the other neighbors?
717
718 Mr. Bell - Let's hear from staff first. One moment, please.
719
720 Ms. McHugh - Good morning. My name is Regina McHugh—M-c
721 capital H, u-g-h. I'm the zoning inspector with Henrico County.
722

723 Mr. Bell - Thank you. You've been going by this house
724 frequently, I understand.
725
726 Ms. McHugh - Yes sir.
727
728 Mr. Bell - Tell us what you've seen.
729
730 Ms. McHugh - When I first received a neighborhood concern, I
731 viewed the property from the rear from the adjacent neighbor's property. I saw at
732 least ten chickens running around the yard, and the pigeon coup, several
733 accessory structures in the backyard that did not meet the setback requirements
734 for the distance requirements. When I spoke with, I believe it may have been his
735 daughter, she indicated to me that the pigeons had been there for twelve years;
736 they had no intention of getting rid of them. So I explained to her the
737 requirements. There could be no chickens unless there was a 400-foot setback
738 met, which they obviously did not meet. So I issued a notice of violation. My
739 supervisor was called by I believe their attorney, who indicated that they would
740 pursue it further.
741
742 Ms. Moore - I'm sorry. What was the date of your visit?
743
744 Ms. McHugh - I believe that first visit was in January. Subsequent
745 visits after that. I believe my last visit was early in March, and the chickens were
746 still there. But they were in the small structure in between the two sheds—the
747 pigeon coup and then they other shed. Yes, they were in there.
748
749 Mr. Blankinship - Did you work the 2011 case, Regina?
750
751 Ms. McHugh - I probably did, yes.
752
753 Mr. Bell - Do you remember anything about it then?
754
755 Ms. McHugh - I don't. I'm sorry, I don't. I don't have my case notes
756 with me.
757
758 Mr. Bell - When you were over there in January or March, did
759 you notice any odor?
760
761 Ms. McHugh - I didn't. There was snow on the grounds, and it was
762 very cold, so I did not notice any odor. The chickens were running free in the rear
763 yard, though.
764
765 Mr. Bell - Any other questions?
766
767 Ms. Harris - Yes. Mr. Blankinship, what year was that? Did you
768 say 2003 or 2011?

769
770 Mr. Blankinship - In 2011—
771
772 Ms. Harris - Yes, we were on the Board—I was on the Board.
773
774 Mr. Blankinship - —we had a previous complaint.
775
776 Ms. Harris - But that case was completely different. They had
777 pigeons under the house.
778
779 Mr. Blankinship - No, I'm sorry. There was a complaint at this property.
780 I'm not talking about a conditional use permit case.
781
782 Ms. Harris - Oh, okay. Remember we had a case where the
783 pigeons were being kept under the crawlspace.
784
785 Mr. Blankinship - Yes ma'am. Two hundred of them, I believe, is what
786 we were told. Not a good case.
787
788 Mr. Baka - No questions. Thank you.
789
790 Mr. Bell - If there are no more questions, thank you. Anybody
791 else want to speak?
792
793 Male - [Off microphone.] Yes sir. First, this is—
794
795 Mr. Bell - Please speak into the microphone, if you would.
796 Thank you.
797
798 Male - This is Jerry Stout, and he had a question. Come on
799 up here.
800
801 Mr. Stout - Jerry Stout—S-t-o-u-t. He's talking about his backyard
802 being spongy and everything. Well, my house is just on down there a little ways.
803 You can't walk across my yard without boots. It's that bad. I don't buy fertilizer
804 because there's no need for it; I get plenty of fertilizer from above.
805
806 But anyhow, my main question today is why in the world would anyone want sixty
807 pigeons. For goodness sake, why? Are you gonna eat them? You can't pet them;
808 you can't take care of them. I have seen the gentleman cross my yard with an
809 injured pigeon where a hawk got him and injured him, and he was taking him
810 back. The only reason I can see to have these pigeons is for communication
811 between that house and other houses somewhere else. When the pigeons were
812 there, I have on occasion seen a single pigeon sitting up there on a wire waiting
813 to be taken care of. Did he have a message from somebody? Is that the
814 purpose? Why? Why would you feed them, a bunch of sixty pigeons, and let

815 them fly around all over the place. Pooty on your car. Do everything that pigeons
816 do. And I see no reason for it. It's a close little community, a neighborhood, a
817 subdivision. My lot's only 150 feet by about 100. And it joins another lot about
818 that size. And it's right up against all of this. I'm just trying live and—you know,
819 my next move is going to be do a nursing home. So why do I have to put up with
820 chickens? Lambs, they've had lambs. Everything. It doesn't make any sense.
821 Why don't they just live in the community like the rest of it and take care of it. And
822 let the value of the homes increase.

823

824 But that's a minor problem. I'd like to show you a house one house over. You've
825 allowed a garage to be built there that's two stories. A beauty shop upstairs. A
826 car repair place downstairs. I look out there and there are six or eight
827 automobiles and trucks all around. Enough is enough. And you raised the
828 assessment on my home. Why? It's got to go down. With a thing like that going
829 on, how can I sell it?

830

831 Mr. Baka - May I ask a question, Mr. Stout, sir?

832

833 Ms. Harris - We had a question for Mr. Stout. Can we see the
834 aerial map? What is your address, sir?

835

836 Mr. Stout - 9306 Ridgefield Road.

837

838 Ms. Harris - Can you point it out on this map or do you see it?

839

840 Mr. Bell - Hey sir?

841

842 Mr. Baka - Okay. Yes sir.

843

844 Mr. Bell - Let's go back to the podium, please.

845

846 Ms. Harris - Point it out on the podium

847

848 Mr. Berman - Use the mouse.

849

850 Mr. Bell - Point it out on the podium.

851

852 Mr. Stout - Oh, I'm sorry. Oh, you're too sophisticated for me.
853 That's the one.

854

855 Mr. Baka - Ms. Harris, did you have any other questions?

856

857 Ms. Harris - No.

858

859 Mr. Baka - I had one quick comment. Section 24-12 of the
860 Henrico County Zoning Ordinance allows for homing pigeon lofts as a conditional

861 use if a conditional use permit is received and voted upon by the Board. So there
862 is enough interest from folks in the community to want to have homing pigeon
863 lofts that it is actually a use written and prescribed in the code. So what this
864 process is, it allows for public input from the neighbors and from other folks in
865 Community Revitalization and from the applicant to discuss that. So that's a little
866 behind the "why" side of your question.

867

868 The only question I have is have you noticed—on your side of Ridgefield Road,
869 have you noticed any smells on your property?

870

871 Mr. Stout - No, I have not.

872

873 Mr. Baka - Okay. Thank you very much.

874

875 Mr. Bell - Thank you. Any other questions?

876

877 Mr. Berman - I don't want to get too graphic, but you mentioned
878 pigeon poop. Are you seeing an increase of it? I mean, because you don't know
879 if it's from their yard or from other birds. I mean, how bad is it? I have it on my
880 car.

