MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON THURSDAY OCTOBER 24, 2019 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH OCTOBER 7, 2019 AND OCTOBER 14, 2019.

Members Present: Gentry Bell, Chair

Terone B. Green, Vice-Chair

Walter L. Johnson, Jr. Terrell A. Pollard

James W. Reid

13 Also Present:

Jean M. Moore, Assistant Director of Planning

Benjamin Blankinship, Secretary Paul M. Gidley, County Planner R. Miguel Madrigal, County Planner Kuronda Powell, Account Clerk

[Recitation of the Pledge of Allegiance]

Mr. Bell -

Thank you. Mr. Blankinship now will read our rules.

Mr. Blankinship - Yes. Good morning, Mr. Chair, members of the board, ladies and -- madame and gentlemen. The rules for this meeting are as follows: I will announce your case and at that time I will ask you to stand and be sworn in, and then a member of the staff will give a brief introduction to your case, and then we will ask you to speak. After you've spoken everyone else in the audience will have a chance to speak, but then you would have an opportunity for rebuttal if anybody did speak. The meeting is being recorded, so we'll ask you to speak directly into the microphone on the podium. State your name, and assuming that your last name is Lee we already have the spelling in the record, so we don't need you to do that.

Mr. Chair, we do have two withdrawals on this morning's agenda. The first is VAR2019-00024 24, Cava Company's request from 20 Kambis Drive. That was withdrawn just the other day. And VAR2019-00028 was withdrawn after the advertisements but before the agenda was printed, so you have that noted as withdrawn on your agenda. And with that, Mr. Chair, we are ready to begin.

Mr. Bell - Let's start with VAR2019-00024 that's been withdrawn. Do I have a motion that we accept this withdrawal?

Mr. Green - So moved.

Mr. Bell - Do I have a second?



47	Mr. Reid -	Second.
48 49 50 51	Mr. Bell - opposed. Motion carries.	Any discussion? All those in favor say aye. All those
52 53 54 55 56	Affirmative: Negative: Absent:	Bell, Green, Johnson, Pollard, Reid 5 0 0
57 58 59 60	Motion carries. We have a motion that we withdraw	a second withdrawal, which is the VAR2019-00028. Do I have
61	Mr. Johnson -	So moved.
63	Mr. Bell -	Do I hear a second?
65	Mr. Pollard -	Second.
66 67 68 69	Mr. Bell - opposed say I hear no o	Is there any discussion? All those in favor say aye. All those opposed, so the motion's been carried
70 71 72 73 74	Affirmative: Negative: Absent:	Bell, Green, Johnson, Pollard, Reid 5 0 0
75 76	Mr. Bell -	Ben, let's go on to the next one.
77 78 79	Mr. Blankinship -	Yes, sir. Variance 2019 number 29.
80 81 82 83 84 85 86	808-724-5554) zoned Or setback is not met. The a	CHARITA LEE requests a variance from Section 24-94 of the addition at 3916 Battersea Place (FAIRFIELD WOODS) (Parcel ne-Family Residence District (R-3AC) (Varina). The rear yard applicant proposes 26 feet rear yard setback, where the Code setback. The applicant requests a variance of 9 feet rear yard
87 88 89 90		Would everyone who intends to speak to this case please Do you swear the testimony you're about to give is the truth, the but the truth, so help you God?
91 92	Ms. Can -	I do.

Mr. Blankinship - Thank you. All right, you can be seated while Mr. Gidley introduces your case.

Mr. Gidley - Thank you, Mr. Secretary and good morning, Mr. Chair, members of the board. The subject property is located in the Fairfield Woods subdivision. This is just east of Dabbs House Rd. As you can see here it contains a 1,518-square-foot home that has been owned by the applicant since its construction in 2002.

This is the plot plan here of the existing home. The applicant wishes to construct a roughly 452-square-foot addition onto the rear of her home that would include a bathroom, a bedroom, along with a wider kitchen. This would extend a total of 5 feet into the rear-yard setback. Finally, there would be a 4- by 8-foot mechanical room that would extend an additional 4 feet into the rear-yard setback.

