

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 MAY 23, 2024 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN**  
5 **THE RICHMOND TIMES-DISPATCH MAY 13, 2024 AND MAY 20, 2024.**  
6  
7

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

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

22  
23 **Mr. Johnson -** Good morning and welcome to the May 23<sup>rd</sup> meeting of the  
24 **Henrico County Board of Zoning Appeals.** For all that are able, will you please stand and  
25 **join us in the Pledge of Allegiance.**  
26

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

29 **Mr. Johnson-** And again, good morning. Mr. Blankinship will you now read  
30 **our rules?**  
31

32 **Mr. Blankinship-** Good morning, Mr. Chair, members of the Board. Good  
33 **morning to everyone with us today.** I'd also like to welcome everyone who is joining us on  
34 **Webex today.** If you are only going to observe the meeting and do not intend to speak,  
35 **then welcome and thank you for joining us.** For those of you on Webex who would like to  
36 **speak, we need to know that in advance so that we can connect you at the appropriate**  
37 **time.** So, if you are an applicant, or if you have questions or comments on one of the  
38 **cases, please press the chat button now.** It's located on the bottom right corner of the  
39 **screen, and when the chat window opens, please select Janya Poarch from the list of**  
40 **participants and let her know your name and which case you're interested in.** The chat  
41 **feature will only be used to identify speakers.** So, please do not type questions or  
42 **comments into a chat.** But please send a chat to Janya Poarch now.  
43

44 **So, for those in the room, again, as Secretary, I will call each case and will ask everyone**  
45 **in the room who intends to speak to that case to stand and be sworn in.** Then a member  
46 **of the Planning Department staff will give a brief presentation on the case.** Then the

47 applicant will give their presentation. Then anyone else who wishes to speak, in favor or  
48 in opposition, will be given the opportunity. We will hear from the people in the room first,  
49 and then from those on Webex. After everyone has had a chance to speak the applicant,  
50 and only the applicant, will have an opportunity for rebuttal.

51

52 This meeting is being recorded. So, for those of you in the room, we will ask you to speak  
53 directly into the microphone on the lectern there in the back of the room. Please state  
54 your name. And please spell your last name so we get it correctly in the record. Once  
55 your case is over, you're free to leave, there's no need for you to stay until the end of the  
56 meeting.

57

58 And with that Mr. Chair, we have one withdrawal this morning.

59

60 **CUP-2023-100176 - Juan Manuel Magana: conditional use permit to allow an**  
61 **accessory dwelling unit above a garage at 10505 Gayton Road, Canterbury,**  
62 **Tuckahoe. Parcel 742-745-5373. Zoning: R-2, One-Family Residence District. Code**  
63 **Section: 24-4406.**

64

65 Mr. Blankinship- If anyone is here for **Conditional Use Permit 2023-100176,**  
66 Juan Manuel Magana, a conditional use permit to allow an accessory dwelling unit above  
67 a garage at 10505 Gayton Road, in Canterbury, in the Tuckahoe Magisterial District. That  
68 case has been withdrawn, so it will not be heard this morning.

69

70 We also have two requests for deferral.

71

72 **CUP-2024-100551 - Chris Pollock: conditional use permit to allow an accessory**  
73 **dwelling unit at 7602 Hampshire Road, Westham, Tuckahoe. Parcel 761-737-2445.**  
74 **Zoning: R-3, One-Family Residence District. Code Section: 24-4406.**

75

76 Mr. Blankinship- The first is **Conditional Use Permit 2024-100551,** Chris  
77 Pollock: at 7602 Hampshire Road in Westham in the Tuckahoe Magisterial District. Is the  
78 applicant in the room this morning? Okay. This is the one with the accessory dwelling unit  
79 that's close to the rear yard and the neighbors expressed concerns. One group went on  
80 vacation one week and the others went on vacation the next week. So, they hadn't had  
81 an opportunity to meet up with the neighbors. So, they have asked for another month to  
82 continue working with the neighbors to resolve their concerns. So, a motion would be in  
83 order.

84

85 Mr. Johnson- Okay.

86

87 Mr. Johnson- It's his.

88

89 Mr. Blankinship- You want to make a motion on 551?

90

91 Mr. Broadway- Sorry, yes, I would move that we defer.

92

93 Mr. Pollard- I second  
 94  
 95 Mr. Johnson- All in favor say, Aye.  
 96  
 97 Board- Aye.  
 98  
 99 Mr. Johnson- All opposed? None.  
 100  
 101 Mr. Blankinship- And that'll be to June 27th.  
 102  
 103 Mr. Johnson- Okay.  
 104

105 On a motion by Mr. Broadway, seconded by Mr. Green, the Board **deferred case CUP-**  
 106 **2024-100551 until the June 27, 2024 meeting.**  
 107

109 <b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Pollard</b>	<b>5</b>
110 <b>Negative:</b>		<b>0</b>
111 <b>Absent:</b>		<b>0</b>

112  
 113  
 114 **CUP-2024-100759 - TB3 LLC: conditional use permit to build a sports court in the**  
 115 **front and side yards at 8901 Brieryle Road, Mooreland Farms, Tuckahoe. Parcel**  
 116 **747-733-0150. Zoning: R-1, One-Family Residence District. Code Section: 24-**  
 117 **4404.A.1.**  
 118

119 Mr. Blankinship- The other request for deferral is also in the Tuckahoe District.  
 120 It's **Conditional Use Permit 2024-100759** TB3, LLC.: at 8901 Brieryle Road, in  
 121 Mooreland Farms, in the Tuckahoe Magisterial District. The applicant and her contractor  
 122 are both present if the Board has any questions. But this is a similar situation where some  
 123 of the neighbors had expressed concerns, and they have been working with the  
 124 neighbors. They have reached agreement with many of them, but they want to, they just  
 125 submitted revised plans on Monday. So, we haven't had time to give them a full review  
 126 and we'd like to have that additional month to continue resolving the neighbor's concerns.  
 127

128 Mr. Johnson- Okay.  
 129

130 Mr. Broadway- Mr. Chairman, I would also move for deferral, unless some  
 131 member of the Board has a question for the applicants.  
 132

133 Mr. Pollard- Second.  
 134

135 Mr. Broadway- If not, I would go ahead and approve the deferral.  
 136

137 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
 138

139 Board- Aye.  
140  
141 Mr. Johnson- All opposed? None. Motion passed.  
142  
143 On a motion by Mr. Broadway, seconded by Mr. Pollard, the Board **deferred case CUP-**  
144 **2024-100759 until the June 27, 2024 meeting.**  
145

146  
147 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
148 **Negative: 0**  
149 **Absent: 0**  
150

151  
152 Mr. Blankinship- Alright, so the first case to actually be heard this morning will  
153 be **Conditional Use Permit 2024-100689**, Liza Yusufi: a conditional use permit to  
154 operate a large family day home at 5417 Wintergreen Road, in the Winterberry  
155 Subdivision, in the Brookland Magisterial District.  
156

157 **CUP-2024-100689 - Liza Yusufi: conditional use permit to operate a large family day**  
158 **home at 5417 Wintergreen Road, Winterberry, Brookland. Parcel 755-768-3685.**  
159 **Zoning: R-3C, One-Family Residence District (Conditional). Code Section: 24-4205.**  
160

161 Mr. Blankinship- Would everyone who intends to speak to this case please  
162 stand and be sworn in. Raise your right hand please. Do you swear the testimony you are  
163 about to give is the truth, the whole truth, and nothing but the truth, so help you God?  
164 Okay, thank you. You can be seated. In a minute, you'll be back at the podium, but for  
165 now Miss Rozmus.  
166

167 Ms. Rozmus- Thank you Mr. Secretary. Members of the Board, good  
168 morning. This application is for a conditional use permit to operate a large family day  
169 home in the residence. The home is located in the Winterberry Subdivision at 5417  
170 Wintergreen Road. The home was built in 1997 and purchased by the Yusufis in 2021. It  
171 is zoned R-3C, with conditions set in the 1995 rezoning, but are not applicable to this  
172 case. The Yusufis have been operating a Small Family Day Home in their house since  
173 2021 with no incidents reported from the HOA or surrounding neighbors. They have a  
174 very nice system with... they stager drop-off and pickup. During the day, their operating  
175 hours are 6:30 a.m. to 6:00 p.m. But they stager those drop-offs and pickups so that  
176 there's no traffic congestion. The home is located near the beginning, or the entrance of  
177 the Winterberry Subdivision so traffic flow is pretty easy, in and out. All sides of the rear  
178 yard are completely enclosed with a fence. On the left side is a privacy fence, and on the  
179 right side it's just a regular fence. I will just point out that staff did receive a call from a  
180 neighbor concerned about children playing in the street, on the cul-de-sac. However,  
181 they're not located on the cul-de-sac. This is an adjacent neighbor just around the corner.  
182 In conclusion, Mrs. Yusufi has been operating a successful Small Family Day Home in  
183 her residence since 2021 with no impact. Childcare is a vital community service and Mrs.

184 Yusufi is very experienced and educated in childhood development. Staff has found no  
185 detrimental impact to the surrounding area and recommends approval of this request.

186  
187 Mr. Johnson- Okay. Any questions?

188  
189 Mr. Lawrence- I have a question, Mr. Chair.

190  
191 Ms. Rozmus- Can I answer any questions?

192  
193 Mr. Johnson- Any questions?

194  
195 Mr. Lawrence- I would like to ask a question, Mr. Chairman, before we hear  
196 from the applicant.

197  
198 Mr. Johnson- Go ahead.

199  
200 Mr. Lawrence- The staff report indicates that the lots in this neighborhood,  
201 not just this lot, but... I don't think it's just this lot, but all the lots in this neighborhood are  
202 non-conforming according to, what is it, R-3 zoning?

203  
204 Ms. Rozmus- Yes.

205  
206 Mr. Lawrence- I'm a little curious as to how that came about. How do you  
207 have a neighborhood develop that doesn't comply with Zoning Ordinance requirements?

208  
209 Ms. Rozmus- That's a great question. I'm going to refer to Ben for that  
210 because I don't know.

211  
212  
213 Mr. Blankinship- Well, it did comply at the time that it was developed. That's  
214 why it's non-conforming rather than unlawful. This was a controlled density development,  
215 which was a feature in our code from, I want to say, 1969 until 2001. After 2001, no more  
216 controlled density developments were approved. And with the 2021 code update we  
217 removed that provision entirely from the code because we had some negative  
218 experiences that I won't belabor the Board with. So, there are subdivisions that were  
219 developed under those provisions at the time. So, of course, they continue to operate  
220 under the provisions that were in effect when they were established.

221  
222 Mr. Lawrence- So, is the only non-conforming aspect of the property the  
223 frontage?

224  
225 Mr. Blankinship- I think it's...

226  
227 Ms. Rozmus- Yeah, I think it's the width.

228  
229 Mr. Lawrence- This is, what, 70 feet and the ordinance requires 75 or 80?

230  
231 Mr. Blankinship- I believe it is 80.  
232  
233 Ms. Rozmus- I think 80, yeah.  
234  
235 Mr. Johnson- Okay.  
236  
237 Mr. Lawrence- Let's hear from the applicant, Mr. Chairman, if nobody has any  
238 questions.  
239  
240 Mr. Johnson- Thank you. We'll now hear from the applicant.  
241  
242 Mr. Yusufi- Yes. My name is Najeebullah Yusufi, presenting this is for my  
243 wife. She has been in childcare... I can not say business, but she has experience of  
244 almost nine years in child development. She was working with different childcare centers.  
245 So, since 2021, we got zoning approval up to five kids. So, we have our own business in  
246 our home, with no incidents. Currently we have four kids. So, the pickup and drop-off  
247 time, we manage to... Because we have four car driveway and a garage. So, we can park  
248 our cars in the garage and have four spaces in our driveway. We didn't have any incidents  
249 in the past two years. And also, there were no complaints. The HOA is supporting us. I  
250 think that's a need in our community. The HOA reached out to us, and we talked to them  
251 and explained. They had some questions from the neighbors, and then they sent an email  
252 that they are supporting our business. So, I don't think there's anything, any issue. Still,  
253 we have the plan to talk with families. And in case we have 12 kids, a Large Family Day  
254 care to monitor our pickup and drop-off in a way that they should not come all together.  
255 At least 15 minutes, 10 minutes, or maybe 20 minutes based on their timing to see that  
256 there is no problem for our neighborhood.  
257  
258 Mr. Johnson- Okay. Any other questions for the applicant?  
259  
260 Mr. Lawrence- Yes, Mr. Chairman, I do. Or you go ahead if you have a  
261 question.  
262  
263 Mr. Johnson- Go ahead.  
264  
265 Mr. Lawrence- Sir, could you enlighten us as to what the ages of the children  
266 are, that you all watch?  
267  
268 Mr. Yusufi- So, the age of the kids that we have, because we are also  
269 working with Henrico County, the four kids that we have are all subsidized. So, we are  
270 considering to have kids from babies at 12 weeks to 12 years.  
271  
272 Mr. Blankinship- Full range there. That would basically be...  
273  
274 Mr. Lawrence- Yeah. So, pre-school through elementary school age?  
275

276 Mr. Yusufi- Yes. That is one of the needs in our community, so we want  
277 to support the community and consider their needs as well.

278  
279 Mr. Lawrence- The other question I had is that I know you have a schedule  
280 worked out for staggering the children, which lightens the impact on the neighborhood.  
281 Which sounds like a good plan. Staggering five children is probably somewhat less  
282 challenging than staggering 12 children. How do you plan to address that?

283  
284 Mr. Yusufi- So, it's not a plan we currently have. We're thinking about six  
285 to eight kids, but still we needed this approval. But in the future, we will hire more teachers  
286 and staff, so they also assist us. I am assisting my wife in terms of logistics, like  
287 arrangements and planning. Currently we have two families. Three kids belong to one  
288 family. So, we might have another family with two kids, or three kids, that we can  
289 accommodate them easily.

290  
291 Mr. Lawrence- Okay. Thank you.

292  
293 Mr. Johnson- Okay.

294  
295 Mr. Green- You know, as long as I've been on here, we've heard these  
296 cases. It's the first time I've heard staff being complimentary of their staggering of children.  
297 And obviously, it's not happening in other areas. And even though it's not happening in  
298 other areas, not staggering doesn't seem to be problematic. Because we never had  
299 complaints about that. So, you know, I'm going to compliment him on staggering. And  
300 even if they went away from that, that's no different than what's happening across the  
301 county with other families. Just, this is the first time I've heard them compliment for that.

302  
303 Mr. Johnson- And you're basically going to be keeping about six children?  
304 And you said that's going to be on the first floor?

305  
306 Mr. Yusufi- The current plan is between six to eight. But if we have more  
307 kids ... our plan that we could manage, then we can go up to 12. But currently the plan is  
308 between six to eight.

309  
310 Mr. Johnson- Six to eight. Okay.

311  
312 Mr. Johnson- Any other questions for the applicant?

313  
314 Mr. Lawrence- I just had one more question for staff, Mr. Chairman.

315  
316 Mr. Johnson- Okay. Thank you.

317  
318 Mr. Lawrence- Have we received any concerns or opposition from any of the  
319 neighbors?

320

321 Ms. Rozmus- Just the one. A gentleman called, who's is down the street,  
322 and his concern was children playing in the cul-de-sac. Which I don't even know if it is  
323 directly related, so.