881

882 Mr. Stout - It's not a huge problem, but it is a problem, you know.
883 It's just why have a nuisance in a close little neighborhood like that? You can see
884 how close the houses are. Like I say, my lot is 100 feet across the front, maybe
885 150 feet deep. None of those lots on that little triangle are big. It's very tight and
886 closely knit. It's not an area for a barking dog. It's not an area for pigeons. It's not
887 an area for chickens. Why not just live there and let live and be happy and go
888 about your business and not try to support the wildlife in general, you know.

889

890 Mr. Berman - Let me hold you off there for a second. What I'm
891 trying to get from you and others that may speak after you is what is the direct
892 impact to you. We're trying to measure that against the delight of raising pigeons
893 for people that have done it for 10,000 years. We're trying to figure out what the
894 impact is.

895

896 Mr. Stout - I just feel like they don't contribute anything to the
897 neighborhood. I look out there and the wires, you know, are covered with pigeons
898 and everything. I see no real point in messing up the neighborhood, you know.
899 It's our neighborhood; we live there, you know. Live and let live, you know. Let
900 the animals live where they live. They have sixty pigeons cooped up there that
901 you can't eat. They contribute nothing to anyone as far as I can see, except for
902 maybe a communication system between him and others of his kind.

903

904 Mr. Berman - I did ask if they were message pigeons, and I was told
905 that they were not homing pigeons, that they're just banded.

906

907 Mr. Stout - How can you tell?
908
909 Mr. Berman - I can't, but it wasn't a concern of mine at that time.
910
911 Mr. Stout - I see a single pigeon sitting out there on the wire, you
912 know, waiting to be picked up or let in, I wonder.
913
914 Mr. Berman - And you can pet them, by the way. I did pet them.
915
916 Mr. Stout - Yes? Oh, well, I'm sure. That's got to be a real
917 pleasure to pet a pigeon.
918
919 Mr. Berman - It was. Thank you, sir.
920
921 Ms. Moore - Mr. Stout, one more question. Can you hear the
922 pigeons?
923
924 Mr. Stout - Ma'am?
925
926 Ms. McHugh - Can you hear the pigeons from your home?
927
928 Mr. Stout - I can hear them if I'm out in the backyard, and if
929 they're talking sometimes I hear them. But that's not a real, real problem, you
930 know. It's just that they're swooping around, and there's no need for them. And
931 I'm concerned about my other neighbors and the community as a whole. What
932 does that contribute to the value of my property?
933
934 Ms. Moore - Sure. Thank you.
935
936 Mr. Stout - Not a darn thing, not a thing. And you raised the
937 assessment on my home by \$8,000 last year. You do that, and then you let this
938 guy down here on the corner build that monstrosity.
939
940 Mr. Bell - Well, sir, that's not—
941
942 Mr. Stout - That's been there for two years.
943
944 Mr. Bell - We can't do anything about that now.
945
946 Mr. Baka - Thank you, sir.
947
948 Mr. Berman - Thank you.
949
950 Mr. Miller - Good morning. My name is Brian Miller. I live at 9304
951 Ridgefield. How do we work this thing? I'm next door to Mr. Stout. I'm going to
952 cover all of them, but—come on up here and run this thing. Our house does back

953 up to Mr. Omerovic's home. Our backyards are contiguous to each other. Let me
954 first start out and say they have been good neighbors. They have been a
955 pleasure to know. We're not what I could call close, intimate friends, but they
956 have always been considerate. They've been good folks. I believe this is the
957 youngest daughter? Not the med student? Okay. The cheerleader. But anyway, I
958 will concur that for approximately eleven years there have been pigeons.

959

960 But also in this—let me first back up a moment. In that block there—I'm talking
961 also for the lady on the corner, Polly Lance, who is about an 85-year-old widow
962 and is unable to be here today. Her husband died earlier this year. I'm also
963 talking for Tammy Athens who lives on the corner further down. She is the block
964 captain for our neighborhood. And I'm not going to talk for him because he's
965 deceased, but the house here is a John Blankenship. Several years ago while he
966 was still alive this condition existed. And if you'll look in the pictures, you will see
967 a California pine fence. Anyway, that was erected by Mr. Blankenship as a
968 response to this situation. The fence you see—that's it. That's definitely it. That
969 was put up by Mr. Blankenship. He told Mr. Stout and myself that was the
970 reason, he wanted privacy and he wanted to have some—I don't know if security
971 is the right word, but he put up for the reasons of his objections to the situation.

972

973 I think my question has been answered about the birds that are there now. I
974 haven't seen the pigeons recently, so I wasn't certain why this request was being
975 made, but I do understand. The chickens have been there for several years.
976 There have been lights going on and off. If you could, switch onto another one of
977 the photos, please. No, that's not the one. If you look in the background there,
978 you can see a house with yellow siding and a roof; that's us. Like I said, we have
979 a chain link fence. The light has certainly been a factor for the folks sleeping in
980 the back room.

981

982 Also I'm talking for a Dr. Blick, who lives further down the street within about 200
983 yards. And he has indicated concern. But anyway, all these folks—I just want to
984 emphasize it's a great concern for a number of folks in the neighborhood. We're
985 not familiar with this Dr. Adams. Evidently, he's on the other side of Three Chopt.
986 We don't see much of those. Concerning the smell, I'm not aware of a great odor
987 from pigeons. There was from the chickens.

988

989 Mr. Omerovic does have a garden. He has shared some of his vegetables with
990 us in the past. Concerning a sentimental value of the chickens—or, excuse me,
991 the pigeons—I can verify that he drives for a truck line. He's home on the
992 weekends; we see him. I am aware he releases them on the weekends. Also, I
993 verify there is a drainage problem. Concerning other complaints, I'm not aware of
994 those. I'm not aware of his children having health issues.

995

996 We're concerned about being on the other side of the fence. If arrangements
997 could be made that will satisfy you all, that would be a step forward. We're here
998 primarily to emphasize the extreme concern of the neighbors. And like I say, I've

999 talked to about five or six of them. Several said they were going to send in letters
1000 or memos; I'm not aware if they did. They didn't share that with me.
1001

1002 Mr. Blankinship - If I could interrupt you, Mr. Miller. We did receive two
1003 phone calls from neighbors and one e-mail message. They sound like the same
1004 sorts of statements. I think I recognize in your statements some of the people
1005 who called. So I think there is some overlap.
1006

1007 Mr. Miller - All right. Do you have anything else?
1008

1009 Mr. Bell - Let me ask you a question, sir.
1010

1011 Mr. Miller - Yes sir.
1012

1013 Mr. Bell - What's your objection?
1014

1015 Mr. Miller - Well, one, of course, is concern about property
1016 values. We have lived in that neighborhood for forty years. Mr. Stout was there
1017 before we arrived. This is a new situation we have never seen in forty years
1018 when he starts talking about the introduction of wildlife—introduction of these
1019 animals, certainly chickens and the pigeons, and earlier, the lamb. It's just a
1020 certain concern that this is going beyond the normal suburban living lifestyle.
1021