In evaluating this request, the Code of Virginia allows for reasonable modification to alleviate a hardship faced by a person with a disability, specifically so they use and enjoy their house. In this case the applicant suffers from chronic kidney disease and is on home hemodialysis and this commonly leads to shortness of breath and tiredness. To avoid climbing her stairs as often as she does now, she would like to have a first-floor master bedroom and master bathroom that you can see right here. So long as she can provide documentation of her disability and the need for these improvements staff believe she qualifies for a modification under this section of code.

As noted in your staff report, staff believes all five of the required subtests are met. To briefly focus on detrimental impact, which is number two. As you can see on the aerial here the applicant has common space for the neighborhood to her side here and to the rear. Only real neighbor impacted by this is the side property, and the proposed addition wouldn't meet regular setbacks, so staff -- I mean, when I say it wouldn't meet regular setbacks, it would meet those setbacks from the side property there.

Mr. Blankinship - Side.

Mr. Gidley - They need a variance for the rear-yard setback, but as far as the side property, the side-setbacks would be met. So, staff doesn't see a substantial detrimental impact if this case were granted. And, as noted, the other subtests also appear to be met.

In conclusion, the applicant again has a chronic kidney disease and is on hemodialysis. Because such individuals must contend with weakness and tiredness, the applicant's desire to have the first-floor bedroom and bathroom to limit use of her steps is understandable and would appear to meet the requirements for a variance. The five subtests are also met. Therefore, staff can recommend approval of this case subject to the conditions in your staff report. This concludes my presentation and I will be happy to answer any questions you might have. Thank you.



139	Mr. Bell -	Are there any questions? Thank you, sir.
140		
141	Mr. Gidley -	Thank you, Mr. Chair.
142	M- C	His Manager is Oberita Law Occurrent Law State of the Law State of the Company of the Law State of the Company
143	Ms. Cannon -	Hi. My name is Charita Lee Cannon. I am married now but it
144	is still going to give you	the Charita Lee, so
145	Ma Diaglandia	Oleman
146	Mr. Blankinship -	Okay.
147	Ma Cannon	Me are requesting as Mr Cidley said I do have absonic
148	Ms. Cannon -	We are requesting, as Mr. Gidley said, I do have chronic
149		upstairs, I have to do everything with the steps now. And the
150		g this is because I have large equipment. Also, I have to have a
151 152		dialysis, and it also must have the water lines hooked up right at
		right now, I am doing it upstairs, but it's, again, it's a hardship for upstairs that I either have to haul down, which is a hardship for
153 154		susband haul it down for me and carrying it back upstairs.
155	me. In fact, I have my i	lasband hadrit down for the and carrying it back upstairs.
156	Last shortness of breath	n most of the time, so once I'm downstairs I stay downstairs until
157	_	irs to go to bed. And it's just a lot, because I could do a lot more
158		me downstairs. And, again, laundry room. I also have anywhere
159		ning in a month for my supplies, and so I have to have additional
160		which I've currently used it in upstairs as well.
161	otorago opado for that w	mon to carrently accurate in apotano ac wen.
162	So, we would have to m	nake space for that. So I just was diagnosed with this about two
163		e I'm going I am on a transplant list, but I have no idea when
164		d until then I really do need to do additional to make the comfort
165		ne a lot more comfortable than what I am right now.
166		3
167	Mr. Bell -	Are there any questions? I do notice that I think what's
168	required for a disability,	which this is obviously a disability, building to keep everything in
169	line I believe the doctor	
170		
171	Mr. Blankinship -	We do normally have some sort of evidence from a physician.
172	Is that not oh, okay, it	's one of the conditions. Okay.
173		
174	Mr. Bell -	It is one of the conditions?
175		
176	Mr. Blankinship -	That's what Mr. Gidley says.
177		
178	Mr. Johnson -	Has a doctor given a report on that, or written anything about
179	that?	
180		
181	Ms. Cannon -	I did call before today to see if I needed that and they told me
182	I did not need that until I	building permit.
183		

Mr. Johnson -

184

Okay.