324  
325 Mr. Lawrence- Well, just to respond to that concern, this house is located...  
326 It's the second house in the subdivision and there's an older house on the corner that's  
327 not part of the subdivision, it has a pool in the back. And then there is one house and then  
328 this house. And it's a pretty good trek down the road before you hit the cul-de-sac. So, I'd  
329 be very surprised if this property had anything to do with cul-de-sac children. Did they say  
330 what the ages were of the...?

331  
332 Ms. Rozmus- They did say they were teenagers, so...

333  
334 Mr. Lawrence- That would also, if we're looking at preschool to 12 years, that  
335 would be unlikely that any of those folks would be associated with this property.

336  
337 Mr. Blankinship- Was this also the one where the Homeowners Association  
338 contacted you to discuss the limits on the number of children?

339  
340 Ms. Rozmus- They did not.

341  
342 Mr. Blankinship- That was a different one.

343  
344 Ms. Rozmus- That was a different one, yeah. I didn't get contacted by the  
345 HOA, but I do know that the Yusufis reached out to the HOA, and I have proof that they  
346 are informed and are fine with the project.

347  
348 Mr. Blankinship- Okay. I had it confused with another case.

349  
350 Mr. Lawrence- And just to clarify for any citizens that might be here, are  
351 listening, or are interested in this case. Of course you have to have a State, is it Health  
352 Department permit?

353  
354 Ms. Rozmus- It's Social Services?

355  
356 Mr. Blankinship- It used to be Social Services, but now I think it's Education.

357  
358 Mr. Yusufi- Education.

359  
360 Mr. Lawrence- Education Permit. But in terms of the County's involvement, if  
361 you have five or fewer children the County has no jurisdiction over that, right?

362  
363 Ms. Rozmus- Correct. Yes.

364  
365 Mr. Lawrence- What triggers the conditional use permit is when you exceed  
366 that five-person threshold?



367  
368 Ms. Rozmus- Six, yeah.  
369  
370 Mr. Pollard- Six or more.  
371  
372 Mr. Blankinship- But the maximum is 12. We can not approve more than 12.  
373  
374 Mr. Lawrence- Thank you. That's all I have, Mr. Chairman.  
375  
376 Mr. Johnson- Okay. Any other questions for the applicant? None. Okay.  
377 Anyone else wish to speak in opposition or favor?  
378  
379 Mr. Blankinship- There's no one on Webex.  
380  
381 Mr. Johnson- Okay. Alright. Thank you.  
382  
383 Mr. Lawrence- Mr. Chairman, the number of children gives me a little bit of  
384 pause, but it sounds like the neighbors support what the applicant is doing currently and  
385 what he's proposing to do. It is close to the front of the subdivision right off Springfield  
386 Road so I think the traffic impact will be minimal. I've seen the property. He's got plenty  
387 of parking in his driveway, so there shouldn't be any issue of cars lining up on the street,  
388 I don't think. Having said all that, I'd like to move that we approve this conditional use  
389 permit subject to the conditions recommended by staff. It is consistent with the  
390 Comprehensive Plan and the Zoning Ordinance. The location is suitable for a Large  
391 Family Day home. The fenced rear yard will protect the neighbors.  
392  
393 Mr. Pollard- Second.  
394  
395 Mr. Johnson- Okay. It's been motioned and seconded. All in favor say, Aye.  
396  
397 Board- Aye.  
398  
399 Mr. Johnson- All opposed? None. Motion Passed.  
400  
401 On a motion by Mr. Lawrence, seconded by Mr. Pollard, the Board **approved** case **CUP-**  
402 **2024-100689** subject to the following conditions:  
403  
404  
405 1. This conditional use permit authorizes a large family day home. All other applicable  
406 regulations of the County Code remain in force.  
407  
408 2. All vehicles associated with the family day home must be parked on the property, not  
409 on the right-of-way of Wintergreen Road.  
410  
411 3. Hours of operation are limited to Monday through Friday, 6:30 am to 6:00 pm.  
412

413			
414	<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Pollard</b>	<b>5</b>
415	<b>Negative:</b>		<b>0</b>
416	<b>Absent:</b>		<b>0</b>

417  
418

419 Mr. Blankinship- The next case is **Conditional Use Permit CUP-2024-100767**,  
420 Vulcan Construction Materials, LLC: a conditional use permit to extract materials from the  
421 earth at 11400 Staples Mill Road, in the Brookland Magisterial District.

422

423 **CUP-2024-100767 - Vulcan Construction Materials, LLC: conditional use permit to**  
424 **extract materials from the earth at 11400 Staples Mill Road, Brookland. Parcels 756-**  
425 **773-3302 and 759-773-4746. Zoning: A-1, Agricultural District and M-2, General**  
426 **Industrial District. Code Section: 24-4205 and 24-4327.**

427

428 Mr. Blankinship- Would everyone who intends to speak to this case please  
429 stand and be sworn in. Do you swear the testimony you are about to give is the truth, the  
430 whole truth, and nothing but the truth, so help you God? Thank you. Mr. Gidley.

431

432 Mr. Gidley- Thank you, Mr. Secretary. Good morning, Mr. Chair, members  
433 of the Board. The subject property is located near the intersection of I-295 and Staples  
434 Mill Road. The property first received a conditional use permit for use as a quarry back in  
435 1965. The way this operates is granite is removed from the walls of the quarry and then  
436 it's taken to an area where it's washed, crushed, and sorted into various sizes for sale to  
437 contractors and customers. In 1991, this area here, where the washing crushing and  
438 sorting occurs, was rezoned M-2C General industrial District, and it received Plan of  
439 Development approval. So, this aspect of the operation is no longer subject to the  
440 conditional use permit. Over the years, approval has been given to expand the quarry in  
441 both area and depth. Currently it is approved for its current size of 89 acres with a depth  
442 of 300 feet. Back in 2005, following the construction of new subdivisions across I-295, the  
443 County did receive several complaints regarding blasting on the site. In response to this,  
444 this Board held a Show Cause Hearing and the applicant agreed to change the way that  
445 they blast. Shortly afterwards a recession hit and blasting activity essentially ceased.  
446 Since then, the use permit has been renewed three times with essentially the same  
447 conditions. There have been no complaints regarding the quarry since 2006.

448

449 In Evaluating this request, the site is zoned A-1 Agriculture, except for the crushing  
450 facilities which are zoned M-2C. Quarries are permitted in the A-1 district with a  
451 conditional use permit. The surrounding uses include the Chickahominy River to the  
452 north, Staples Mill Road to the east, I-295 to the south, and the old county landfill to the  
453 west. So, there are some pretty good buffers around the site. Traffic exits the site onto  
454 Staples Mill Road where there is a signaled intersection, and the signaled intersection  
455 does help reduce any traffic impact from the quarry. With regard to health safety and  
456 welfare, the working quarry is approximately a thousand feet from the nearest dwellings.  
457 As mentioned at one time blasting was an issue with these residents, but following  
458 changes made by the operator, again, there have been no complaints for the past 18

459 years. Finally, a reclamation plan showed the site will end up as an 89-acre lake  
460 surrounded by permanent vegetation.

461  
462 In conclusion, the quarry has been in operation since 1965. Other than blasting related  
463 issues back in 2005, which were corrected by the applicant, there have been no  
464 complaints. As a result, staff can recommend approval of this request subject to the  
465 conditions in your staff reports. If you have any questions, I'll be happy to answer those.  
466 Thank you.

467  
468 Mr. Johnson- Okay. Any questions for the staff?

469  
470 Mr. Lawrence- I had a couple questions for staff, Mr. Chairman, if I could. Mr.  
471 Gidley, the staff report mentions that this is the only rock quarry located in Henrico County.  
472 I know there's a quarry on Pouncey Tract Road. I can't remember if that's Vulcan or might  
473 be Luckstone. Is that quarry not, is that in Hanover and not Henrico?

474  
475 Mr. Gidley- I think that's Goochland where it's at.

476  
477 Mr. Lawrence- Or Goochland?

478  
479 Mr. Gidley- That's correct.

480  
481 Mr. Lawrence- Okay, because it's really close to the line, I know.

482  
483 Mr. Gidley- That is.

484  
485 Mr. Lawrence- I used to take my kids there to do a little fishing and hanging  
486 out. But we were actually in a different county. Yeah, I'm not sure I knew that, but okay,  
487 thank you for clarifying that. The second question I have is the neighborhood that I believe  
488 that was most directly affected by the blasting before, and I very well remember that  
489 working for the County. Those discussions came up back in 2005 or so, four or five. The  
490 neighborhood that was most directly affected was Hartley Plantation. They are right  
491 across interstate 295. Do you recall what year that neighborhood began development?

492  
493 Mr. Gidley- I don't right offhand, but a lot of those neighborhoods were  
494 built, you know, around 2000. And so, as they came into development, all of a sudden,  
495 you know, we started getting complaints.

496  
497 Mr. Lawrence- I think it was in the, maybe the latter part of the 1990s. And  
498 when was the quarry established?

499  
500 Mr. Gidley- 1965.

501  
502 Mr. Lawrence- So, the quarry preceded the neighborhood by at least 30  
503 years or so.

504

505 Mr. Blankinship- The quarry preceded I-295. In the old records it's known as  
506 the Springfield Road Quarry because you used to take Springfield Road all the way up to  
507 this property.  
508

509 Mr. Lawrence- Okay.  
510

511 Mr. Blankinship- Stone from the quarry was used in the construction of I-295.  
512

513 Mr. Lawrence- Okay. Interesting. Yeah, I guess that was before my time in  
514 Henrico. And the other question I have is, and I guess I was aware of this, but was  
515 reminded in the staff report that the Jones family, and they in fact, still own property in  
516 that area. In fact, they own property at the end of the street I live on. But the Jones family  
517 has a cemetery located between the Landfill and the quarry. And have we ever received  
518 any concerns from the Jones's about any of the blasting activity disrupting, you know, the  
519 cemetery? I'm thinking in terms of, you know, like, tombstones being cracked or that sort  
520 of thing. Have we ever received any sort of concerns or complaints to your knowledge?  
521

522 Mr. Gidley- I've never heard of any.  
523

524 Mr. Blankinship- To answer your earlier question, Mr. Lawrence, the houses  
525 directly across the interstate were built between 1994 and 2001.  
526

527 Mr. Lawrence- Okay. That's all I had for staff. Thank you, Mr. Gidley.  
528

529 Mr. Gidley- Yes, sir.  
530

531 Mr. Johnson- Okay. Other than the 2005 issue, there haven't been any other  
532 complaints?  
533

534 Mr. Gidley- No, sir.  
535

536 Mr. Blankinship- Actually, I had a phone call yesterday from a neighbor who  
537 said he was thinking about coming this morning to speak in support, but he didn't rise  
538 when we called for speakers, so I guess he had other commitments.  
539

540 Mr. Johnson- Okay, we'll now hear from the applicant.  
541

542 Mr. Wilson- Good morning, Mr. Chairman, members of the Board, Mr.  
543 Secretary. I'm Jack Wilson and I represent Vulcan in connection with this conditional use  
544 permit renewal. We fully agree with the staff report and the staff presentation. Agreeance  
545 in with the conditions that are proposed in the staff report, those are the conditions that  
546 we've been operating under, I believe, since the 2006 renewal, again without incidents,  
547 so we would just ask for your favorable vote, and I'd be happy to answer any questions  
548 that I can regarding the application.  
549

550 Mr. Johnson- Okay, any questions for the applicant?

551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596

Mr. Lawrence- I have a question for the applicant, Mr. Chairman.

Mr. Johnson- Okay.

Mr. Lawrence- Sir, the, the staff report, obviously, the conditional use permit is for an extension of five years, and it provides it... The staff report, you know, references finishing excavation in 2029 and then reclamation being completed by 2030. Is that the plan? Do you expect the quarry will reach its end life in that time period, or is that just part of the condition and that requires coming back for an extension?

Mr. Wilson- The latter, sir. Yeah, so the, the plan, the quarry has several decades worth of reserves depending on economic conditions and demand. But those conditions are related since the permit's only good for five years. If the permit were not to be renewed in 2029, then the reclamation would be required to begin and be completed within a year. But at this point we would anticipate being back in, probably won't be me, but back in 2029 seeking a renewal of it again.

Mr. Lawrence- May not be either of us, we'll see how things go! I wanted to compliment you on the appearance of the property too. I rode back there recently, and I hadn't been back there in years, but I probably only live maybe a mile or two as the crow flies from the property and I'd almost forgotten you all were there to be honest with you. And certainly, appreciate the efforts you all made back in 2005. Because I know there were some concerns in the neighborhood, and you all addressed those and I'm really happy to hear that the neighbors seem satisfied and we haven't had any issues since that time. So that's been what almost 20 years ago.

Mr. Wilson- That's why I've got gray hair, probably from that process.

Mr. Wilson- But yes, it worked out well and the neighbors were very cooperative, and we were pleased that we were able to address their concerns then. And obviously have operated since then without any concerns since then. We're cognizant of the neighbors and their concerns and address them wherever we can.

Mr. Lawrence- Very good. And that property I think is going to be a valuable property too, given where it's situated and the appearance of it, so. Be interesting to see what happens post quarry, but it sounds like that'll be sometime down the road.

Mr. Wilson- I believe so.

Mr. Lawrence- So, Mr. Chairman, that's all I had for the applicant. You might want to check if anybody else has any questions, maybe check and see if there's any opposition.

Mr. Johnson- They have power driven machinery?

597 Mr. Wilson- There is related, I mean, you've got, you know, vehicles,  
598 loaders that move the rock, and then you've got the rock crushing operation. But again, I  
599 think, I believe, and Mr. Gidley could correct me, but I believe all of those are contained  
600 within the M, or the industrial portion of the site, which is not related to the conditional use  
601 permit. Obviously, it's an integrated system, but it has two separate zoning classifications.  
602

603 Mr. Johnson- Okay.

604  
605 Mr. Blankinship- The condition is basically that it has to stay where it is.  
606

607 Mr. Wilson- Exactly. We can't move off of where it is, yes.  
608

609 Mr. Johnson- Oh, okay. Alright, any other questions for the applicant?  
610 Anyone else want to speak in opposition? None. Okay.  
611

612 Mr. Blankinship- There's no one on Webex.  
613

614 Mr. Johnson- Okay, thank you.  
615

616 Mr. Lawrence- Mr. Chairman, I'd like to make a motion. Given there's no  
617 public comment on this, I move that we approve this conditional use permit, subject to  
618 conditions recommended by the staff. It is consistent with the Comprehensive Plan and  
619 the Zoning Ordinance. The quarry has been in operation since 1965. The applicant will  
620 reclaim the site when extraction is complete.  
621

622 Mr. Pollard- Second the motion.  
623

624 Mr. Johnson- It's been motioned and seconded. All in favor say, Aye.  
625

626 Board- Aye.  
627

628 Mr. Johnson- All opposed say, Nay. None. The motion passed.  
629

630 On a motion by Mr. Lawrence, seconded by Mr. Pollard, the Board **approved** case **CUP-**  
631 **2024-100767** subject to the following conditions:  
632

- 633 1. This conditional use permit is subject to all requirements of Section 24-4327 of the  
634 Zoning Ordinance. In addition, the operation must be conducted in accordance with  
635 the plans and narrative submitted with the application and the conditions below.
- 636 2. The applicant must maintain a financial guaranty in the amount of \$3,000 per acre  
637 for each acre of land to be disturbed, for a total of \$267,300, guaranteeing that the  
638 land will be restored to a safe, stable, and usable condition. The form of the financial  
639 guaranty will be subject to approval by the County Attorney.