1022 Mr. Bell - In 2011, the last time this conditional use permit was
1023 approved, was it pretty much the same people living in the neighborhood that you
1024 just mentioned?
1025

1026 Mr. Miller - Yes sir.
1027

1028 Mr. Bell - Did any of them complain at that time about the
1029 pigeons? They were there then as well.
1030

1031 Mr. Miller - I would dare say Mr. Blankenship was alive at that
1032 time.
1033

1034 Mr. Blankinship - Not me; the other Mr. Blankenship.
1035

1036 Mr. Miller - The fence-builder.
1037

1038 Mr. Bell - Did you complain at that time about it, as well as this
1039 time?
1040

1041 Mr. Miller - I don't know, but he's the one that put up a fence.
1042 That was his complaint—or his solution; excuse me.
1043

1044 Mr. Bell - It's a good solution to it.

1045
1046 Mr. Miller - Yes sir.
1047
1048 Mr. Bell - Thank you.
1049
1050 Mr. Miller - Thank you.
1051
1052 Mr. Baka - There are other questions. Question, Mr. Miller, from
1053 Ms Harris.
1054
1055 Ms. Harris - Excuse me. Did someone else want to speak? I know
1056 they were not sworn in. I've heard concern about the property value decreasing,
1057 but then we were told that the assessments have increased. So that kind of
1058 counteracts that argument. If the property value is decreasing because of all of
1059 these things, then your assessment certainly would not be increasing.
1060
1061 Mr. Miller - That's a good argument.
1062
1063 Ms. Harris - Yes. So just something to think about.
1064
1065 Mr. Miller - Yes ma'am.
1066
1067 Ms. Harris - Okay. Now where is the light located that affects your
1068 residence? Do you know? Where is the light coming from?
1069
1070 Mr. Miller - It's on the back. You see the two buildings there. One
1071 is the pigeon coup that has the cages outside. The other one has a porch. And I'll
1072 defer to the property owner, but that's where we see the chickens or alongside
1073 the building there you can see logs that are stacked up. Quite often, they are let
1074 loose in that area and behind that building is a little runway. But there's a little
1075 runway behind the building of maybe three feet that leads up to our chain link
1076 fence.
1077
1078 Mr. Blankinship - You can see in this photograph some lights that are
1079 mounted on the building with the porch.
1080
1081 Mr. Miller - Yes sir.
1082
1083 Mr. Blankinship - Not on the pigeon coup.
1084
1085 Mr. Miller - Right. They are quite bright.
1086
1087 Ms. Harris - Okay.
1088
1089 Mr. Miller - You can see our home in the background.
1090

1091 Ms. Harris - Yes, I could see that. Yes. You mentioned a drainage
1092 problem. Is that the problem that was mentioned before with the fertilizer
1093 running—
1094

1095 Mr. Miller - Yes.
1096

1097 Ms. Harris - Wouldn't that be a plus to have fertilizer you didn't pay
1098 for? I'm just looking at some of the other options here.
1099

1100 Mr. Miller - Well, I'll say this. The drainage problem has been
1101 there forty years. It's been long before they ever moved in.
1102

1103 Ms. Harris - That's Henrico County?
1104

1105 Mr. Miller - In no means do we want to lay that on them.
1106

1107 Mr. Blankinship - It's not related to this request.
1108

1109 Mr. Miller - Concerning the pigeon poop, if I may, we have had
1110 the chickens go in our yard. So we have had chicken poop in the yard—chickens.
1111 The chickens and the poop.
1112

1113 Ms. Harris - But since they've gotten rid of the chickens, we're
1114 dealing with pigeons.
1115

1116 Mr. Miller - It seems to be resolved, yes.
1117

1118 Ms. Harris - Thank you.
1119

1120 Mr. Bell - Any other questions?
1121

1122 Mr. Baka - Yes. Mr. Miller, the rear of your yard is adjacent to the
1123 Omerovic's property. There's a small outbuilding it the back of your yard. Is that a
1124 shed on your property?
1125

1126 Mr. Miller - Yes sir.
1127

1128 Mr. Baka - Okay. And that's just for general storage. Another
1129 question I had is when you're in the rear of your property—I mean, have you
1130 been there on weekends where you've seen the release? Are you concerned
1131 with the release of pigeons when forty or sixty are released at one time?
1132

1133 Mr. Miller - I haven't seen them being released.
1134

1135 Mr. Baka - Okay.
1136

1137 Mr. Miller - In the past, yes, you can see the wires above on the
1138 poles. I've seen those wires with ten or fifteen pigeons arrayed on those wires.
1139 But it hasn't been recent.
1140
1141 Mr. Baka - So your concern wouldn't necessarily be with the
1142 release, but the keeping of or the storage—not storage—keeping of pigeons on
1143 the property.
1144
1145 Mr. Miller - Yes.
1146
1147 Mr. Baka - And when you say this goes beyond the use on the
1148 Omerovic's property, it goes behind a practical or natural suburban lifestyle, can
1149 you elaborate on that at all? I mean, for example, what adverse effect does that
1150 have on your property, sir?
1151
1152 Mr. Miller - Well clearly, if they come out and then fly away, it's
1153 not an effect. But they do stay around the neighborhood. They have been on the
1154 roof or our tool shed. They'll fly around, they'll settle on the wires, they'll settle on
1155 different buildings. They circulate in the general area.
1156
1157 Mr. Baka - Okay. All right. Those are all the questions I have for
1158 now. Thanks.
1159
1160 Mr. Bell - Thank you, sir.
1161
1162 Mr. Miller - Mrs. Stout would like to make a comment.
1163
1164 Mr. Bell - She's more than welcome.
1165
1166 Mr. Baka - And the applicant will have an opportunity after.
1167
1168 Mr. Bell - Yes. And the applicant will have an opportunity to
1169 rebut afterwards if he wants.
1170
1171 Mr. Blankinship - Ma'am, would you raise your right hand, please? Do
1172 you swear the testimony you're about to give is the truth, the whole truth and
1173 nothing but the truth so help you God?
1174
1175 Ms. Stout - I do.
1176
1177 Mr. Blankinship - Thank you.
1178
1179 Ms. Stout - My name is Shirley Stout—S-t-o-u-t. I live on
1180 Ridgefield Road, 9306 Ridgefield Road. We bought out house in 1963. At that
1181 time, Pinedale Farms was considered to be one of the better West End
1182 neighborhoods. There was not very much built at that time west of us, and it was

1183 a very nice place to live. It was quiet. And as the years have gone by, we have
1184 found it is beautifully located. I'm close to where we went to an association pool.
1185 I'm close to the post office, close to the library, close to numerous grocery stores.
1186 We have not wanted to move further west to get away from some of the things
1187 that are happening in our neighborhood.

1188
1189 For the first twenty-five years, Pinedale Farms Association had a covenant, and
1190 you had to be approved for the type of fence you wanted to build, the type of—if
1191 you wanted to put up a clothesline, they recommended that you really dry your
1192 clothes in a dryer. They didn't even want clotheslines out. And they made
1193 everybody be particular about cutting the grass, you know, and keeping the
1194 neighborhood looking nice. It just seems that people are moving into our
1195 neighborhood now, and they don't realize they're moving into a subdivision. They
1196 should have bought a property further out in the county, hopefully surrounded by
1197 trees. And that way, they could do anything they wanted, maybe, on that
1198 property. But when you buy in a subdivision, it seems to me you should try to live
1199 up to the standards of the other houses.

1200
1201 We added on a beautiful sunroom on the back of our house, and that's the room I
1202 spend most of time in. And when I go into my sunroom, it's got glass walls on
1203 three sides. When I look to the left, I have a beautiful view. The Blankenship's
1204 yard is beautiful. It has trees and flowers. And when I look the other way, all I see
1205 is the back of horrible looking buildings. And I see birds flying around. And my
1206 daughter was in there one day, and it was 4:00 in the afternoon. And she said, "Is
1207 that a rooster crowing?" And I said yes, the neighbors up there have chickens
1208 and they have a rooster.

1209
1210 I am very opposed to any kind of a pigeon loft or anything else that they want to
1211 build that I feel like will detract from the beauty and niceness of our
1212 neighborhood. I'm proud to live in Pinedale Farms, and I want it to continue to be
1213 a nice place to live. I don't want people driving by and thinking they would not
1214 want to live there. In fact, I am getting to the point now where I'm kind of
1215 embarrassed to have people come to my house and see what is surrounding me.
1216 They wonder why I still live there. Is that all I can afford? And I have talked to my
1217 husband about moving further west. But we're both in our eighties now, and he
1218 says the next move he makes is going to be into assisted living. He doesn't want
1219 to think about packing up and moving. And it is ideally located still. And so I think
1220 it's up to the County to see that the standards are maintained there and that it is
1221 a nice subdivision, the way it's supposed to be. Thank you.

1222

1223 Mr. Bell - Thank you. Any questions?

1224

1225 Mr. Baka - No questions. Thanks.

1226

1227 Mr. Berman - I have a question for the staff. Again, it's not for us to
1228 decide, but are we aware of any HOA violations?

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Mr. Blankinship - As she said, the covenants in this subdivision expired some time ago, so I don't know that they even have an active HOA. But no, the answer to your question is we are not aware.

Mr. Berman - Thank you.

Mr. Omerovic - Excuse me again. I want to know from my neighborhood what I do wrong in our community. If I move the house, they will stay probably six or seven—because it's very, very muddy. I spend \$10,000 for fourteen dump trucks to level my property to try to grow up good grass. And I don't know what I did wrong for the community. I have some twenty fruit trees. I have a front green. I want to know what I did wrong. I believe I do better for the community because the backyard ten years ago, it's unbelievable. And I work for three, four weeks with a couple of friends to remove it—wheelbarrow to move to the outside. Take it to my truck. And Henrico County sometimes gives me warnings, because I have an eighteen-wheeler I park over there. Remove, go to the dumpster, and bring in top soil.

I really want to know what's wrong about another neighbor complaint about the pigeon manure or something. No it's not. They do not go anywhere outside. They have a floor, wooden with green plywood, three-quarter. Maybe if I put fertilizer on the grass, because it's very, very muddy, they water, take it slowly off and go to his property. I understand that.

But another neighbor, they told me that her own daughter doesn't visit them for twenty-seven years because he's some kind of wild guy. And he put up that fence because the water goes to his property. He put up a fence, and he build something, I don't know, to keep the water on my property. They know this guy here. I feel bad for him; he's died maybe three years ago. But he's some kind of guy, never say hi to us. I grew up over there, —my daughter. I didn't have a boy. It's very quiet. My one daughter is in school at Emory in Georgia. She will be a doctor in four more years after she is at VCU Medical School.

I don't know what I'd do without my pigeons. I love them. That's my past.

Mr. Baka - I'll just take a minute, if I can, and address the applicant and some comments. Let me mention three things. One, you haven't done anything wrong, sir. The way you enjoy your property, it may be different from how a neighbor enjoys their property. The folks in Community Revitalization Department, they see neighbors all the time that have different levels of what they'd like to do on their property and how they enjoy it. It may be different from others. So number one, your neighbors haven't done anything wrong; you haven't done anything wrong.

1274 So to take a step further, if I could ask a question, then, at this time. Secondly,
1275 what I heard at first was originally there were some concerns about the smell of
1276 the property or the site. But actually, the more we've heard some testimony here
1277 today, there doesn't seem to be as much significant concerns about, say, the
1278 smell—the chickens have gone away—or about the site. You know, I don't
1279 always see them being released. The general concern I'm hearing more about is
1280 just generally the keeping of pigeons, regardless of number, and how you put a
1281 number on that. And I guess the concern coming from neighbors is as you strive
1282 to enjoy your property and this use you've had for several years is that there is a
1283 belief or perception that perhaps that type of use on another person's property
1284 might adversely affect either the value of their property or the quiet enjoyment of
1285 their property or the way that they tended to use their property for years and
1286 years. And that's a difficult scenario. Everyone wants to enjoy their property. So if
1287 I do something that my neighbor doesn't like on my particular street, I haven't
1288 done anything wrong. I just want to be clear about that.

1289
1290 Thirdly, one comment I have for the applicant is that I looked and drove by the
1291 street many times. The views from a large number of houses—I'm not just talking
1292 one or two neighbors, but several neighbors, from either their windows or from
1293 their driveways or from maybe a sunroom or other structures—there appears to
1294 be several neighbors that have a clear view of the rear of the yard. So I think
1295 there's a perception, just to describe this, if I could. There's a perception that
1296 perhaps what goes on in somebody else's backyard may—and maybe not this
1297 year with current assessments, but may in future years affect the future property
1298 values of their properties. I'm just trying to describe that general concern.

1299
1300 Mr. Bell - Is that all?

1301
1302 Mr. Baka - Yes sir.

1303
1304 Mr. Bell - To educate us a little bit about flying pigeons, okay.
1305 When we talk about flying pigeons, it's my understanding—and I have a limited
1306 knowledge—that sometimes you might take pigeons and drive them a couple
1307 hundred miles away, and then they fly home.

1308
1309 Mr. Omerovic - No.

1310
1311 Mr. Bell - No, you're not into that. Explain to us, then what you
1312 use your pigeons for and how you fly them.

1313
1314 Mr. Omerovic - Just like a pet, like people keep cats or keep dogs. I
1315 keep fifteen pairs of breeders; they never go out. If you go fly a breeder, you're
1316 going to lose pigeons. They only stay inside for so long, then they leave. And the
1317 pigeons have lived between eight and fourteen years. It depends on how you
1318 feed them and treat them.