- 640 3. If required, the applicant must apply for and obtain approval of revised erosion and  
641 sedimentation control plans from the Department of Public Works (DPW).  
642 Throughout the life of the operation, the applicant must continuously satisfy DPW  
643 that erosion and sedimentation control is performed and maintained in accordance  
644 with the approved plan. The erosion control bond must remain active throughout the  
645 life of the project.
- 646 4. The applicant must maintain a mine license from the Virginia Department of Mines,  
647 Minerals and Energy.
- 648 5. All areas approved for mining under this permit must be marked with metal posts 5  
649 feet high and 5 inches in diameter, painted in alternating 1-foot stripes of red and  
650 white.
- 651 6. The applicant must comply with the Chesapeake Bay Preservation Act and all state  
652 and local regulations administered under such act applicable to the property and  
653 must provide the Planning Department copies of all reports required by those  
654 regulations.
- 655 7. Hours of operation will be limited to 9:00 am to 5:00 pm Monday through Friday for  
656 blasting, 6:00 am to 8:00 pm Monday through Saturday for shipping, and 7:00 am to  
657 6:00 pm Monday through Saturday for all other operations that are audible at the  
658 property line. No operations audible at the property line (including blasting and  
659 shipping) are to be conducted on Sundays or national holidays.
- 660 8. All access to the property must be from the established entrance onto Staples Mill  
661 Road as shown on the approved plans. The applicant must maintain the gates at the  
662 entrance to the property, which must be locked at all times except when authorized  
663 representatives of the applicant are on the property.
- 664 9. The existing access road leading from Staples Mill Road to the property must be  
665 maintained in good repair. All roads used in connection with this use permit must be  
666 effectively treated to eliminate any dust nuisance in accordance with the latest  
667 version of the Virginia Erosion and Sediment Control Handbook.
- 668 10. The applicant must maintain a sign at the entrance to the site stating the name of  
669 the operator, the use permit number, the mine license number, and the telephone  
670 number to reach the operator in case of emergency.
- 671 11. The applicant must maintain a continuous fence around the quarry and must  
672 maintain "No Trespassing" signs every 250 feet along the perimeter of the property.
- 673 12. Trucks must be covered to prevent overloading or spilling of materials onto any  
674 public road.
- 675 13. Excavations must be benched in conformance with MSHA and DMME regulations.  
676 The applicant must maintain the property, fences, and roads in a safe and secure  
677 condition.

- 678 14. All power-driven or power-producing machinery must be located within the boundary  
679 of the 89-acre disturbed area and must be at least 600 feet from any adjacent  
680 property.
- 681 15. Offsite-generated materials must not be deposited on the mining site without prior  
682 written approval of the Director of Planning.
- 683 16. A superintendent, who must be familiar with all the requirements of Section 24-4327  
684 of the Zoning Ordinance, as well as the conditions of this use permit, must be present  
685 at the beginning and conclusion of operations each workday to ensure that all  
686 applicable requirements are observed.
- 687 17. Any blasting must be conducted in conformance with standards promulgated by the  
688 Virginia Department of Mines, Minerals and Energy and must not endanger the  
689 public health or safety. The amount of explosives must not exceed 1,000 pounds  
690 per time delay. Blasting must not be conducted when atmospheric conditions would  
691 produce undesirable effects. The operator must submit a record of all blasting to the  
692 Planning Department every three months.
- 693 18. A progress report must be submitted to the Board on or about April 30 of each year  
694 stating how much property has been mined to date of the report, how much land is  
695 left to be mined, and how much rehabilitation has been performed.
- 696 19. Excavation must be discontinued by April 30, 2029, and reclamation completed by  
697 April 30, 2030, unless a new permit is granted by the Board of Zoning Appeals.  
698 Reclamation will be considered complete when the mined area is covered  
699 completely with permanent vegetation or water as shown on the reclamation plan.
- 700 20. Failure to comply with any of the foregoing conditions shall automatically void this  
701 permit.

702  
703  
704 **Affirmative:** **Broadway, Green, Johnson, Lawrence, Pollard** **5**  
705 **Negative:** **0**  
706 **Absent:** **0**  
707  
708

709 Mr. Blankinship- Okay. Alright, the last conditional use permit for this morning  
710 is **Conditional Use Permit CUP-2024-100787**, Lisa Smith: a conditional use permit to  
711 keep up to six hens in the rear yard at 2222 Lauderdale Drive in the Tuckahoe Village  
712 West subdivision, in the Tuckahoe Magisterial District.

713  
714 **CUP-2024-100787 - Lisa Smith: conditional use permit to keep up to six hens in the**  
715 **rear yard at 2222 Lauderdale Drive, Tuckahoe Village West, Tuckahoe. Parcel 731-**  
716 **748-5947. Zoning: R-2A, One-Family Residence District. Code Section: 24-4420.G.**  
717



718 Mr. Blankinship- Would everyone who intends to speak to this case please  
719 stand and be sworn in. Would you raise your right hand please? Do you swear the  
720 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so  
721 help you God? Thank you. Ms. Rozmus.

722

723 Ms. Rozmus- Thank you, Mr. Secretary. Like you said, the subject property  
724 is located in the Tuckahoe Village West subdivision at 2222 Lauderdale Drive. This tri-  
725 level home was built in 1974 and purchased by the Smiths in 2020. It's on a .3-acre lot  
726 with a U-shaped driveway and is zoned R-2A. The applicant intends to keep up to six  
727 chickens on the property. The location of the chicken coop will be 25 feet from the left  
728 side lot line, the minimum required distance outlined in section 24-4420, and over 45 feet  
729 from the rear setback. Ms. Smith intends to purchase a prefabricated coop and run but  
730 has not chosen one yet. The entirety of the rear yard is enclosed by a wooden privacy  
731 fence, which has complete separation from the surrounding neighbors. We did receive  
732 one comment in opposition before the packets were printed. This person was concerned  
733 about a fox and a raccoon that live in the neighborhood. And then I did get an email late  
734 last night, someone else in opposition because they were concerned about attracting  
735 animals and the smell that potentially comes with chickens. But I think all of that's been  
736 addressed in the conditions in the staff report, and Ms. Smith has been compliant and  
737 willing to, you know, store everything appropriately. So, I don't, I don't see a lot of concern  
738 there. As far as staff is concerned, I think that there's no detrimental impact with this  
739 request and recommend approval with the conditions included in the staff report. I can  
740 answer any questions.

741

742 Mr. Johnson- And also you have fence...

743

744 Ms. Rozmus- Yes.

745

746 Mr. Johnson- ...already.

747

748 Ms. Rozmus- Already, around the entire rear. Yep.

749

750 Mr. Johnson- Okay.

751

752 Mr. Lawrence- Mr. Chair, just to follow up on that. So, those fences, would  
753 that address the concern of the email received about six snakes, raccoons, or opossums?

754

755 Ms. Rozmus- I mean, you know, a fox probably can jump over any size  
756 fence if they're really motivated, but I feel like that's not really going to change the habit  
757 of the animals that already frequent the neighborhood. Having chickens, if they're already  
758 there, then there's already something fun to get into. So, I don't think chickens are going  
759 to necessarily increase or decrease, you know, the local wildlife.

760

761 Mr. Blankinship- Yeah, we had a case once where there had not been any  
762 issues and then the applicants' brought chickens to the property, and then there were  
763 issues and there were complaints. And so, they applied for the conditional use permit,

764 and we were willing to conclude that the chickens had caused the problem. But in this  
765 case, whatever's there, the statements in the email are about what's there now and there  
766 are no chickens on the property now. So, we weren't quite sure exactly how to, I mean,  
767 certainly we don't want to make the problem any worse if there is an existing issue. But  
768 it's certainly not...

769  
770 Mr. Pollard- If I'm thinking about the same case there was also an issue  
771 with how they stored food or something.

772  
773 Mr. Blankinship- Exactly, yes sir.

774  
775 Ms. Rozmus- And, I do have a condition written that's food needs to be  
776 stored in, you know, a building, so I believe that she said that it's going to go in this back  
777 shed. But I'm sure Ms. Smith can confirm that.

778  
779 Mr. Blankinship- And we will also require the pest control.

780  
781 Ms. Rozmus- And pest control to visit 30 days after the chickens are on the  
782 property, yes.

783  
784 Mr. Johnson- And also the containers should be sealed and...

785  
786 Ms. Rozmus- Sealed and ... yes.

787  
788 Mr. Johnson- Okay. Thank you. Any other questions? We'll now hear from  
789 the applicant.

790  
791 Ms. Smith- Hello, my name is Lisa Smith, and we would like to get  
792 chickens on our property. Mostly for the fresh eggs to feed my family. I have three kids.  
793 And also, just the extra job that my youngest who is six has high anxiety. And having that  
794 job of being able to help us take care of them, we believe, would help his anxiety. We will  
795 store our food in that back shed. We have a fully fenced in yard. We have never seen any  
796 creatures of sorts that were in our property. Not saying they're not around us, but we have  
797 not seen any in our property. We do have two dogs, that also would probably help keep  
798 any creatures from coming inside, but that's it, yeah. I'd be happy to answer any other  
799 questions.

800  
801 Mr. Blankinship- Can I ask one question, Mr. Chair, that wasn't clear to me?  
802 The structure shown on the screen right now, the tree house sort of thing. How is the  
803 chicken coop going to be related to that structure?

804  
805 Ms. Smith- So, there's a concrete pad on the back side of that. I don't  
806 know if you can tell by the picture. That's already laid down. So, the prefabricated chicken  
807 coop will go there. And then we plan to fence in with chicken wire, that whole section, like  
808 from each of those posts.

809

810 Mr. Blankinship- Okay.  
811

812 Ms. Smith- So, they'll have a little bit of room to run, but also be able to  
813 be into their home.  
814

815 Mr. Blankinship- And some grass to scratch in.  
816

817 Ms. Smith- Yeah.  
818

819 Mr. Johnson- Yeah. So, it will be within that facility where they have the, you  
820 have the ...  
821

822 Mr. Blankinship- I didn't know what to call it either. Within the four posts that  
823 are there now. But that's not going to be removed and replaced with the coop. It's just  
824 going to be added.  
825

826 Ms. Smith- No, the coop's going to be on that concrete pad. It's like one  
827 of those small, prefabricated ones you can get at the store, but then it also will be, like  
828 caged in.  
829

830 Mr. Blankinship- Right, thank you.  
831

832 Mr. Johnson- Yeah, that's my concern. Thank you. Okay. Any other  
833 questions?  
834

835 Mr. Broadway- Mr. Chairman. I might have a question. We only have one  
836 letter in opposition. Have you discussed your plans with any of your other neighbors and  
837 gotten any feedback?  
838

839 Ms. Smith- Well, I am very friendly with that neighbor that had sent the  
840 email. They are an older couple that have been there for a while, and I help their daughter  
841 look after them, because she doesn't live near them. We spoke about it. He just told me  
842 that, you know, it might bring creatures, you know, from the swamp across. But he never  
843 told me directly that he was against it. So, I kind of was taken back by the email that I had  
844 seen, in that he didn't express to me that verbally, because we do speak often, that he  
845 wasn't in favor of it. So, I kind of was taken back by that, but we did speak about it.  
846

847 Mr. Broadway- So, you don't know of anyone else who objects.  
848

849 Ms. Smith- Not to my knowledge.  
850

851 Mr. Blankinship- As Rozmus mentioned, we did receive one late last night. We  
852 haven't printed it, but there was no address.  
853

854 Ms. Rozmus- They did not include an address.  
855

856 Mr. Blankinship- Not even a last name, only her first name, so. Yeah.  
857  
858 Mr. Pollard- So, the gist of it was worried about creatures.  
859  
860 Ms. Rozmus- Yeah, the same kind of concern.  
861  
862 Mr. Johnson- Also, that enclosure, is that a minimum of 30 feet or something  
863 enclosed?  
864  
865 Ms. Rozmus- I believe it is. Yeah, I mean I didn't measure it when I was out  
866 there, but she has plenty of space to make 30 feet, which is the code requirement.  
867  
868 Mr. Johnson- Yes, ok. Alrighty then. Okay. No more for or against?  
869  
870 Mr. Broadway- Mr. Chairman, I would move that we approve the conditional  
871 use permit contingent upon compliance with the six conditions recommended by staff.  
872  
873 Mr. Lawrence- Second.  
874  
875 Mr. Johnson- It has been motioned and seconded. All in favor say, Aye.  
876  
877 Board- Aye.  
878  
879 Mr. Johnson- All opposed? None. Motion passed. Thank you.  
880  
881 Mr. Blankinship- Just to confirm, there was no one else in the room who wished  
882 to speak to that case, is that correct? There was no one on Webex.  
883  
884 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **approved** case  
885 **CUP-2024-100787** subject to the following conditions:  
886  
887 1. This conditional use permit authorizes keeping up to six hens (no roosters). All other  
888 applicable regulations of the County Code remain in force.  
889  
890 2. This conditional use permit applies only to a 30-square-foot chicken coop to be located  
891 at least 25 feet from the side lot lines and 45 feet from the rear lot line. Any additional  
892 improvements must comply with the applicable regulations of the County Code. Any  
893 substantial changes or additions to the design or location of the improvements will require  
894 a new conditional use permit.  
895  
896 3. The applicants must comply with all of the requirements of Sec. 24-4420.A and G of  
897 the Zoning Ordinance. This includes requirements that the hens be kept in a covered  
898 enclosure and not allowed to run free, and that the activity must not produce any  
899 objectionable odors or vermin.  
900

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

903  
904 5. Waste from the hens must be composted in a responsible manner or removed from  
905 the property weekly. Until composted or removed, waste must be kept at least 100 feet  
906 from surface water and wells and covered with an impermeable barrier that will resist  
907 wind.

908  
909 6. Within 30 days of bringing the hens to the property, the applicant must submit an  
910 inspection report from a licensed pest control company addressing recommendations to  
911 prevent any infestation of vermin related to the keeping of hens. This condition must be  
912 satisfied by May 23, 2026, or this conditional use permit will expire.

913  
914

915 <b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Pollard</b>	<b>5</b>
916 <b>Negative:</b>		<b>0</b>
917 <b>Absent:</b>		<b>0</b>

918  
919

920 Mr. Blankinship- So, that completes the conditional use permits. There are two  
921 variances on the agenda as well. The first is variance **VAR-2024-100241**, Jose  
922 Yohannan: a variance from the front yard setback, public street frontage requirement, lot  
923 area requirement, and lot width requirement to build a single-family dwelling at 340  
924 Grayson Street in the Providence Park Annex subdivision, in the Fairfield Magisterial  
925 District.

926  
927 **VAR-2024-100241 - Jose Yohannan: variance from the front yard setback, public**  
928 **street frontage requirement, lot area requirement, and lot width requirement to**  
929 **build a single-family dwelling at 340 Grayson Street, Providence Park Annex,**  
930 **Fairfield. Parcel 792-737-8940. Zoning: R-5, General Residence District. Code**  
931 **Section: 24-3105.E.1, 24-4306.E.1 and 24-6402.A.2.**

932  
933 **The applicant has 3,445 square feet lot area, 35 feet lot width, 35 feet public street**  
934 **frontage, and 20 feet front yard setback, where the Code requires 6,000 square feet**  
935 **lot area, 50 feet lot width, 50 feet public street frontage, and 35 feet front yard**  
936 **setback. The applicant requests a variance of 2,555 square feet lot area, 15 feet lot**  
937 **width, 15 feet public street frontage, and 15 feet front yard setback.**

938  
939 Mr. Blankinship- Would everyone who intends to speak to this case please  
940 stand and be sworn in. Would you raise your right hand please? Do you swear the  
941 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so  
942 help you God? Alright. Thank you. Mr. Gidley.