1319

1320 And then I try to keep fifteen of each. I have two fly boxes. And the fifteen only fly
1321 sometimes. But I release only those I have trained, you know, the beginning, a
1322 couple of weeks. They know if I release in—they maybe stay on the pole for
1323 fifteen, twenty minutes, half an hour before going in. But after that, they are
1324 trained well. They fly and immediately come back inside. That's it.

1325

1326 Mr. Bell - Thank you.

1327

1328 Mr. Omerovic - I never release sixty. I release a maximum of ten,
1329 fifteen. It depends on how many I have.

1330

1331 Mr. Bell - Thank you. Any other questions?

1332

1333 Ms. Harris - Yes. I notice that you say you don't use the pigeons
1334 for racing.

1335

1336 Mr. Omerovic - No.

1337

1338 Ms. Harris - But do you breed them as a business?

1339

1340 Mr. Omerovic - No.

1341

1342 Ms. Harris - Okay. The other concern I had is in reference to the
1343 attractiveness of your pigeon loft. You're going to build another loft if this is
1344 approved, right? It has to be two feet off of the ground.

1345

1346 Ms. Omerovic - Right, yes. We can fix that, yes.

1347

1348 Mr. Omerovic - I can lift this one; why should I build another one?

1349

1350 Ms. Harris - You can lift it?

1351

1352 Mr. Omerovic - Yes. I can put it on concrete on the bottom.

1353

1354 Ms. Harris - It's supposed to be two feet further than where you
1355 have it.

1356

1357 Mr. Omerovic - I can do that.

1358

1359 Ms. Harris - Without tearing down, you can just move it?

1360

1361 Ms. Omerovic - Right, right. Just lift it.

1362

1363 Ms. Harris - Those were my questions. Thank you.

1364

1365 Mr. Bell - Thank you.

1366
1367 Ms. Moore - I had a question for Mr. Blankinship.
1368
1369 Mr. Blankinship - Yes ma'am.
1370
1371 Ms. Moore - Can you for the record, they have 452 square feet
1372 plus of accessory structures. Do they comply with the maximum number of
1373 accessory buildings in the rear yard?
1374
1375 Mr. Blankinship - Yes ma'am. Thirty percent of the lot coverage, they
1376 have less than that.
1377
1378 Ms. Moore - And I mention that because there was a mention of
1379 the number of buildings. So I just wanted to make sure.
1380
1381 Mr. Blankinship - If you put the aerial back up, Paul, you'll see right in
1382 there where those several lots come together there are six accessory structures
1383 quite close to each other. But of course they're not all on the Omerovic's
1384 property. Because of the way the lots are arranged, you do have quite a cluster
1385 of accessory structures right there together. There are six buildings, but they are
1386 on four different lots.
1387
1388 Ms. Moore - Thank you.
1389
1390 Mr. Berman - I apologize. I did have one more question. This is
1391 regarding Condition #1 that, if this is approved, we're going to need to put a
1392 number in for the maximum number of pigeons. You keep mentioning fifteen
1393 pairs. That's thirty, but you've maxed out at sixty. Two questions. What is the
1394 total capacity of the coup?
1395
1396 Mr. Omerovic - The coup is a total of between fifty and seventy.
1397
1398 Mr. Berman - And how would it affect you if it was capped at thirty
1399 versus sixty? Personally, how would it affect you?
1400
1401 Mr. Omerovic - I don't have a choice. You have to keep fifteen pair,
1402 which is thirty birds.
1403
1404 Mr. Berman - Right.
1405
1406 Mr. Omerovic - And you hatch twice in a year—beginning of April,
1407 young baby, and beginning in June. Twice. Each time I have ten, fifteen babies.
1408 And then each year—I am a member of—association. If I left something, I go to
1409 Lancaster, Pennsylvania, because I have a truck, and I know they have a big
1410 pigeon show. So every second Saturday in January. And then I go buy food for

1411 them, medication, whatever. And I give away or trade with food or whatever if I
1412 left something.

1413
1414 Mr. Berman - Do you acquire any pigeons other than through birth?

1415
1416 Ms. Omerovic - No.

1417
1418 Mr. Omerovic - No, I don't buy.

1419
1420 Mr. Berman - That's all the questions I have.

1421
1422 Mr. Bell - And once again, thank you.

1423
1424 Ms. Omerovic - Thank you.

1425
1426 Mr. Bell - Is there anybody else that would like to speak to this
1427 case? Thank you, then let's call the next case and move on.

1428

1429 **[After the conclusion of the public hearings, the Board discussed the case**
1430 **and made its decision. This portion of the transcript is included here for**
1431 **convenience of reference.]**

1432

1433 Mr. Baka - Mr. Chairman, I'd be willing to make a motion, but first
1434 I have a couple of comments. I have some concerns as I read through the
1435 testimony and listened to what the applicant has said and what the neighbors
1436 and Community Development have also spoken about. This is a difficult case in
1437 that the applicant has had this use there for several years and secondly, also has
1438 a great enjoyment from pets and taking care of animals. I have pets too, and I
1439 empathize with someone who looks for and cares after with great care and
1440 affection for the animals.

1441

1442 Along that line, one of the first things that strikes me is we have the perception of
1443 different parties having concern about how they use their own property and the
1444 effect of how one of their neighbors uses their property and how it affects what
1445 they have.

1446

1447 We talked earlier about concerns about flight of birds or smell or sight. I really
1448 don't think the heart of the issue or the crux of the matter here is any of those. It
1449 appears to be the greater concern is from—not discounting Mr. Stout's testimony
1450 at all, but I was listening especially to Mrs. Stout's testimony and Mr. Miller's
1451 testimony. It appears that the keeping of the birds has a discernible adverse
1452 affect on some of the property owners in their perception and their opinion. The
1453 second thing, when you look at the tax map, there are a number of properties
1454 that are in close proximity from a view of the rear yard or from a view on a
1455 window on a house where you can see the rear yard of the Omerovic's shed and
1456 their pigeon coop. So if it weren't pigeons, there is also an effect of any building

1457 there or any activity of the property which is not necessarily in keeping with the
1458 intent and the harmony of the residential district.

1459

1460 Earlier in the code sections—and Ben, help me with the right code section; I want
1461 to say it's permitted uses in 24-12?

1462

1463 Mr. Blankinship - Conditional use.

1464

1465 Mr. Baka - 24-11 lists the principal uses allowed, such as one-
1466 family dwellings, but 24-12 lists the conditional uses. So with that in mind, I don't
1467 have a right on my property to have a pigeon loft; I'm allowed to apply for a
1468 permit to get that. And we take into account whether that has an adverse impact
1469 on neighbors.

1470

1471 One of my thoughts on that, Mr. Chairman, was, you know, if there's any way the
1472 impact of this could be mitigated, I would be willing to make a motion to approve
1473 it with mitigating conditions. I don't see the number of birds as necessarily
1474 lessening the impact on the neighboring properties. I don't see if they even said
1475 hey let's try this approval for a pigeon coup for a temporary time limit. We haven't
1476 talked about that. What if we did a temporary time limit for a year or two? I don't
1477 see that as necessarily having a solution to this because the impacts that the
1478 neighbors spoke of—and Mr. Blankinship secondly referenced two additional
1479 phone calls and an e-mail with concerns about the property who are not here.

1480

1481 With a number of neighbors concerned about the use and the general keeping of
1482 the pigeons, and secondly a number of properties that can view it or see it, I am
1483 concerned that this use, if it were to continue, would detract from the overall quiet
1484 enjoyment of the neighbors' properties. And I mean the entire vicinity within a
1485 short view of the property.

1486

1487 So since I have concerns that it would adversely impact the health, safety, and
1488 welfare of the neighbors, Mr. Chairman, I'd make a motion to deny the case as
1489 presented. With respect to Mr. Omerovic and the years of enjoyment he's had
1490 with these pigeons, I don't see that this particular parcel in Henrico County, this
1491 parcel here, that this piece of land is suitable to allow that to continue. If another
1492 applicant has a request for another property, then by all means we'll discuss and
1493 consider that on another piece of land. But for this case on this parcel at this
1494 time, I'd make a motion to deny this case, CUP2015-00010.

1495

1496 I'd be glad to answer any questions or comments you have.

1497

1498 Mr. Bell - Do we have a second?

1499

1500 Mr. Nunnally - I'll second it.

1501

1502 Mr. Bell - Is there any discussion?

1503

1504 Ms. Harris - I do have a concern. This case is almost a case of
1505 animal lovers versus non-animal lovers. If you had a dog there who barked, that
1506 would be a nuisance to the neighborhood also. Or any type of animal. I think that
1507 this pigeon loft is allowed in the code, and the owners of this property have
1508 agreed to follow the conditions, being sure the pigeon loft conforms to the
1509 dimensions that we require. And I really feel that the health, safety, and welfare
1510 of the neighborhood is not affected. Their quiet enjoyment might be affected, but
1511 as I said, your quiet enjoyment is affected if you have a dog. They are allowed
1512 this in the code and should go forth with it. This is why I'm going to vote against
1513 the motion.

1514

1515 Mr. Bell - Along the same lines, when we talked to the people
1516 who talked today, the pigeon coup has been in this area for eleven years. And by
1517 testimony today, last time none of these people who spoke today—others may
1518 have come up and said something against it, but it's continually been approved
1519 for eleven years. So does that adversely affect the neighborhood situation or not.
1520 The key is what is adverse, really, in this situation. If you've accepted in the past
1521 and you don't accept it now, that could happen. Now it's come to the point where
1522 I can't stand it anymore. So it's difficult for me to look at it in any one way except
1523 the way that if you have a piece of property, you have the rights to personally
1524 enjoy that property. And we have a dilemma in that the enjoyment of one family
1525 versus other families is not the same. So that's why I have to give consideration
1526 of how I'm going to vote on it.

1527

1528 Any other statements or questions?

1529

1530 Mr. Berman - A procedural question. Mr. Baka, you've
1531 recommended a denial. If that denial is not agreed upon, what's the next step?

1532

1533 Mr. Blankinship - There would have to be another motion.

1534

1535 Mr. Berman - Another motion? Okay. Thank you.

1536

1537 Mr. Baka - I respect the comments by the Board. I would add a
1538 general observation that when we talked about effect, the code says that no
1539 conditional use permit shall be approved if it were, to paraphrase, have an
1540 adverse impact on the health, safety, or welfare of the adjoining properties in the
1541 neighborhood. I'm paraphrasing. Health and safety. I agree, Ms. Harris. I guess
1542 I'm focusing on the welfare. Since we heard testimony from two neighboring
1543 property owners that it has affected the quiet enjoyment. And Mr. Blankinship
1544 mentioned there were two phone calls that came in and an e-mail that came in.
1545 His general comment was that their concerns seemed to be consistent with what
1546 the gentleman said at the podium at the time. I guess I'm looking at it as an
1547 aggregate, almost a cumulative bundle here of you've got three, four, five—
1548 potentially five owners concerned. I realize it's gone on for a number of years,

1549 and there wasn't a concern raised previously. But I guess just because
1550 something has been done without a permit for several years doesn't make it
1551 necessarily valid. That's my concern that if I just did something I didn't have a
1552 permit for that I could suddenly be justified in that in the long run.

1553
1554 So I think there is an effect on welfare. I think there is an effect on health, safety,
1555 and welfare. And fortunately or unfortunately, the code, Section 24-116 limits our
1556 ability to approve conditional use permits if they do adversely impact neighbors.
1557 So I guess those are the reasons for my motion for denial.

1558
1559 Mr. Bell - Thank you. Any other discussion? Let's go ahead and
1560 vote on the motion for denial. All those in favor of denying the approval of this
1561 conditional use permit say aye. All those opposed say no.

1562
1563 Mr. Blankinship - Mr. Chairman, you voted in favor of the motion?

1564
1565 Mr. Bell - Yes.

1566
1567 Mr. Berman - What was the result?

1568
1569 Mr. Blankinship - The motion carried, so the request was denied.

1570
1571 After an advertised public hearing and on a motion by Mr. Baka, seconded by Mr.
1572 Nunnally, the Board **denied** application **CUP2015-00010, EKREM OMEROVIC's**
1573 request for a conditional use permit pursuant to Section 24-12(d) of the County
1574 Code to allow a pigeon loft at 9311 Three Chopt Road (PINEDALE FARMS)
1575 (Parcel 752-749-4174) zoned One-Family Residence District (R-2A) (Tuckahoe).

1576
1577
1578 Affirmative: Baka, Bell, Nunnally 3
1579 Negative: Berman, Harris 2
1580 Absent: 0

1581
1582
1583 Ms. Harris - Before we go to the next case, the next step will be
1584 for them to get rid of the pigeon loft, right?

1585
1586 Mr. Blankinship - Yes ma'am.

1587
1588 Ms. Harris - Okay.

1589
1590 Mr. Berman - What is the time frame required?

1591
1592 Mr. Blankinship - That's up to Community Revitalization. They'll
1593 negotiate that.

1594

1595 Mr. Baka - We wish all parties the best.

1596

1597 [At this point, the transcript continues with the public hearing on the next case.]

1598

1599 **VAR2015-00001** **JOHN GIAVOS** requests a variance from Section 24-
1600 9 of the County Code to replace the existing building at 8304 Ridge Road (Parcel
1601 755-739-8425) zoned One-Family Residence District (R-2) and One-Family
1602 Residence District (R-3) (Tuckahoe). The public street frontage requirement is
1603 not met. The applicant proposes 0 feet public street frontage, where the Code
1604 requires 50 feet public street frontage. The applicant requests a variance of 50
1605 feet public street frontage.

1606

1607 Mr. Coleman - Good morning, members of the Board.

1608

1609 Mr. Blankinship - I'm guessing no one else is going to speak to this
1610 case. Would you raise your right hand, please?

1611

1612 Do you swear the testimony you're about to give is the truth, the whole truth and
1613 nothing but the truth so help you God?