943  
944 Mr. Gidley- Thank you, Mr. Secretary. The subject property is located just  
945 south of the Richmond Raceway. The subdivision was recorded back in 1916 prior to the  
946 adoption of the county's first zoning ordinance in 1933. There are twelve 35-foot-wide lots

947 on the western side of Grayson Street. The subject property is the last remaining vacant  
948 lot on this side of the street. This is a picture of the lot here. It was acquired by the Perry  
949 family in 1945 and they owned it until this past October when it was sold as part of a tax  
950 sale. There was a home here until 2007 when it was demolished. Since then, the lot has  
951 been vacant. The Perry's never owned any of the adjacent lots. This is a picture of the  
952 proposed dwelling, here. The applicant has changed it to essentially a one-story dwelling.  
953 In order to put the house on the lot, the applicant is requesting variances for lot area, lot  
954 width, public street frontage, and front yard setbacks. As you may recall a number of  
955 variances have been granted in this neighborhood in recent years. Two lots down at 334  
956 Grayson, although it doesn't show through here, a variance was approved this past  
957 August, and a new home is now under construction.

958  
959 In evaluating this request, staff believes two Threshold Tests are met. First, as it stands,  
960 the lot may not be developed for its intended use as a residence. They can't acquire  
961 additional land as there are homes on both sides of this property. Both of the adjacent  
962 homes are set back roughly 10 feet off the street right-of-way. As a result, this property  
963 does appear to be unreasonably restricted. The second Threshold Test is also met. The  
964 lot was buildable when it was recorded back in 1916, but with the adoption of lot area and  
965 lot width standards in 1945, it became non-conforming. So, there is a hardship related to  
966 a physical condition of the lot that is the result of a change in the zoning ordinance. Since  
967 at least one Threshold Test is met, we look at the five subtests. Staff believes all of these  
968 are met, as noted in your staff reports, including no detrimental impact on nearby property.  
969 In fact, the revised plans for a one-story house, setback where it would be, is or would be  
970 more consistent with the adjacent properties, which are one-story homes as well.

971  
972 In conclusion, absent a variance a dwelling may not be constructed on the property. The  
973 hardship is also due to changes in the zoning ordinance that had occurred after the  
974 property was platted. Staff believes all five subtests are met as well. As a result, we can  
975 recommend approval of this request subject to the conditions in your staff reports. If you  
976 have any questions, I'll be happy to answer them. Thank you.

977  
978 Mr. Johnson- Any questions for staff? None? Okay, if not then we'll hear  
979 from the applicant.

980  
981 Mr. Yohannan- Good morning and for the chair and all the respected other  
982 members. My name is Jose Yohannan. I bought that lot. Thank you for allowing me to  
983 speak on behalf of this hearing. My name is Jose Yohannan and I bought this lot a couple  
984 of months before through, I don't know, an auction. So, I came to know that there is new  
985 law and for the construction, but this property was already established with a sewer line  
986 and waterline. And there was a property before, so that's why I auctioned that property  
987 and build a small house for my growing two kids and one studying in VCU next one, that  
988 little one will be in the next year will be in the VCU. So, if the Board of Supervisors,  
989 everybody approved that one, I will go ahead with that nice small, thousand square feet,  
990 single-story, the best I can do.

991

992 Mr. Johnson- Okay. Any questions for the applicant? You say the home  
993 was built much closer to the street and right-of-way than the current home that he was  
994 noticing.

995  
996 Mr. Yohannan- The adjacent two homes are built very early stage of the  
997 1930s and it is only a 10-foot setback. And all the neighborhoods are single stories. I don't  
998 want to build a two-story and looking in at anybody's privacy that's why I stick on the  
999 single story which a smaller size can fit there.

1000  
1001 Mr. Green- Mr. Chair, I think that in order to move this process along, we  
1002 heard this last month ... one-story and then set back and all that. ... addressed with. ...  
1003 dealt last time so I'm not trying to ... Rehash what we heard before and resolved before.  
1004 ... the only issue was he just went from two stories to one.

1005  
1006 Mr. Pollard- I'm curious. Have you had any interaction with the neighbors?

1007  
1008 Mr. Yohannan- Oh, I am. I did, very friendly with the next-door neighbor and  
1009 her sister, her brother was in the next door, Miss Beth. And whenever I am going there,  
1010 they say when you are coming over here. So, I'm very friendly with them if anybody can  
1011 ask them. And I am a city inspector. My job is always there for sewer line and waterline.  
1012 Mostly once every week I am going there, so everybody knows me.

1013  
1014 Mr. Pollard- Thank you, yes.

1015  
1016 Mr. Johnson- Okay. Yes. Are there any others for or against this?

1017  
1018 Mr. Blankinship- There's no one on Webex.

1019  
1020 Mr. Johnson- Okay, we're finished. We've now closed the hearing ...

1021  
1022 Mr. Pollard- Yeah, I move that we approve this variance subject to the  
1023 conditions recommended by the staff. There's no other reasonable use for the property.  
1024 There is a unique area of older homes on very small lots. The reduced front yard will be  
1025 more consistent with the other homes. The other tests are met as stated in the staff report.  
1026 And I, I'm kind of excited that these lots are beginning to fill up.

1027  
1028 Mr. Green- Second.

1029  
1030 Mr. Johnson- It has been motioned and seconded. All in favor say, Aye.

1031  
1032 Board- Aye.

1033  
1034 Mr. Johnson- Any opposed? None? None opposed. Motion passed.

1035  
1036 On a motion by Mr. Pollard, seconded by Mr. Green, the Board approved case VAR-  
1037 2024-100241 subject to the following conditions:

1038  
1039  
1040  
1041  
1042  
1043  
1044  
1045  
1046  
1047  
1048  
1049  
1050  
1051  
1052  
1053  
1054  
1055  
1056  
1057  
1058  
1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078  
1079  
1080  
1081  
1082  
1083  
1084

<b>Affirmative:</b>	<b>Broadway, Green, Johnson, Lawrence, Pollard</b>	<b>5</b>
<b>Negative:</b>		<b>0</b>
<b>Absent:</b>		<b>0</b>

1. This variance applies only to the lot area, lot width, public street frontage, and front yard setback requirements for one dwelling only. All other applicable regulations of the County Code remain in force.

2. This proposed dwelling must meet the required side yard setbacks and must be consistent with the plans titled "Yohannan – Grayson St" by Design 23 LLC filed with the application. 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 variance.

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

4. Any dwelling on the property must be served by public water and sewer.

5. The applicant must provide at least one parking space on the property.

6. The applicant must obtain a building permit for the proposed dwelling by May 23, 2026, 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.

Mr. Blankinship- Alright. The last case on this morning's agenda is variance **VAR-2024-100763**, Katherine and Jonathan Kennedy: a variance from the public street frontage requirement to build a single-family dwelling at 8701 September Drive, in the Tuckahoe Magisterial District.

**VAR-2024-100763 - Katherine and Jonathan Kennedy: variance from the public street frontage requirement to build a single-family dwelling at 8701 September Drive, Tuckahoe. Parcel 755-736-1968. Zoning: R-3, One-Family Residence District. Code Section: 24-4306.E.1.**

**The applicant has 0 feet public street frontage where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.**

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



085

1086 Mr. Gidley- Thank you, Mr. Secretary. The subject property contains just  
1087 over one-half acre of land and is located at the eastern terminus of September Drive. It  
1088 was originally part of a 1.5-acre parcel with frontage on Zionsville Road that was divided  
1089 into two parcels back in 1982. The roughly one-acre fronting on Zionsville has a home  
1090 that was built on it, but this half-acre remains vacant. You see the original parcel here  
1091 with the home on it and then the subject property right here. Because frontage on the  
1092 terminus of a street does not count towards meeting the public street frontage  
1093 requirement, the applicant has applied for variance from this requirement to allow a home  
1094 to be constructed on the subject property. This is a proposed dwelling here. The applicant  
1095 just spoke to me prior to the hearing. Evidently, the elevations have been labeled wrongly  
1096 by the surveyor on here. This here should be south elevation. East elevation up here, and  
1097 then down here north elevation and west elevation respectively. Just to get the record  
1098 clear. But this is the proposed dwelling they are planning on building.

1099

1100 In evaluating this request, staff believes the first Threshold Test is met. As noted, the  
1101 zoning ordinance does not allow the terminus of a street to count towards public street  
1102 frontage. The reason for this, obviously, is to avoid having a residence interfere with the  
1103 future extension of planned public roadways. In this case, however, recent development  
1104 in this area has precluded any future extension of September Drive to Zionsville Road. As  
1105 you can see here, there's a major neighborhood, Westham Manor, that has come in the  
1106 last couple of decades or so, and so there's no way this road is going to be extended.  
1107 And so, to now state that the public street frontage requirement is not met because it's  
1108 the terminus of the street and we may want to extend the road that's no longer applicable.  
1109 So, that is an unreasonable restriction on the use of the property. Since at least one  
1110 threshold test is met, we can look at the five subtests. Staff believes these are met, as  
1111 noted in your staff report, with a possible exception of subtest number two, which requires  
1112 a proposal to not have a substantial detrimental impact on adjacent and nearby property.  
1113 As you can see here, this is a rather steep lot that rises front to back roughly 16 feet in  
1114 elevation. To give you an idea, way up here you can just barely see where one of the  
1115 adjoining homes is located. When you're actually standing there, that is a rather steep lot.  
1116 Staff has received several emails from nearby property owners expressing concern about  
1117 how clearing such a steep lot of its vegetative cover could exacerbate existing flooding  
1118 problems on their properties. Calls have also been made for a drainage study prior to the  
1119 approval of any variance. Yesterday afternoon, the applicant sent a letter from an  
1120 engineer, stating that in his professional opinion, the home would not have an adverse  
1121 impact on nearby property. I guess we'll hear from the property owners whether, this  
1122 satisfies them or if they're looking for something more formal at this point.

1123

1124 Mr. Blankinship- That letter was left on the table for you this morning.

1125

1126 Mr. Gidley- Yes, that was my next statement. In conclusion, absent of  
1127 variance, a dwelling may not be constructed on the property. In this case a prohibition  
1128 against allowing the terminus of a road to meet the public street frontage requirement  
1129 appears unreasonable due to recent development in this area. After today's hearing, if  
1130 the Board is convinced clearing this lot would not have a detrimental impact on nearby

1131 property, staff would recommend approval subject to the conditions in your staff report. If  
1132 the Board is not comfortable with regard to the potential impact on nearby property, then  
1133 staff would recommend deferral to allow the applicant additional time to address those  
1134 concerns. I would note there is a representative from Public Works who has shown up  
1135 today in case they can answer any questions as well. And that concludes my presentation.  
1136 If you have any questions, I'll be happy to answer those. Thank you.

1137  
1138 Mr. Johnson- Okay. Any questions?

1139  
1140 Mr. Lawrence- I had a question, Mr. Chairman, unless Mr. Broadway has one  
1141 before I go. I'm a little bit confused, Mr. Gidley, but maybe you can, or maybe our  
1142 representative from Public Works can enlighten me. So, the staff report indicates that the  
1143 subject property, abuts September Drive. However, it looks to me that September Drive  
1144 ends, you know, probably I can't tell the specific distance, but some yards before the  
1145 property line. So, is that piece of ...

1146  
1147 Mr. Gidley- You are...

1148  
1149 Mr. Lawrence- Is that on the Major Thoroughfare Plan? Is that why it's for  
1150 future development ... but it's not actually. See if you can clarify for me exactly what the  
1151 status of that road is. I'm sorry.

1152  
1153 Mr. Gidley- Okay yes.

1154  
1155 Mr. Lawrence- I can't articulate myself very well, but yeah.

1156  
1157 Mr. Gidley- It does stop shy of the property line.

1158  
1159 Mr. Blankinship- The pavement does.

1160  
1161 Mr. Gidley- The pavement does, the right-of-way continues up to the  
1162 property. And one of the conditions of approval recommended by Public Works, that's in  
1163 the staff report, is that the applicant would be responsible for extending September Drive  
1164 up to the property line.

1165  
1166 Mr. Lawrence- So, that would be the applicant's responsibility?

1167  
1168 Mr. Gidley- Yes sir.

1169  
1170 Mr. Blankinship- To extend the payment. The right-of-way is already there, but  
1171 the pavement...

1172  
1173 Mr. Lawrence- The pavement. And yeah, I think its said in the staff report 20  
1174 feet. What is the width of September Drive?

1175

1176 Mr. Gidley- I don't know for sure. It's probably 50 feet. That's pretty  
1177 standard.

1178  
1179 Mr. Blankinship- The right-of-way is 50 feet.

1180  
1181 Mr. Gidley- The right-of-way, yes.

1182  
1183 Mr. Blankinship- The pavement is probably closer to 24. Yeah. It might be wider  
1184 than that, but just looking at the aerial, it looks like 24 feet.

1185  
1186 Mr. Lawrence- So, wouldn't we want to have the extension paved to the same  
1187 width as the rest of the road?

1188  
1189 Mr. Gidley- I would think so. Yeah. I mean, it's going to be their  
1190 responsibility to extend the pavement to the property line. I don't believe that means a 10-  
1191 foot little...

1192  
1193 Mr. Lawrence- Well, the staff report said a 20-foot-wide extension, but it  
1194 sounds like the paved part of September Drive is actually wider than 20 feet.

1195  
1196 Mr. Blankinship- Well, it ends in a temporary cul-de-sac as you can see on the  
1197 screen there. So, normally when you would extend the street, the temporary cul-de-sac  
1198 would be removed, you'd extend the pavement at whatever the width is and then you'd  
1199 build a new permanent cul-de-sac. As Mr. Gidley was saying, that's not going to happen  
1200 here because the property beyond this property has already been developed. So, the  
1201 temporary cul-de-sac will probably remain and become permanent, and I think what they  
1202 wanted, what Works was asking for, was a 20-foot extension beyond the temporary cul-  
1203 de-sac. So, the neighbors would still be able to turn around at the temporary cul-de-sac.  
1204 And then this would essentially be a 20-foot-wide driveway extending to the property line  
1205 and then their actual driveway would begin there.

1206  
1207 Mr. Lawrence- When you say a 20-foot driveway, Mr. Blankinship, that, I  
1208 mean, it'd still legally though be a county road, right?

1209  
1210 Mr. Blankinship- Yes, right. It's just a matter of semantics. The only reason  
1211 anyone would use it would be to get to this house because it would be beyond the  
1212 temporary turnaround and there's no other development beyond that.

1213  
1214 Mr. Lawrence- That makes sense. But do we have other situations in the  
1215 county where we have a road that has been extended and the cul-de-sac, the turnaround  
1216 remains. In other words, you have a turnaround where the road originally terminated and  
1217 then the road gets extended and you still have the cul-de-sac in place?

1218  
1219 Mr. Blankinship- Normally, no. Normally, if the road gets extended, the  
1220 temporary cul-de-sac is removed at that time and then a permanent cul-de-sac is built.

1221

1222 Mr. Lawrence- Okay.  
1223  
1224 Mr. Johnson- Also, the ... Go ahead.  
1225  
1226 Mr. Green- ...trying to understand.  
1227  
1228 Mr. Gidley- This one here?  
1229  
1230 Mr. Green- Yeah, so where that trash can is, is this where you're going to  
1231 build the, the temporary drive.  
1232  
1233 Mr. Johnson- Back this way.  
1234  
1235 Mr. Blankinship- No, it already exists. You see to the left there; you can see  
1236 that there's kind of a circular turnaround area. You're looking through this, the trees and  
1237 behind the sign there, but you can see there's a circular...  
1238  
1239 Mr. Green- Right. What I'm saying is ...  
1240  
1241 Mr. Blankinship- That will come where the trash can is, right. Just straight in  
1242 line with September Drive.  
1243  
1244 Mr. Green- Yeah. What is the size of the, the other ones on the other side  
1245 between those two mailboxes.  
1246  
1247 Mr. Blankinship- The 50 feet is the right-of-way.  
1248  
1249 Mr. Green- Right-of-way.  
1250  
1251 Mr. Blankinship- So, we're not going to increase the pavement width to 50 feet.  
1252 The right-of-way width is 50 feet.  
1253  
1254 Mr. Green- But where is that at?  
1255  
1256 Mr. Blankinship- That's the white lines.  
1257  
1258 Mr. Green- Okay. Can you see it from the other way?  
1259  
1260 Mr. Blankinship- You can't see the right-of-way lines, they're not marked in any  
1261 way, there's no stakes, or flagging, or anything and I'm not seeing anything obvious.  
1262 Normally it would be about seven feet behind the curb. So, you see the mailbox, you see  
1263 the curb and then leading down to it looks like they put their trash out on trash day. If you  
1264 went back seven feet up into that property, that's probably where the right-of-way line is.  
1265 Close to seven feet. Might be a little more or less because, ...  
1266  
1267 Mr. Lawrence- So, whose trash can is that? Which property does that go  
1268 with?

1269  
1270 Mr. Blankinship- That I have no idea.  
1271  
1272 Mr. Lawrence- That trash can is in the middle of the right-of-way.  
1273  
1274 Mr. Blankinship- Yes, exactly.  
1275  
1276 Mr. Lawrence- Okay.  
1277  
1278 Mr. Green- Okay, so what you're saying is the right-of-way should be 50  
1279 feet, where that trash can is. Then once you get back behind that it's another 25.  
1280  
1281 Mr. Blankinship- Well, the right-of-way is going to stay 50 feet, but the  
1282 pavement there, right now the pavement does not extend all the way to the end of the  
1283 right-of-way. And Public Works has asked them to extend the pavement another 20 feet,  
1284 or 20 feet wide to the end of the right-of-way.  
1285  
1286 Mr. Green- But, when we said 50, I thought ...  
1287  
1288 Mr. Blankinship- The 50 is the right-of-way.  
1289  
1290 Mr. Green- Yeah.  
1291  
1292 Mr. Blankinship- Sorry? Did I say something wrong?  
1293  
1294 Mr. Green- No, no.  
1295  
1296 Mr. Blankinship- Oh ok. He's actually from environmental, not from traffic.  
1297 That's why I'm answering rather than asking him to answer. If you put the site plan back  
1298 up Paul, it might be a little bit more clear cause I think we've got, yeah, site map. Well,  
1299 here, here you can at least see the distinction of the private driveway, which is within the  
1300 red rectangle, and then just imagine that gray area there, which is about 20 feet wide, just  
1301 continued on to the right in this map, to the east, for, you know, until it meets the right-of-  
1302 way.  
1303  
1304 Mr. Green- Where it said September Drive ends is 50 feet?  
1305  
1306 Mr. Blankinship- The right-of-way is 50 feet.  
1307  
1308 Mr. Green- Yeah.  
1309  
1310 Mr. Blankinship- The right-of-way is there already. They're just going to extend  
1311 that pavement at the width, more or less, the width that it currently exists. You can see  
1312 that it's not. That the width of the pavement varies, in this plan, so.  
1313  
1314 Mr. Green- Thank you.

1315  
1316 Mr. Blankinship- Are we ready to hear from the applicant?  
1317  
1318 Mr. Johnson- Also, is there drainage from the front, from the beginning, to  
1319 where we were just talking about the...  
1320  
1321 Mr. Gidley- There is a creek that runs along the western side here.  
1322  
1323 Mr. Johnson- So, that's on the... That wouldn't be on their side, okay.  
1324  
1325 Mr. Gidley- It's along the property line, they would have to put in a culvert  
1326 there to allow it to drain under and access the side.  
1327  
1328 Mr. Johnson- Okay. Okay, we'll now here from the applicant. Applicants.  
1329 Can you also give your name and... Each one.  
1330  
1331 Mr. Gray- Good morning. I'm George Gray and I represent the applicant.  
1332 And I just want to clarify the parties here. When we applied for this variance, it was their  
1333 understanding we have... The way this came about is we have a contract purchaser,  
1334 Gordon and Linda Gray, who are under contract to purchase this property subject to this  
1335 variance being approved. It was my understanding that Gordon and Linda Gray were the  
1336 applicants. Mr. Gray is here with us this morning. As well as Jonathan Kennedy, who is  
1337 the owner of the property as well. And the intent here is to construct a home. Mr. Gray  
1338 and his wife are building this home for their growing family. And the intent of course is to  
1339 construct the home that's detailed, in the materials that were provided with the application.  
1340 Of course, we agree with the conclusions of the staff report in so far as we meet the  
1341 requirements of a variance. We agreed with the conditions. With respect to the element  
1342 of this development resulting in the substantial detriment to the neighboring properties,  
1343 well, we don't believe that it will at all. If anything, I think it'll have a very positive impact  
1344 on the neighborhood and the neighboring properties. We likewise are concerned about  
1345 stormwater runoff, as we have looked into this further. And we've had an engineer look at  
1346 the topography of the property, topo map, and the subdivision and the topography of the  
1347 subdivision. This is detailed in the letter that was provided from the engineer, and, on  
1348 short notice unfortunately was not able to be here this morning. But the letter makes it  
1349 pretty clear, and in looking at the topography of the property and then the subdivision plat  
1350 that there is a very defined stormwater conveyance system in place for this area, the  
1351 Roslyn Hills neighborhood. There is a drainage, the survey that we just looked at, that Mr.  
1352 Gidley had up. Here you can see, it's labeled by the surveyors, the creek. The  
1353 engineering, the letter from the engineer identifies it as a swale. But nonetheless, a  
1354 defined channel for stormwater to run off and to be removed from the property. It's  
1355 important to note in the engineer's report that this development is not changing. We're  
1356 diverting what's already occurring with this property. The stormwater now runs off into this  
1357 culvert and through the stormwater conveyance system that's already in place in the  
1358 Roslyn Hills Neighborhood And there is a system if you look at the subdivision plats for  
1359 this neighborhood. And it's a very old subdivision. There are a system of easements and  
1360 stormwater drains to deal with the drainage in this area. This property has always drained

1361 into the existing swale or creek, and the proposed development is not changing that. And  
1362 it's the engineer's opinion, based on the development that's proposed, that, essentially,  
1363 there's going to be no adverse drainage impact by developing the property as we're  
1364 proposing. So, that being sort of the primary issue, it seems, at this point, that's our  
1365 position on it, and we're happy to answer any questions.  
1366

1367 Mr. Johnson- Okay, any questions from the Board for the applicant? Okay.

1368  
1369 Mr. Broadway- Do we have any further comments from the other gentlemen?

1370  
1371 Mr. Blankinship- Does Mr. Kennedy, or the other Mr. Gray have any?

1372  
1373 Mr. Johnson- Okay. No other questions from the other gentlemen? Nope.  
1374 Okay. Is anybody in favor?

1375  
1376 Mr. Blankinship- Is there anybody else in favor who wishes to speak? Okay,  
1377 then go ahead and call the opposition.

1378  
1379 Mr. Johnson- Anybody in opposition? Anyone on Webex? None, okay.

1380  
1381 Mr. Figueiredo - Good morning. I'm Jorge Figueiredo and you asked us to spell  
1382 the name, so I'll do that, F.I.G.U.E.I.R.E.D.O. I submitted an email ahead of the meeting,  
1383 which is included in the staff report, just highlighting some concerns that I have, and I  
1384 believe are shared with some of the gentlemen behind me. We have a, I believe a  
1385 gentleman from the Department of Public Works here, and he hasn't had a chance to talk.  
1386 I'm not sure if he will or not or, but I would certainly like to hear his observations of what's  
1387 being proposed, I don't know if now's the appropriate time.  
1388

1389 Mr. Green- No.

1390  
1391 Mr. Johnson- We just want to hear from you.

1392  
1393 Mr. Figueiredo- Okay. So, I just received the letter from the engineer five  
1394 minutes ago. I haven't had a chance to look at it, but my primary concern is the drainage.  
1395 The culvert, as was described, is on my lot, which is just to the west of the red rectangle  
1396 there. I'm at 225 Roslyn Hills Drive, as it stands without a home on that lot, where the  
1397 entire entirety of the half acre there is just permeable soil and trees. The culvert floods  
1398 every time it rains, and if it rains a lot, my entire back, or not my entire backyard, but about  
1399 20 feet of my backyard just collects all that water. So, as it stands, the culvert doesn't  
1400 have the capacity to properly drain stormwater. Adding a home to that lot, it's just going  
1401 to make that lot less permeable. I'm not an expert in drainage by any means. We do have  
1402 an expert here, so again, would love to get his take. This letter doesn't seem to address,  
1403 it doesn't seem to really be based on a formal, professional study of what's being  
1404 proposed. So, that would be my recommendation, not that I'm in a position to recommend,  
1405 but that would be my primary resolution to my first concern, which is the drainage, to see  
1406 a professional study done. To make sure that my lot and others adjacent to this one are

1407 not impacted. The secondary concern, which, and then I have a few others, but in one of  
1408 the tests, as I understand, to meet the requirement for the variance, is that the applicant  
1409 cannot be basically causing his own hardship. The report states that they did not, and I  
1410 understand why it says that. However, this is a unique circumstance. The applicant  
1411 controlled the lot at 400 Zionsville, which was just to the right of the red rectangle there.  
1412 They owned the, both lots simultaneously for several years. And have an opportunity to  
1413 provide access to what is now a landlocked lot, that is an owner that doesn't own any  
1414 adjacent properties. So, I think they at least contributed to their own hardship. And further,  
1415 that subdivided lot, which I understand was not subdivided by the applicant, but when  
1416 they acquired the lots were already subdivided, were originally part of the larger lot that  
1417 connects to Zionsville Road. And in my opinion, any pursuit to have access to that lot  
1418 should be, you know, basically following the original plan for the neighborhood and not  
1419 now impacting people, including myself, on the Roslyn Hills side or the Roslyn Hills  
1420 neighborhood. Beyond that, you know, I think there are some concerns in terms of  
1421 property value. With, you know, what is today, again, a landlocked lot that was probably  
1422 the best use of just additional land for that house on 400 Zionsville Road. But regardless,  
1423 those are kind of the main concerns, you know, we have children who play in that cul-de-  
1424 sac. And we have just a character of the neighborhood on Roslyn Hills that this home  
1425 would impact. So those are kind of secondary comments, again, to the drainage and then  
1426 the contributing to their own hardship when they had an opportunity to resolve it but did  
1427 not.

1428  
1429 Mr. Green- Question, I have a question.

1430  
1431 Mr. Figueiredo- Yes.

1432  
1433 Mr. Green- You said, property value, but so what is the proposed  
1434 construction cost of this house? What is it going to come in at. What is your profit? What  
1435 is your property worth versus what this property going to be built at?

1436  
1437 Mr. Figueiredo - I'm not able to quantify that.

1438  
1439 Mr. Gray- I think, I think we can answer that generally.

1440  
1441 Mr. Blankinship- You'll have an opportunity at the end if it's ok to come back to  
1442 that question.

1443  
1444 Mr. Figueiredo - So, I want to know that. My main concern. And I understand  
1445 that, as it stands today, it doesn't mean that that's how it's going to be tomorrow and  
1446 there's a vacant lot there. But when I acquired my lot in 2018, there was no access to that  
1447 lot, and, again, the lot was owned by the same owner who also owned at the time, 400  
1448 Zionsville, which is the applicant. Just based on a review and the fact that this lot did not  
1449 have access per code, I made a decision to buy my lot and I have a wooded area behind  
1450 it. And that was a big decision in my, my deciding to purchase this home, and that's what  
1451 I mean by that.

1452



453 Mr. Johnson- Okay.  
1454  
1455 Mr. Figueiredo- Any further questions for me?  
1456  
1457 Mr. Johnson- Also with the drainage there, that drainage would not change  
1458 anything because it would still be using the same drainage as you are now, right?  
1459  
1460 Mr. Figueiredo- So, the drainage, and I included a picture that my neighbor  
1461 took, and an aerial that kind of highlights where the creek currently runs. The culvert  
1462 currently runs. But it basically comes from the top end of the picture, right along the white  
1463 line that divides my lot from the subject lot. And so, it impacts lots further, you know,  
1464 again, on the picture, above mine. But you're correct that that culvert would still capture  
1465 all the stormwater. My issue is that as it stands, without an additional home there, that  
1466 creek is already at capacity, if not over capacity. It doesn't really divert the water like it  
1467 should and my lot already has issues with drainage and floods when it rains heavily. So,  
1468 this is just going to exacerbate the existing issue there.  
1469  
1470 Mr. Green- ... that lot is owned by someone else. You said it comes about  
1471 20 feet of drainage comes into your lot already. Have you asked the person that owns  
1472 that to help you mitigate that problem or it's just something you just deal with? I mean,  
1473 because I think if it's coming from them while we ... problem we need to fix this.  
1474  
1475 Mr. Figueiredo- I have not. You're asking if I have spoken to the applicant  
1476 about the drainage from that lot?  
1477  
1478 Mr. Green- ... wants to buy from someone, the person that already owns  
1479 it. That impacts you and I would think it's... But if I'm the neighbor I would, I would try to  
1480 help you...  
1481  
1482 Mr. Figueiredo- Yeah, I don't consider this currently to be their doing or  
1483 something that they're doing wrong. In fact, it's just a vacant lot. The culvert does run  
1484 through my lot, so I try to keep it clear and do the best that I can for the water to continue  
1485 to flow at least as it relates to my lot. This is not an issue that is specific to my lot. The  
1486 culvert runs through my neighbor's property, who is on the other side of September Drive,  
1487 it runs behind. I think they have issues with drainage already there as well. So, this is just  
1488 maybe a culvert capacity issue. Again, I don't know, I'm not an expert. But nothing that  
1489 the owner of that subject lot is doing today, I think is making it worse. But again, adding  
1490 a home there, in my opinion, and again, I defer to all the experts, but it seems to me like  
1491 it would make matters worse.  
1492  
1493 Mr. Green- Not that we're not being empathetic that that's the case, which  
1494 that's an assumption we're making.  
1495  
1496 Mr. Figueiredo- Correct, that's why I would think it would be appropriate for a  
1497 professional study to be conducted to confirm that that's the case. Confirm or, or not, that  
1498 that's the case.