1614

1615 Mr. Coleman - I do. Good morning, my name is Scott Coleman—C-
1616 o-l-e-m-a-n. I'm here representing the owners, John and Katrina Giavos, on this
1617 case.

1618

1619 This property was purchased by the Giavos' approximately two years ago. It was
1620 purchased in disrepair. It was their intention when they purchased it to at some
1621 point demolish the home and build a new one for their primary residence. They
1622 started going through a planning process with an architect last June or July. Got
1623 to the point where we submitted a building permit for them, and then found out at
1624 that point that the property did not have enough road frontage according to the
1625 current zoning ordinance. It was at that time that we made application for a
1626 variance.

1627

1628 Given that the house is in such disrepair, it's boarded up now. The inside was
1629 previously gutted; it's been vacant for several years. It's been a nuisance to the
1630 neighborhood. The foundation is falling apart. It's made of cinderblock and brick,
1631 and there is a lot of brick and cinderblock missing from the foundation. There is
1632 termite damage in there. There's rot. It's just in such disrepair that it makes a lot
1633 more sense to build new than to try to salvage what's there.

1634

1635 That's why we're here today. We've had several discussions with adjacent
1636 neighbors who are actually very excited that we are looking to do something new
1637 here. They've looked at this home in worse condition than this because it wasn't
1638 boarded up when the Giavoses purchased it. And there was a lot of debris and
1639 such laying around the yard. Weeds were growing high. Since the Giavoses

1640 purchased it, they have taken care of a lot of the previous complaints that have
1641 been made with the weeds and the debris.

1642
1643 At this point, I believe you have received three letters of support from adjacent
1644 neighbors with this request.

1645
1646 Mr. Blankinship - I have two letters here.

1647
1648 Mr. Baka - I saw two.

1649
1650 Mr. Coleman - Mr. Madrigal just indicated to me the other day that he
1651 had received three.

1652
1653 Mr. Coleman - I have only seen two, but he said he had seen three.
1654 Is that true?

1655
1656 Mr. Blankinship - It must be here somewhere. These two are from 617
1657 Westham Woods Drive and 619 Westham Woods Drive. Letters of support.

1658
1659 Mr. Baka - Are either of those letters from—as you drive on
1660 Westham Woods Drive, there's a house on the right. It's a two-story brick house.
1661 It's up Westham Woods and it looks straight at your property, the applicant's
1662 home.

1663
1664 Mr. Coleman - Yes, I believe one of them is.

1665
1666 Mr. Baka - Okay. My only question about that would be as you
1667 showed the plans for expansion, it looks like the plans are actually expanding the
1668 footprint of the house further to the west closer to Westham Woods Drive.

1669
1670 Mr. Coleman - Correct.

1671
1672 Mr. Baka - Do you have any plans to put any landscaping or
1673 trees between the edge of the house shown on the plans and the western
1674 property line.

1675
1676 Mr. Coleman - At this point we don't. There are some existing trees
1677 adjacent to that garage that you see close to the setback. There is a large
1678 magnolia there. There are a couple of evergreen trees there as well. Beyond
1679 that, we don't have any plans to be putting trees there.

1680
1681 Mr. Baka - Okay. And there are no objections from those two
1682 neighbors, 610, 617?

1683
1684 Mr. Coleman - No sir, we've not heard any objections.

1685

1686 Mr. Baka - Thank you.
1687
1688 Mr. Bell - Have you read and understand the recommended
1689 conditions and agree with them if the conditional use permit is approved?
1690
1691 Mr. Coleman - Yes sir.
1692
1693 Mr. Bell - Any other questions?
1694
1695 Mr. Blankinship - I have a question, Mr. Chairman. Can you tell us a
1696 little bit about the entrance drive and what you intend to do to improve that?
1697
1698 Mr. Coleman - Coming from Ridge Road?
1699
1700 Mr. Blankinship - Yes.
1701
1702 Mr. Coleman - Well, until we read the conditions, we weren't really
1703 anticipating doing much of anything. But now that we've got to maintain gravel—I
1704 think what we would like to do is to keep the entrance pretty much the way it is,
1705 however, have clean, smooth gravel in the two areas where the tires travel. I
1706 have driven down that road myself, and there is a section where the center is
1707 pretty high. I have a little sports car that didn't like that center. So I think it would
1708 make a lot of sense to raise up the gravel in those areas to get it to where it was
1709 more traversable. And obviously the culverts are—
1710
1711 Mr. Blankinship - Yes, that was my next question, have you noticed the
1712 condition of that culvert. None of us are road engineers, but when we were out
1713 there looking at it, that culvert just gave us some concern. It looks like it's eroding
1714 gradually. And this would be a good time, you know, if you're running
1715 construction equipment up and down there. It is shared with some other
1716 properties as well.
1717
1718 Mr. Coleman - Sure.
1719
1720 Mr. Blankinship - So that's going to have an impact on those other
1721 folks. Perhaps a way to mitigate any detrimental impact on those people would
1722 be an improvement particularly of that culvert.
1723
1724 Mr. Baka - And this is a variance request as opposed to a
1725 conditional use permit, so the criteria is a little bit different. In a variance, I don't
1726 have any major concerns about this case because without the approval of a
1727 variance, there may be no reasonable use of the property at that point. So no
1728 major questions at this time.
1729
1730 Ms. Harris - Who owns that access road?
1731

1732 Mr. Coleman - Honestly, I'm not sure.
1733
1734 Mr. Baka - Where's that plat?
1735
1736 Mr. Blankinship - Honestly, we're not sure either.
1737
1738 Mr. Baka - It looks like it's on a separate parcel and fee. It's not
1739 an easement; it's a parcel. See the GIS where the—
1740
1741 Mr. Blankinship - It's actually shown on GIS as public right-of-way. And
1742 we have confirmed that it is not public right-of-way. It's never been public right-of-
1743 way. So we're having the GIS corrected. Miguel, maybe you should come on
1744 down to the podium because you did the deed research on this.
1745
1746 Mr. Madrigal - Good morning, Miguel Madrigal, staff planner. Doing
1747 the research for the property, I found out that it was basically created by deed in
1748 1915 from a larger parcel. This being a pocket of undeveloped land that was
1749 never picked up by the surrounding subdivisions. Since it was created in 1915,
1750 the access road was created at that time, and it was part of the property when it
1751 was created. I looked at their current deed, and the same language is still there,
1752 that is part of this property. What's a little confusing on both the deeds is that
1753 they call it both a road and I think a private drive or something to that effect. So
1754 for intents and purposes, from what I can tell, I believe that that property is their
1755 property, the access road itself.
1756
1757 Ms. Harris - So then they don't need to secure right of way.
1758
1759 Mr. Madrigal - I'm sorry?
1760
1761 Mr. Baka - Correct.
1762
1763 Ms. Harris - So if it's their property, they do not need to secure the
1764 right of way. But I was wondering if it's not their property, do we need to make
1765 that a condition.
1766
1767 Mr. Blankinship - That should be one of the standard conditions.
1768
1769 Mr. Madrigal - When I wrote the staff report, I just took it that it's their
1770 property since it's on their deed.
1771
1772 Mr. Blankinship - We will be sure and clarify that at the time of building
1773 permit.
1774
1775 Ms. Harris - Okay. Thank you.
1776
1777 Mr. Bell - Thank you. Any other questions?