1499  
1500  
1501  
1502  
1503  
1504  
1505  
1506  
1507  
1508  
1509  
1510  
1511  
1512  
1513  
1514  
1515  
1516  
1517  
1518  
1519  
1520  
1521  
1522  
1523  
1524  
1525  
1526  
1527  
1528  
1529  
1530  
1531  
1532  
1533  
1534  
1535  
1536  
1537  
1538  
1539  
1540  
1541  
1542  
1543  
1544

Mr. Johnson- Okay. Next.

Mr. Gregory- Good morning. First name James, last name Gregory G.R.E.G.O.R.Y. I'm at 8702 September Drive. I'm here in opposition for a number of reasons. Number one, as Jorge had, and I'm going to follow a lot of what my neighbor Jorge says. Our children play in this area, particularly the right-of-way where we're talking about extending, you're talking about paving right up to the creek, which if you guys saw my email, I took some pretty detailed videos of the, of the running water. And as you can see, the running water comes down from St. Albans in the top there. It drains off of the newer neighborhood where Kingsdown is and all of that wraps around. And my understanding is when you take square footage out of the ground for the proposed site, that will lead to more water running off. I'm not an expert, of course. I just would like to pause, take some studies to figure out that. I'm in the property and casualty insurance business and the rain is not stopping. Neither are the winds or the floods or any of that stuff. So, I would certainly like to take more time. And then I'd also have a question about the right-of-way. That were able to just pave right over. My understanding was the right-of-way was there in case September Drive was going to be extended. And if we can all agree that September Drive will never be extended, what happens to the right-of-way then? Does the County just take that back and say, "ok, well, we're going to extend it just for this one property owner". So, that's a question that I could have, I have, if you guys could answer that.

Mr. Blankinship- Yes, that was the recommendation of the Traffic Division of the Department of Public Works, is that the 20 feet width of pavement be extended to the end of the right-of-way, which is a distance of maybe 20 or 30 feet.

Mr. Gregory- Got it. If we had an engineer or had somebody who could come out there to look at that. That extension is literally right into that creek, that 30 feet.

Mr. Blankinship- They will do that at the time. They don't just go out and chart and run the trucks out there.

Mr. Gregory- Thank you for your time.

Mr. Pollard- Thank you.

Mr. Blankinship- Thank you.

Mr. Houston- Thank you. I'm the owner of 400 Zionsville Road.

Mr. Johnson- Can we have your name, please?

Mr. Huston- So last name is Huston H.U.S.T.O.N. So, I'm the owner, current owner of 400 Zionsville Road, and it's the property, obviously, it sits directly behind the parcel in question. And so, I'm here to oppose the granting of this variance for two

1545 reasons. First, we have concerns that the clearing of the property in question and the  
1546 grading required to build a new house will have a detrimental impact on our property and  
1547 that of other neighboring properties. Specifically, our property has several large, large  
1548 trees along the property line, and we're concerned that the clearing of the lot and the  
1549 significant grading required for building would impact those trees. That can cause a safety  
1550 issue if the land and roots supporting those trees are weakened or eroded. Second,  
1551 similar to another neighbor's circumstance, the privacy view of the wooded area behind  
1552 our home was a factor in our purchase of 400 Zionsville, and it's a valuable characteristic  
1553 of our property. We feel the clearing of the land and construction of a house will reduce  
1554 our privacy and therefore will have a detrimental impact on the value of our property.  
1555 Potentially lowering its resale value. So, given the potential for safety issues with mature  
1556 trees, as well as the overall declining character of the environment in the neighborhood,  
1557 we feel this variance should be denied.

1558  
1559 Mr. Johnson- Okay. I got a question... Go ahead.

1560  
1561 Mr. Green- If I owned that lot and decided I just wanted to clear it, just  
1562 because I wanted to clear it, could I do that?

1563  
1564 Mr. Blankinship- There's a limit on... I'm sorry.

1565  
1566 Mr. Gidley- I was going to say they'd have to get plan approval from Public  
1567 Works before they clear it.

1568  
1569 Mr. Blankinship- You could clear a little bit, but if you go over 2,500 square feet,  
1570 which is not that big, there are lots of approvals that would come into play.

1571  
1572 Mr. Green- Right. So, I guess the question is, if they're going to clear it,  
1573 are they going to clear potentially more than 2,500 square feet of the area that they'll  
1574 disturb ...?

1575  
1576 Mr. Blankinship- To build a house, they will have to. They will be disturbing  
1577 enough that they will need the plans and agreement to make sure that there's no erosion  
1578 control. You do have the right to clear right up to your property line. Most people don't.  
1579 There is a rear yard setback of, I'm not sure the zoning on this property. Let me see. It's  
1580 R-3, so the rear yard setback would be 40 feet. So, it'd be unusual to clear within that  
1581 unless there was a specific reason to. We don't have a commitment from the applicant  
1582 about where they would stop clearing for the house. You can certainly ask them that  
1583 during rebuttal.

1584  
1585 Mr. Green- Yeah, because I'm curious. It seems like they'd like the  
1586 privacy and like the trees. And when y'all come back for rebuttal ...

1587  
1588 Mr. Johnson- Okay.

1589  
1590 Mr. Gidley- Yes.

1591  
1592 Mr. Johnson- Also, did you say that you have the house below the...  
1593  
1594 Mr. Huston- I'm to the right on this picture.  
1595  
1596 Mr. Blankinship- Paul, you want to indicate this?  
1597  
1598 Mr. Huston- Yeah, so I'm still...  
1599  
1600 Mr. Blankinship- Oh. No, no, this, this speaker is...  
1601  
1602 Mr. Gidley- I'm Sorry.  
1603  
1604 Mr. Blankinship- There we go. Right there, yes.  
1605  
1606 Mr. Huston- ... it's still a little uphill from the lot in question.  
1607  
1608 Mr. Johnson- Okay, that you also used to own the property above that,  
1609 right?  
1610  
1611 Mr. Huston- No, I did not.  
1612  
1613 Mr. Blankinship- The person he bought his property from owned both lots. But  
1614 he bought the one and they did not buy the other.  
1615  
1616 Mr. Johnson- Alright. Thank you.  
1617  
1618 Mr. Green- Yeah, I got the same impression.  
1619  
1620 Mr. Johnson- Okay. Any other questions?  
1621  
1622 Mr. Blankinship- I think there's at least one more.  
1623  
1624 Mr. Johnson- Okay. Next.  
1625  
1626 Mr. Canepa- And my name is Vincent Canepa. We live at 380 Ziontown  
1627 Road. We are just to the south there. Our property line, obviously, borders that south  
1628 property line of the applicant. I have quite a bit of experience living in the mountains with  
1629 drainage. And, yeah, you had an engineer come in. I had an engineer come in and I had  
1630 to redo a whole project. But you can't tell me by adding hardscapes, driveways, whatever,  
1631 adding a roof is not going to alter, in some way, the current drainage. Right now, it may  
1632 drain down through the brush and the ivy that's all through there and spread out over the  
1633 whole lot. But I would be surprised to see it not concentrated in some areas. So, the other  
1634 thing about this engineer's report is, and he says that there's a well-developed ditch, the  
1635 well-developed ditch is not there. It runs all the way down Roslyn Hills Road, but it's not  
1636 there. This is sort of a swale that developed. It's full of debris. And I have seen, I went

1637 down, in heavy rain, down my property line and watched. And the water just is  
1638 uncontrolled in that area. So, it ends up in Jorge's lot, ends up all over the place. At the  
1639 very least, this almost should have been the County's responsibility when the area  
1640 developed to control this drainage. But what happens, what I've seen in most cases, is  
1641 the locality will require some sort of mitigation on the person developing the property.  
1642 That, right now, this doesn't meet what I consider that requirement. So, they really ought  
1643 to hold this variance and extend it until they can produce a drainage upgrade. And, you  
1644 know, kind of mitigate these conditions that have existed somewhat on the County's  
1645 responsibility. But in reality, that's what should happen here. So, thank you. Any  
1646 questions?

1647  
1648 Mr. Blankinship- Well, normally when one property is developed, it is the  
1649 private developer that installs the drainage system. The county reviews the plans before  
1650 they're built, but the developer installs it and then dedicates it to the County. So, in places  
1651 like this where you have older subdivisions and newer subdivisions occupying, you know,  
1652 adjoining space, these issues do get complicated because those regulations have  
1653 changed a lot over time. All environmental regulations have changed a lot over time. So,  
1654 you know, it may be that if they brought that subdivision in today to be developed, we  
1655 would have had additional requirements for the stormwater system. But those things are  
1656 difficult to retrofit. I can't really go beyond that.

1657  
1658 Mr. Green- Well, I guess my question is, let's say this thing is not built,  
1659 they're still going to have the same problems. How do we fix that?

1660  
1661 Mr. Blankinship- Right, we're hearing this morning that there is already a  
1662 drainage issue and I, I am glad that Mr. Aust is here to enlighten us on that. I'm looking  
1663 forward to hearing this.

1664  
1665 Mr. Green- Even if they don't. You've still got the problem; how do we fix  
1666 it? How is it fixed? And you're questioning what responsibility does the County have? I'm  
1667 questioning that too.

1668  
1669 Mr. Canepa- Right. Yeah, it will concentrate the water somewhat. There's  
1670 no way it's going to drain the way it is now. But you may, certainly any water that's above  
1671 that house and the way it's situated is going to flow around the ends of the house on the  
1672 north side and the south side. And that could very well make matters even worse than  
1673 they are now, in my humble opinion.

1674  
1675 Mr. Blankinship- And there is one more speaker.

1676  
1677 Mr. Johnson- Okay.

1678  
1679 Mr. Rogish- Good morning, Mr. Chairman, honorable members of the  
1680 Board. How are you? My name is Jody Rogish. I live about a half mile from the property,  
1681 and I wanted to, to come, I had sort of three concerns, and we've talked a lot about most  
1682 of them. The first one, I'm still a little confused in whether that's a stream. On the property

1683 line, there is some water that goes between there. So, the County will be responsible up  
1684 to that, the property line? I mean, somehow a car has to get over. There's a swale there,  
1685 as they've mentioned. The car is going to have to get over that and I'm just I'm wondering  
1686 a little bit, is that the applicant's responsibility, to get over that swale, or is that going to  
1687 be the County's responsibility to get over that swale? That's sort of my first question. You  
1688 want to answer that, or I can go through all three if you prefer.  
1689

1690 Mr. Blankinship- Let's go ahead and answer. I should check and get back to  
1691 you. But I'm almost positive that would be the applicant's responsibility to put in a culvert  
1692 in the existing swale and, and then pave over it.  
1693

1694 Mr. Rogish- And pay that cost. And if you go back to the site map or the  
1695 aerial, it's very tight there. You can see the property lines. And so, I guess the road, the  
1696 county road would extend up to there or right before that. The applicant would then be  
1697 responsible to go over the culvert and still maintain the distance between all those.  
1698 There's, what, 1-2-3, three properties, that are all sorts of forking properties converging  
1699 all at the same place there. So, just that's the concern. And the second one we've talked  
1700 through is, just to reiterate, because it's the stormwater, the runoff and we add structure  
1701 to anything, there will be, and again I just got the letter as well. So, I would like to hear  
1702 from staff to make sure that we're doing the right thing. Maybe an environmental study  
1703 from our staff or somebody else may be appropriate. And the third point is. The question  
1704 is that all the properties on September and Roslyn are zoned R-2. Now, this piece of  
1705 property is actually zoned, I can't quite read from here, but 8700,... Everything on  
1706 September, that's R-2. And the gentleman just south of that off of Roslyn right there, that's  
1707 R-2 as well. The property that is in question is actually zoned R-3, because Ziontown  
1708 Road is R-3. So, my question to the Board is, are there other things that we're giving up  
1709 on an R-3 versus an R-2? And should we not maybe consider rezoning that property if  
1710 we're going to put a home there to R-2, instead of R-3? Just to make conform with the  
1711 rest of the, the neighborhood on Roslyn.  
1712

1713 Mr. Blankinship- The property does exceed the R-3 requirements. I have not  
1714 checked it against the R-2 requirements. Paul, do you know off your top off the top of your  
1715 head if it meets these? Yeah, it's half an acre...  
1716

1717 Mr. Gidley- Lot area...  
1718

1719 Mr. Blankinship- Yeah, plenty of lot area, and what's the lot width? Yeah, the  
1720 lot width is over a hundred feet, so I think it would meet the same requirements for R-2 or  
1721 R-3.  
1722

1723 Mr. Rogish- And the setbacks would be appropriate.  
1724

1725 Mr. Blankinship- The setbacks would be slightly different. That's certainly a  
1726 condition that we could propose to the Board, is that you require the R-2 setbacks in lieu  
1727 of the R-3 setbacks. Let me quickly look up what the differences would be there for R-2,  
1728 the front and rear would be 40 and this, I'm sorry, 45, and the sides would be 15. For R-  
1729 3, it's 40 and 12. So, that would require an additional 5 feet of front and rear setback and

1730 an additional 3 feet of side yard setback if that's something the Board wants to add to a  
1731 variance.

1732  
1733 Mr. Johnson- That would basically be for the drainage part of it?  
1734

1735 Mr. Blankinship- That would not really address the drainage, no, but it would  
1736 ensure that the location of the house on the lot was consistent with the neighborhood to  
1737 the west, as well as the neighborhoods to the east.

1738  
1739 Mr. Johnson- Okay, thank you. Okay. Okay. Is there another applicant or  
1740 speaker.

1741  
1742 Mr. Pollard- That's in opposition?  
1743

1744 Mr. Blankinship- Now, do you want to hear from the...

1746 Mr. Broadway- Mr. Chairman, I was wondering if we could hear from Public  
1747 Works.

1748  
1749 Mr. Blankinship- Thank you.

1750  
1751 Mr. Johnson- Yes. That was just making sure we had all of them done.  
1752 Okay.

1753  
1754 Mr. Blankinship- Paul. Okay.  
1755

1756 Mr. Aust- Good morning, Mr. Chairman, members of the Board. My  
1757 name is Michael Aust, with the Department of Public Works. I received this, I would say  
1758 letter, not necessarily a drainage report, late last night. So, I haven't had a lot of time to  
1759 dive into it. But I would like to have some more time to maybe work with the applicant to  
1760 address the concerns from the community. What these folks are saying is spot on. You  
1761 add impervious area, it does cause issues. Part of my job with the County is I deal with  
1762 all the private drainage issues that come in. All the complaints. So, I see this every single  
1763 day, multiple times a day. There are situations like this that we've run into in the past. I've  
1764 been dealing with one in particular with the Board of Supervisors for the last six months.  
1765 I'd rather avoid that in the future, so. But I think there are some things that we can do to  
1766 work with the applicant and reasonably address the concerns from the community. So,  
1767 that's sort of my take as a whole. I can go into further detail if you'd like.

1768  
1769 Mr. Johnson- Okay, any questions so far?  
1770

1771 Mr. Green- Other than studying it, you just wanted to pretty much look into  
1772 it more.

1773  
1774 Mr. Aust- I think it would be appropriate to give this a little bit more time  
1775 to see if there's some ways we can address the concerns from the community.