1778
1779 Ms. Harris - Yes. Mr. Colman, what is your relation—I know you're
1780 representing the property owners, but what is your relationship to the property
1781 owners?
1782
1783 Mr. Coleman - I'm business partners with the owners in several
1784 different entities.
1785
1786 Ms. Harris - Oh, okay. So you're not the builder or contractor or
1787 anything.
1788
1789 Mr. Coleman - I'm not the builder or the contractor; however, I will be
1790 assisting them in the construction of this building.
1791
1792 Mr. Bell - All right. If there are no other questions, thank you,
1793 sir.
1794
1795 Mr. Coleman - Thank you.
1796
1797 **[After the conclusion of the public hearings, the Board discussed the case**
1798 **and made its decision. This portion of the transcript is included here for**
1799 **convenience of reference.]**
1800
1801 Mr. Baka - At this time I'd make a motion to approve the variance
1802 request. It would appear to pass the three-part test of the Cochran case in that if
1803 we were not to approve it, it might deny any reasonable use of the property. I
1804 guess my question is do we need to add—I know there was some discussion Ms.
1805 Harris had with Mr. Blankinship, do we need to add a condition #9 about—
1806
1807 Mr. Blankinship - That is one of our standard conditions. If you want to
1808 add that, we certainly can.
1809
1810 Mr. Baka - Did you have a language or text that should be
1811 added?
1812
1813 Mr. Blankinship - The standard we use is something like at the time of
1814 building permit application, the applicant has to present evidence that they have
1815 a right of access to the property.
1816
1817 Ms. Harris - That would be the language.
1818
1819 Mr. Baka - I think that would be appropriate. So I would make the
1820 motion to approve that variance with those now nine conditions for VAR2015-
1821 00001.
1822
1823 Ms. Harris - I second the motion.

1824
1825 Mr. Bell - All in favor say aye. All opposed say no. The ayes
1826 have it; the motion passes.

1827
1828 After an advertised public hearing and on a motion by Mr. Baka, seconded by
1829 Ms. Harris, the Board **approved** application **VAR2015-00001, JOHN GIAVOS'**
1830 request for a variance from Section 24-9 of the County Code to replace the
1831 existing building at 8304 Ridge Road (Parcel 755-739-8425) zoned One-Family
1832 Residence District (R-2) and One-Family Residence District (R-3) (Tuckahoe).
1833 The Board approved the variance subject to the following conditions:

1834
1835 1. This variance applies only to the public street frontage requirement for one
1836 dwelling only. All other applicable regulations of the County Code shall remain in
1837 force.

1838
1839 2. Only the improvements shown on the plot plan and building design filed with
1840 the application may be constructed pursuant to this approval. Any additional
1841 improvements shall comply with the applicable regulations of the County Code.
1842 Any substantial changes or additions to the design or location of the
1843 improvements will require a new variance.

1844
1845 3. Approval of this request does not imply that a building permit will be issued.
1846 Building permit approval is contingent on Health Department requirements for the
1847 abandonment of unused wells on the property and approval of a new well
1848 location (if necessary).

1849
1850 4. At the time of building permit application, the applicant shall submit the
1851 necessary information to the Department of Public Works to ensure compliance
1852 with the requirements of the Chesapeake Bay Preservation Act and the code
1853 requirements for water quality standards.

1854
1855 5. Any dwelling on the property shall be served by public sewer.

1856
1857 6. Prior to the issuance of a certificate of occupancy, the applicant shall ensure
1858 that a continuous, durable gravel or asphaltic roadway exists to the site. The
1859 drive aisle shall be at least 10 feet wide with 12 feet of clearance and have 14
1860 feet of overhead clearance to provide access for police, fire, and emergency
1861 medical services and other traffic. The applicant shall ensure that the existing
1862 culverts along the drive aisle are structurally sound and that erosion damage is
1863 repaired.

1864
1865 7. The applicant shall install two posts with the house address: one at the
1866 intersection of the lot and private roadway and the other at the intersection of the
1867 private roadway and Ridge Road as per §319.1 of the 2009 Virginia Residential
1868 Code.

1869

1870 8. The applicant shall remove all trash and construction debris from the site,
1871 prior to the issuance of a certificate of occupancy.

1872
1873 9. At the time of building permit application the applicant shall provide evidence
1874 of legal access to the property.

1875
1876
1877 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1878 Negative: 0
1879 Absent: 0

1880
1881
1882 Mr. Bell - Now we can go ahead and vote on the minutes. Do I
1883 hear a motion on the minutes?

1884
1885 Ms. Harris - I have a correction on line 945. The word should be
1886 "years" instead of "yours."

1887
1888 Mr. Blankinship - We'll get that.

1889
1890 Ms. Harris - So with that, I move that the minutes be approved.

1891
1892 Mr. Berman - Second.

1893
1894 Mr. Bell - Do I hear a second? Is there any discussion? All in
1895 favor say aye. All opposed say no. The ayes have it; the motion passes.

1896
1897 Mr. Gidley - Who was the second?

1898
1899 Mr. Blankinship - Mr. Berman.

1900
1901 On a motion by Ms. Harris, seconded by Mr. Berman, the Board **approved as**
1902 **corrected the Minutes of the March 5, 2015**, Henrico County Board of Zoning
1903 Appeals meeting.

1904
1905
1906 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1907 Negative: 0
1908 Absent: 0

1909
1910
1911 Mr. Bell - Let's vote on adjournment. Do I hear a motion that we
1912 adjourn?

1913
1914 Mr. Berman - I move that we adjourn.

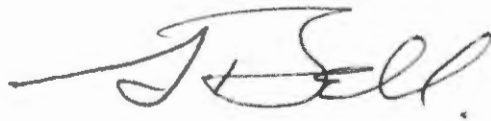
1915

1916 Mr. Bell - Do I hear a second?
1917
1918 Mr. Nunnally - Second.
1919
1920 Mr. Bell - All in favor say aye. All opposed say no. The ayes
1921 have it; the motion passes.
1922

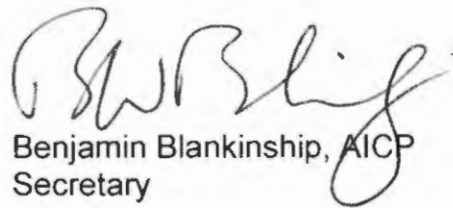
1923
1924 Affirmative: Baka, Bell, Berman, Harris, Nunnally 5
1925 Negative: 0
1926 Absent: 0
1927

1928
1929 We are adjourned.
1930

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Gentry Bell
Chairman



Benjamin Blankinship, AICP
Secretary