1776  
1777 Mr. Blankinship- We might come back with a proposed condition to address...  
1778  
1779 Mr. Aust- Yes.  
1780  
1781 Mr. Johnson- Okay.  
1782  
1783 Mr. Pollard- Any idea how much time will be needed?  
1784  
1785 Mr. Aust- Ah, by level of effort for me, from any engineers, typically  
1786 takes a week or two for them to run through an analysis, you know. We would meet, you  
1787 know, a few weeks after that or week after that. So, it could take a month to two months  
1788 before we get something that would be reasonable to get back in front of you.  
1789  
1790 Mr. Johnson- Okay.  
1791  
1792 Mr. Pollard- Thank you.  
1793  
1794 Mr. Broadway- Okay. So, you're thinking it could take up to two months?  
1795  
1796 Mr. Aust- Possibly, yeah.  
1797  
1798 Mr. Broadway- Okay.  
1799  
1800 Mr. Aust- It's dependent on the engineer and, you know, how, what  
1801 their, their level of effort is.  
1802  
1803 Mr. Johnson- And they're saying the problem is the drainage for this facility.  
1804  
1805 Mr. Aust- Yeah, I can certainly speak to that. Basically, like I said, when  
1806 you do add homes, roofs, downspouts, you do concentrate the water. That's what we've  
1807 heard from others, that's spot on and typically what causes the issues. The water then  
1808 speeds up, causing issues downstream. Water is getting to culverts faster than it should.  
1809 It doesn't have a chance to make it through that culvert so it can back up and cause  
1810 flooding issues. So right now, it sounds like while there might be some flooding concerns  
1811 or water concerns, it's not necessarily damaging, or impactful, to the homeowners. But  
1812 that's what I'm assuming. Um. But I think we can do things to try to keep the condition as  
1813 it is now with a house being there. But as it's shown, I'd, I think we should work together  
1814 to try to meet those conditions as it is now.  
1815  
1816 Mr. Johnson- Okay. Thank you.  
1817  
1818 Mr. Aust- Thank you.  
1819  
1820 Mr. Johnson- Okay.  
1821



1822 Mr. Pollard- And I'm not sure who best to ask this question to. But let's say  
1823 the property owners in the area wanted to solve the, the current issue. Let's say the house  
1824 gets there and where everything's able to remain like this. Is there a way to improve the  
1825 drainage situation out there?  
1826

1827 Mr. Aust- Without having seen the issues that might exist out there,  
1828 there may be. I mean, I've dealt with things like this all the time. Part of it is also just, kind  
1829 of, making sure people are understanding of what the water should be doing. Again, the  
1830 general consensus is you want to try to slow water down. Give it a chance to infiltrate,  
1831 soak up like a sponge. The vegetation does that, the soil does that. That's really what we  
1832 are looking for. So, piping, things like that, that doesn't give the water a chance to slow  
1833 down, it actually speeds it up and can cause more of an issue. So, we've got a number of  
1834 options we've looked at with folks and sometimes when we talked through it with them,  
1835 they kind of consider what maybe they thought was an issue is actually a benefit to the  
1836 community as a whole. So, when a creek, or a swale, banks out it's actually not a bad  
1837 thing, always. Unless it's causing damage somewhere. But it actually allows water to slow  
1838 down. So, there are situations like that where it where it's helpful if it gets into a flatter  
1839 area and is allowed to slow down.  
1840

1841 Mr. Green- But I'm concerned about the gentleman whose house is  
1842 downhill from that. You said 20 feet of water coming into his yard. How, how, how's that  
1843 fixed? I mean, and that's obviously been happening for some time. So, has it not been  
1844 brought to the attention of the county and. And, if it has, why is it taking a potential building  
1845 of another house before that issue is fixed?  
1846

1847 Mr. Aust- Right.

1848  
1849 Mr. Green- I guess that's what I'm trying to figure out.  
1850

1851 Mr. Aust- We have not received a complaint to my knowledge on this.  
1852 To come out and look at it. I might be wrong. I can go back and look. But to address your  
1853 question of, how would this get fixed if there is a real concern with, you know, damaging  
1854 property and things of that nature. You start to look upstream at how we can slow the  
1855 water down. So that's typically how we tackle issues like that, is, you know, how can we  
1856 help the water upstream?  
1857

1858 Mr. Green- I think we have two issues. I think one of the issues is they  
1859 want to go ahead, he wants to build a house, okay? The other issue is they have an  
1860 ongoing problem. So, even if you don't build a house, you still have an ongoing problem.  
1861 How do you fix the ongoing problem?  
1862

1863 Mr. Aust- Yeah, I would definitely want to go out and see, is this an  
1864 actual problem every single rain event or is this a one time it gets out? And that's where  
1865 we're happy to go look at that with them and make sure that we're all on the same page  
1866 with how we define a problem.  
1867

1868 Mr. Johnson- Okay. Thank you. Go to the mic.  
1869  
1870 Mr. Blankinship- And tell us your name again, please.  
1871  
1872 Mr. Gregory- Okay. First name James, last name Gregory, 8702  
1873 September Drive. In the video that I showed, there's the neighborhood to the north of us,  
1874 that escapes me right now. Randolph Square? No, what's it called?  
1875  
1876 Mr. Gidley- Westham Manor?  
1877  
1878 Mr. Gregory- St. Albans, right. If you see one of the videos, I showed St.  
1879 Albans has a drainage tube, literally, going to the corner of the 8700 property, right into  
1880 this swale. So that would certainly be something that we would love to raise to the county  
1881 to say, hey, all of that that's coming off of Ridge Road is coming right to us. That we're  
1882 about to add to. So, we'd love to solve those problems down the road. I think this will  
1883 exacerbate that though.  
1884  
1885 Mr. Johnson- Okay.  
1886  
1887 Mr. Figueiredo- Just to further that...  
1888  
1889 Mr. Johnson- Your name.  
1890  
1891 Mr. Figueiredo- Sorry. Jorge Figueiredo. I'm at 225 Roslyn Hills, just to the left  
1892 of the red rectangle. The question about complaints, on my part, I have not complained  
1893 to the county. This has been a little bit of a learning experience for me, and I do intend on  
1894 reaching out. The creek, again, as it basically picks up on my north end of the lot, is on  
1895 my lot. I just assumed that it was my responsibility to keep it and, and maintain it, and I  
1896 try to do that. It does not necessarily overflow every time it rains, but we get some heavy  
1897 rain, and it does, and it takes a couple of days. So, in terms of damage right now, it's just  
1898 eroding the backyard. But I would also like to add. I think this was partly overlooked when  
1899 I first talked. There was a picture included in the email that I sent, that I'm not sure if it's  
1900 available to be pulled up on the screen. But on the section of September Drive, where the  
1901 road currently ends and then will have to be paved all the way to the subject lot, there is  
1902 a small, kind of, drainage. I maybe wouldn't call it, in that picture it's hard to see, but it's  
1903 right to the right of where the picture ends. There is a section there that is already kind of  
1904 a natural culvert there that then meets the bigger culvert. And I think the proposed plan  
1905 would include paving right over that. Oh, Mr. Gregory, you may speak more to that. I  
1906 mean, there is drainage that comes from September Drive onto that creek already. And  
1907 again, I think I overlooked that when I first talked. But this isn't just the culvert. It's the  
1908 drainage coming in from either direction that's going there. Specifically, not just the home,  
1909 but the paving of this section is going to also exacerbate the same issue.  
1910  
1911 Mr. Green- I've got a quick question for you.  
1912  
1913 Mr. Figueiredo- Sure.

914  
1915  
1916  
1917  
1918  
1919  
1920  
1921  
1922  
1923  
1924  
1925  
1926  
1927  
1928  
1929  
1930  
1931  
1932  
1933  
1934  
1935  
1936  
1937  
1938  
1939  
1940  
1941  
1942  
1943  
1944  
1945  
1946  
1947  
1948  
1949  
1950  
1951  
1952  
1953  
1954  
1955  
1956  
1957  
1958  
1959

Mr. Green- For a point of clarification. So, if the drainage issue could be resolved, are you still opposed to a house being built?

Mr. Figueiredo- Yes, because of the secondary issue that I presented earlier of how this lot became landlocked, and the opportunity that the current owner had to resolve their own issue.

Mr. Green- Okay, thank you.

Mr. Figueiredo- Sure.

Mr. Blankinship- Okay.

Mr. Pollard- Any rebuttal from the applicant?

Mr. Gray- Of course, we're happy to work with the County to try and investigate the drainage issue. The only other thing I would add to that is just as it stands, this is one house that we're proposing be constructed. And it looks like there's a tremendous amount of surrounding development that is sort of the primary cause of this issue. And the import of the engineer's report that we have now, and of course we're happy to, we welcome the opportunity to look into this further, however Public Works seems, deemed it inappropriate. But the primary takeaway from our conversation, my conversation with the engineer and his report is that this one house is not going to substantially increase this preexisting problem. Of course, if we can come up with a solution for it, that would be wonderful. And I would note, as well, that if you look at the subdivision plat for the September, excuse me, the Roslyn Hillis neighborhood, there is a defined system of easements. I believe the swale that's on Mr. Figueiredo's property is within an existing easement, so that was planned when the development was originally created. And I believe there is a, a defined drainage easement that runs right across Mr. Figueiredo's property as well. So, there is a system in place with legal rights for where the water is supposed to pass. And of course, again, we welcome the opportunity to look into that further, and how we can address it. I mean it seems like there would be a solution. Addressing maybe some of the confusion about the extension of the road. It was our understanding from the very beginning that it was going to be our responsibility to pipe, pipe over or create a culvert so that the natural flow of the existing stormwater was not going to be impeded by the extension of September Drive. And I believe that's a condition of the variance. And we're fully expecting from the onset of this, of our application that it would be our responsibility to make sure that we extended the road and didn't impact the existing drainage. Just addressing Mr. Figueiredo's secondary concern that we somehow could have, or the existing owner, could have resolved the hardship for this property. That's just not the case. I think the staff report correctly concludes the law on this matter is that there are two pieces of this. You have to have acquired the property in good faith. The staff report correctly concludes that the law on this point is that acquiring property knowing that a variance is required for development does not make someone, a purchaser, not in good faith. The existing lot has existed, and existed since 1981 or 1982,

1960 long before Mr. Kennedy purchased both 400 Zionsville Road and the subject property.  
1961 And then if you look at... If you look at 400 Zionsville Road, there's only 50 feet of road  
1962 frontage for Zionsville. That's what Mr. Kennedy got when he purchased Zionsville, the  
1963 400 Zionsville property, and the subject parcel. So, there's really no way that he could  
1964 have created 50 feet of road frontage for our subject parcel. Notwithstanding, when you  
1965 start talking about hardship the Virginia Supreme Court, not to get too far into it, typically  
1966 has viewed that as the applicant actually violating the zoning ordinance and then asking  
1967 for forgiveness. So, that's not what we've done here. That's not what Mr. Kennedy has  
1968 done. He acquired the property in good faith and he's simply seeking relief from the zoning  
1969 ordinance. Another point on the 50 feet, on the actual road frontage that does exist, and  
1970 I think this puts the issue into perspective, the ordinance, as it is requires, 50 feet of road  
1971 frontage. The property has just a little over 50 feet of road frontage on the terminus of  
1972 September Drive. It just so happens that the ordinance doesn't permit the terminus to  
1973 count towards the road frontage. So, this is really a very, very minor deviation from the  
1974 zoning ordinance that's being requested here. And, of course, it looks like there's some  
1975 more work to be done to determine what needs to be done with the impact of the  
1976 stormwater. But I'm also happy, of course, to answer any other questions on any of the  
1977 other issues that that have been raised today while we're here.

1978  
1979 Mr. Blankinship- Mr. Chair, there was one question about how close the  
1980 clearing of trees would come to the rear property line.

1981  
1982 Mr. Johnson- Yes.

1983  
1984 Mr. Blankinship- Is that something you can make a commitment on, or do you  
1985 want to wait until this comes back to address that as well?

1986  
1987 Mr. Gray- So, I think our concern about committing to clearing is we  
1988 really don't know what's there. It's quite possible that, you know. What we know, we know  
1989 that most of the trees on the property are covered in ivy. It may very well be that some of  
1990 the trees that are along that buffer, in the interest of everyone, need to be taken down for  
1991 safety reasons. So, that would be one of our concerns. Of course, we value, the applicant  
1992 values privacy also, but since we really have... You know, as we've seen from the pictures  
1993 it's completely overgrown at this point. We don't know without getting into it further, what  
1994 would be appropriate in terms of clearing activities.

1995  
1996 Mr. Blankinship- That's fine.

1997  
1998 Mr. Johnson- Okay.

1999  
2000 Mr. Green- I had asked a question that they couldn't answer, I want to ask  
2001 him. So, someone stated that a house could be, potentially impact property values. What  
2002 is the current value on the houses in their neighborhood and how much is this house  
2003 coming in at?  
2004

2005 Mr. Gray- We expect this house to far exceed the values of the  
2006 neighboring properties, and we certainly think that it's going to be an improvement to the  
2007 neighborhood. We think that based on what the terminus of September Drive looks like  
2008 now, it's going to be a major improvement once we've, once we extend September Drive  
2009 and construct a new dwelling. You know, we've not gotten a hard cost on construction.  
2010 We expect the construction costs to be in the neighborhood of \$550,000, just roughly. In  
2011 today's market, I know I'm speculating, but I think it's reasonable to believe that it very  
2012 well may be a million-dollar house.

2013  
2014 Mr. Johnson- Go ahead.

2015  
2016 Mr. Pollard- So, have you guys had a chance to speak with the neighbors  
2017 about their concerns?

2018  
2019 Mr. Gray- We've not had a chance to speak with the neighbors.

2020  
2021 Mr. Pollard- In terms of privacy and drainage.

2022  
2023 Mr. Gray- Excuse me, I take that back. I believe Mr. Kennedy has  
2024 spoken, had spoken briefly with Mr. Figueiredo prior to the hearing, but we have not, I  
2025 have not personally had an opportunity to speak directly with the neighbors.

2026  
2027 Mr. Pollard- Okay.

2028  
2029 Mr. Johnson- Okay. Alright. Anyone else?

2030  
2031 Mr. Broadway- Well, Mr. Chairman, I think that we've heard there are several  
2032 concerns with this variance request. And so, in that light, I would move that we defer the  
2033 request to allow time for the Department of Public Works to analyze and respond to some  
2034 of the drainage questions. And also, if the department would work with our staff to  
2035 coordinate as to when you can get back to us, if we can do it by the June 27th meeting  
2036 or if you will need more time.

2037  
2038 Mr. Lawrence- Second.

2039  
2040 Mr. Johnson- Okay, it's been motioned and seconded.

2041  
2042 Mr. Pollard- Discussion?

2043  
2044 Mr. Johnson- Any discussion.

2045  
2046 Mr. Pollard- Yes, is June 27<sup>th</sup> enough time?

2047  
2048 Mr. Gidley- Yeah, do we need a date?

2049

2050 Mr. Blankinship- I don't think we have to have a date. If we don't have a date,  
2051 then we have to readvertise, but it's not a big deal. We have to re notify anyway, so.  
2052

2053 Mr. Pollard- That was my discussion. I wanted to be able to push it back  
2054 further if we had to.  
2055

2056 Mr. Blankinship- Yeah, July 25th would be the next meeting.  
2057

2058 Mr. Broadway- Well, based on what Michael said, you know, they couldn't  
2059 guarantee finishing by next month.  
2060

2061 Mr. Blankinship- Do you want to just say July 25th, and have it done with it?  
2062

2063 Mr. Broadway- Okay. Yeah, I'll amend my motion to say. To report back, or  
2064 to defer until July 25<sup>th</sup>.  
2065

2066 Mr. Lawrence- Second.  
2067

2068 Mr. Johnson- The motion is, is that a motion?  
2069

2070 Mr. Pollard- Yes.  
2071

2072 Mr. Johnson- It's been motioned and seconded. All in favor?  
2073

2074 Board- Aye.  
2075

2076 Mr. Johnson- All opposed? Motioned to defer to July.  
2077

2078 Mr. Blankinship- Thank you all very much. You will receive another notice for  
2079 the July hearing. Your comments are all on the record. They will all be taken into  
2080 consideration. We will provide copies. Actually, if you could, can you get contact  
2081 information? If anybody would like copies of the information that is submitted in the future,  
2082 let us have your contact information and we'll get those to you. So, you're welcome to  
2083 come back to the July hearing or you're welcome if you have other commitments. Your,  
2084 your comments will be taken into consideration.  
2085

2086 On a motion by Mr. Broadway, seconded by Mr. Lawrence, the Board **deferred** case  
2087 **VAR-2024-100763** until the July 25, 2024, meeting.  
2088

2089  
2090 **Affirmative:** Broadway, Green, Johnson, Lawrence, Pollard 5  
2091 **Negative:** 0  
2092 **Absent:** 0  
2093

2094  
2095 Mr. Blankinship- Mr. Chair, that brings us to the minutes from the.

2096  
2097 Mr. Green- Can we discuss that letter?  
2098  
2099 Mr. Blankinship- Can we do that after the minutes?  
2100  
2101 Mr. Green- Why?  
2102  
2103 Mr. Blankinship- Okay, because it's on the agenda that way, but we can always  
2104 change it. The review of the rear yard setback variances was mailed out to you. Sarah,  
2105 thank you very much. Sarah Rozmus did the research on that. But of course, she's new,  
2106 so she didn't know the specific cases. So, if you have questions on that research, I might  
2107 be a better resource, but she is also able to answer questions about hers. The statement  
2108 that was made a couple of months ago was that the Board had been inconsistent, and I  
2109 think that is not the case. I think our research has shown that the Board has not always  
2110 followed staff's recommendation, which of course is entirely appropriate, but that the  
2111 Board has been consistent in the ways in which they have departed from the staff  
2112 recommendation. Is that that a fair summary of what you found Sarah?  
2113  
2114 Ms. Rozmus- Yes.  
2115  
2116 Mr. Green- Okay.  
2117  
2118 Mr. Blankinship- Yes sir.  
2119  
2120 Mr. Green- ... we've dealt with all the other things.  
2121  
2122 Mr. Blankinship- Yes sir. Thank you for calling that to my attention.  
2123  
2124 Mr. Green- ... would, am I correct?  
2125  
2126 Mr. Blankinship- Yes sir, you absolutely are.  
2127  
2128 Mr. Green- You dealt with that immediately.  
2129  
2130 Mr. Blankinship- Yes sir. And we have dealt with it privately as well.  
2131  
2132 Mr. Green- Okay, yes sir.  
2133  
2134 Mr. Blankinship- The, the fascinating thing that happened, you asked us to draft  
2135 a letter, we drafted a letter, we've been in discussions about that, and then out of the blue,  
2136 the Court of Appeals handed down this new opinion, which we presented you copies of  
2137 in your package. And my reading of, oh, look, okay. That's the last item on the agenda,  
2138 and then we'll go back and do the minutes. You know, we, we have always based our  
2139 staff reports on a very strict interpretation of the code which was given to us by the Virginia  
2140 Supreme Court. Whether we like it or not, that has been the law. There is now new law.  
2141 The General Assembly has changed the law, changed the statute over the years and

2142 we've always brought that to your attention when it's happened. But we've been waiting  
2143 for the Supreme Court to give us new guidance based on the new statute. And I don't  
2144 know that this case is going to reach the Supreme Court, but the Virginia Court of Appeals  
2145 has now ruled on a variance application to say that the Cochran decision is no longer the  
2146 law in Virginia. That the changes to the statute have fundamentally changed the review  
2147 of variance applications. And we are going to have to take a different view of variances  
2148 from what we have taken in the past. I did confirm with the County Attorney's office that  
2149 the Court of appeals...

2150  
2151 Mr. Green- Do we have a copy?

2152  
2153 Mr. Blankinship- Yeah, it was in your package, I'll certainly give you another  
2154 copy.

2155  
2156 Mr. Green- No, I've got it.

2157  
2158 Mr. Blankinship- Yeah, the Court of Appeals decisions are binding on Circuit  
2159 Courts, so they are binding on Boards of Appeals statewide. And so, unless the Supreme  
2160 Court does take this case and overturns the Court of Appeals, this is the law. And  
2161 basically, the fundamental question now is going to be one of reasonableness. And it is  
2162 going to be on your broad shoulders to determine what is reasonable and what is not.  
2163 And of course, the applicants are always going to say that the regulations are  
2164 unreasonable as applied to their property. But yeah, it will be up to you to make an  
2165 individualized case by case decision of whether the code is reasonable as applied in  
2166 specific circumstances. The September Drive case this morning is an excellent example  
2167 because the purpose, as Mr. Gidley explained, the purpose of that requirement, of not  
2168 counting the terminus as a frontage, is because we want the road to be extended. This  
2169 road is never going to be extended, so that particular requirement is not reasonable as  
2170 applied to that lot in our view. Some of these setback variances for screen porches and  
2171 things, some of them I, I still think the requirements are reasonable. The Board has said  
2172 there will be a 45-foot setback and a deck can extend 10 feet into that, but a porch cannot.  
2173 And if everybody else in the neighborhood is meeting it, then that's a reasonable  
2174 requirement and there has to be some good reason to find that it's unreasonable. But in  
2175 a case where there's almost but not quite enough room for the applicant to do what they  
2176 want, you might say that the difference between a 45-foot and a 43-foot setback, it's not  
2177 reasonable to cause the applicant some hardship over a difference that nobody would  
2178 ever notice in the future.

2179  
2180 Mr. Pollard- Right, especially if they're like on a corner lot or something, it  
2181 was like no way to know it turned out that way.

2182  
2183 Mr. Blankinship- Right, yeah. Or you're measuring from a curve, or your eye  
2184 just cannot say, "Well, gee, that's not in line".

2185  
2186 Mr. Pollard- Right.

2187



188 Mr. Blankinship- I'm trying to think of some of the other cases that we've had  
2189 recently.  
2190  
2191 Mr. Green- Two things. One, my boss's wife is a Chief Justice for the, for  
2192 the Court of Appeal, so...  
2193  
2194 Mr. Blankinship- No kidding.  
2195  
2196 Mr. Green- I'm going to ask her about it.  
2197  
2198 Mr. Blankinship- Yeah.  
2199  
2200 Mr. Green- I'm going to ask her about it. But ultimately what does this  
2201 mean?  
2202  
2203 Mr. Blankinship- It means that we are going to take a very different view of a  
2204 lot of variance requests. There are a lot of cases in the past where staff has sat around  
2205 and just said, man I wish we could recommend approval on this, but they have reasonable  
2206 use of the property. And the, the court has said in the past, if there's reasonable use of  
2207 the property, you don't even go any further in your analysis. Now we will be able to say,  
2208 yeah, they have reasonable use of their property but applied to this particular site, this  
2209 particular requirement may be unreasonable, The Board may have the flexibility of finding  
2210 that something's unreasonable. So, I think you're going to have the authority to grant  
2211 variances that in the past we have all felt like we wished could be granted, but we could  
2212 not, within the confines of the Supreme Court, make a recommendation there.  
2213  
2214 Mr. Pollard- So, we have more of a burden to be consistent.  
2215  
2216 Mr. Blankinship- Yes, it will be more difficult for you to do your jobs, you will  
2217 have more authority. But you will be able to solve problems that you have not been able  
2218 to solve in the past. So, based on that. I'd like to hold off on writing that letter until we see  
2219 how these things go for a couple of months. And if we go through four months and we still  
2220 have the same issues, then yeah, we can always draft a letter at that time.  
2221  
2222 Mr. Green- So, basically, we're a little bit more flexible in granting  
2223 approval.  
2224  
2225 Mr. Blankinship- Yes. Which, you know from your first day on the Board, you  
2226 were asking, well, why are we even here if we have no authority to even look at these  
2227 questions? And now that that restriction on your authority has been changed. I won't say  
2228 removed, but it has been changed. So yeah, it's going to be a very different job going  
2229 forward. And fortunately, as of now, for June, we don't have any variances, so we'll all  
2230 have another month to think about this. We have four or five use permits coming up in  
2231 June, but unless it comes in today, there won't be any variances for June. So, we will  
2232 have some more time to think and consider.  
2233

2234 Mr. Pollard- I wonder if they'll be able to work it out.  
 2235  
 2236 Mr. Green- I'm going to ask her.  
 2237  
 2238 Mr. Blankinship- Yeah, I would love to have any inside scoop you have on that.  
 2239  
 2240 Mr. Green- I'll call her today.  
 2241  
 2242 Mr. Blankinship- Now can we take up the minutes?  
 2243  
 2244 Mr. Johnson- Yeah.  
 2245  
 2246 Mr. Blankinship- Alright. Mr. Lawrence did find some commas, and hyphens,  
 2247 and italics, and things to correct. We have talked about a couple other little items, where  
 2248 you want to change the words that were spoken, ...  
 2249  
 2250 Mr. Pollard- Who found those? Surprise, surprise!  
 2251  
 2252 Mr. Blankinship- ... and I'm reluctant to change the words that were spoken,  
 2253 even if they weren't grammatically perfect. But, with that I think a motion would be in order.  
 2254  
 2255 Mr. Green- So moved.  
 2256  
 2257 Mr. Pollard- Second.  
 2258  
 2259 Mr. Johnson- It's been motioned and second. All in favor?  
 2260  
 2261 Board- Aye.  
 2262  
 2263 Mr. Blankinship- I'm recording you all as being in favor of that.  
 2264  
 2265 Mr. Lawrence- Yeah. Aye. Yes.  
 2266  
 2267  
 2268 **Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**  
 2269 **Negative: 0**  
 2270 **Absent: 0**  
 2271  
 2272  
 2273 Mr. Lawrence- Can I just ask you a question to follow up on our discussion  
 2274 about the Supreme Court decision? And if you haven't read it yet, Mr. Green, I suggest  
 2275 you go into a very quiet room where you can concentrate. And kick your cat out of the  
 2276 room too. Mine kept knocking on the door. So, before the keyword was unnecessary or  
 2277 necessary, and now it's reasonable, is that right? They seem to reference that in the report  
 2278 that they've taken out the word,  
 2279

2280 Mr. Blankinship- Prior to 2004, the statute actually said a hardship approaching  
2281 confiscation.  
2282  
2283 Mr. Lawrence- Okay  
2284  
2285 Mr. Blankinship- But they didn't actually quote those words in Conchran.  
2286  
2287 Mr. Lawrence- Okay.  
2288  
2289 Mr. Blankinship- Those words were removed from the statute like the next year,  
2290 but the courts that were hearing these things said, well, there was a change, but it didn't  
2291 affect the standard. Then they changed it more completely. So, in the past that test, the  
2292 first of the three Threshold Tests has been, if there is any reasonable use of the property,  
2293 there's no grounds for a variance. The only time you can grant a variance is if there is no  
2294 reasonable use for the property. That has gone away.  
2295  
2296 Mr. Lawrence- Okay.  
2297  
2298 Mr. Blankinship- It is now if, if the restriction on the property is an unreasonable  
2299 restriction. And that will be up to you to decide what is a reasonable restriction and what  
2300 is an unreasonable restriction.  
2301  
2302 Mr. Pollard- I like that.  
2303  
2304 Mr. Lawrence- So we've done 180 degrees since Cochran then.  
2305  
2306 Mr. Blankinship- Yes.  
2307  
2308 Mr. Lawrence- Basically, the BZA was told we had, as Mr. Green expressed  
2309 concern about, virtually no authority to grant variances in most cases, to now having quite  
2310 a bit of flexibility.  
2311  
2312 Mr. Blankinship- Yes.  
2313  
2314 Mr. Lawrence- The other follow-up question is, on the porch issue, do we  
2315 have any, any information on how other localities are addressing that in terms of setbacks,  
2316 or can we get that information?  
2317  
2318 Mr. Blankinship- No. I have some research on that, but it's out of date. We  
2319 probably should redo that.  
2320  
2321 Mr. Lawrence- That might be helpful too. Yeah.  
2322  
2323 Mr. Pollard- Screened in?  
2324

2325 Mr. Lawrence- Screened porches. If we could see what other localities are,  
 2326 how they're addressing that.  
 2327

2328 Mr. Green- Because that just seems to be the new trend. And the other  
 2329 trend that's coming is going to be these semi-inground pools. That's coming too.  
 2330

2331 Mr. Pollard- Semi-inground?  
 2332

2333 Mr. Green- Yeah, you're going to see a pool that's not that old... regular  
 2334 above ground. But opposed to being total inground, but they're now coming to semi-  
 2335 inground. I've seen somewhere people are putting concrete walls around it. And I'm like,  
 2336 have they taken an above ground pool and enclosed it. And I just happened to be talking  
 2337 to somebody from the pool industry and he was saying no, that's what's coming there.  
 2338 So, I mean, I guess if you're coming off your deck. If your deck is four feet off the ground,  
 2339 and you're coming off your deck, then you just go directly into your pool. As opposed to  
 2340 having to go down.  
 2341

2342 Mr. Blankinship- Makes sense.  
 2343

2344 Mr. Green- I guess that's about four or five years away, but ...  
 2345

2346 Mr. Blankinship- That's the first I've heard of that. That's interesting.  
 2347

2348 Mr. Green- Yeah, they're ... above ground pools.  
 2349

2350 Mr. Johnson- Yeah. But I know I was in Chicago and now I noticed that  
 2351 every house had a pool, but it was like you're saying.  
 2352

2353 Mr. Green- Oh yeah?  
 2354

2355 Mr. Johnson- Yes.  
 2356

2357 Mr. Pollard- I'd like to make a motion.  
 2358

2359 Mr. Johnson- Yes sir.  
 2360

2361 Mr. Pollard- Can we adjourn the meeting?  
 2362

2363 Mr. Blankinship- A motion to adjourn is always in order.  
 2364

2365 Mr. Green- Until Mr. Blankinship buys us lunch.  
 2366

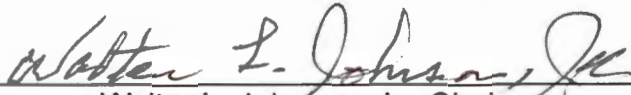
2367 Mr. Pollard- Do I have a second?  
 2368  
 2369  
 2370

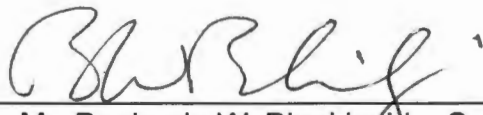
**Affirmative: Broadway, Green, Johnson, Lawrence, Pollard 5**

2371  
2372  
2373  
2374  
2375  
2376  
2377  
2378  
2379  
2380  
2381  
2382  
2383  
2384  
2385

**Negative:**  
**Absent:**

0  
0

  
\_\_\_\_\_  
Walter L. Johnson, Jr., Chair

  
\_\_\_\_\_  
Mr. Benjamin W. Blankinship, Secretary