	But that would be no marking the second of
Ms. Cannon - basis.	But that would be no problem. I see my doctor on a month
Mr. Blankinship -	Okay.
Mr. Bell - normally has to be fol	Yeah. So, we believe that it was just a procedure the lowed though to make sure that it was there.
Mr. Blankinship - the conditions.	Do you want to add that as a condition, Mr. Chair? It is not
Mr. Bell -	It's not in the conditions?
Mr. Blankinship -	It is not in the conditions.
some space to have the	I've been out there to look at the facility, and it is a quiet place out there, so it kind of makes it nice. But I noticed that you do have a addition out there. And especially in the back you have the other you from the other subdivision over there you have some space.
Ms. Cannon -	Yes.
Mr. Johnson - house in the back, bac	Also with the conditional approval. And as I said about the there, the utility shed.
Ms. Cannon -	Yes.
Mr. Johnson -	You agree with all of that? With the condition of the use?
Ms. Cannon -	Yes. Yes, sir we did. No that has to be moved. Yes.
Mr. Johnson -	Yes, okay.
Ms. Cannon -	Yes.
Mr. Blankinship - it'll be an easy matter	We figured you would have a contractor on site anyway, sfor them to relocate that.
Ms. Cannon -	Right, right.
Mr. Blankinship -	It doesn't look like it's on, you know, bolted to a concre
foundation.	

231	Mr. Johnson	Okov		
232	Mr. Johnson -	Okay.		
233234	Mr. Bell -	Any other questions? Thank you, ma'am. Is there anyone		
235		this? Hearing no one speak let's go on with the voting. Do I		
236	hear a motion?			
237	near a motion:			
238	Mr. Johnson -	Mr. Chairman, I move that we approve the variance subject to		
239		by staff. And a request for the variance is a reasonable		
240	accommodation for the person with the disability. And the hardship was not created by the applicant, and there should be no detrimental impact on nearby property because the			
241				
242	house backs up to common area. And the other tests are met as stated within the staff			
243	report. Recommend appro			
244				
245	Mr. Bell -	Approval's been recommended by Mr. Johnson. Do I hear a		
246	second?			
247				
248	Mr. Green -	Second.		
249				
250	Mr. Bell -	Second approval by Mr. Green. Any discussion?		
251				
252	Mr. Blankinship -	Just a note that we're adding condition number five requesting		
253	the provision of a certificat	ion of some sort from a physician.		
254				
255	Mr. Johnson -	Yes.		
256	M. District	No. 1 doubt the left to a control of the control of the left to the l		
257	Mr. Blankinship -	No. I don't think it needs to be separate as long as it's in the		
258	record.			
259	Mr. Dall	Any other discussion? Hearing none. All those in favor of the		
260	Mr. Bell -	e opposed. Hearing no opposed the motion has been carried		
261	and the applicant's reques			
262 263	and the applicant's reques	is approved.		
264	After an advertised public	hearing and on a motion by Mr. Johnson, seconded by Mr.		
265		ved application VAR2019-00029 CHARITA LEE requests a		
266		94 of the County Code to build an addition at 3916 Battersea		
267		DDS) (Parcel 808-724-5554) zoned One-Family Residence		
268		The Board approved this request subject to the following		
269	conditions:			
270				
271	1. This variance applies or	nly to the rear yard setback requirement for the addition shown		
272	on the drawings submitted with the application. All other applicable regulations of the			
273	County Code shall remain in force. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the			
274				
275	design or location of the in	nprovements will require a new variance.		
276				

- 2. The new construction shall match the existing building as nearly as practical in colors and materials.
- 3. No later than April 24, 2020, the detached storage building along the rear property line shall be moved to a location that complies with the zoning regulations.

- 4. A building permit must be approved by October 25, 2021, or this variance will expire. If the building permit is cancelled or revoked because construction was not diligently pursued, this variance will expire at that time.
- 5. At the time of building permit application the applicant shall provide evidence from a licensed physician that the accommodation is necessary due to the disability.
- 290
 291 Affirmative: Bell, Green, Johnson, Pollard, Reid 5
 292 Negative: 0
 293 Absent: 0

- Mr. Bell Now we can go on to the last one, which is variance 2019-00031.

- VAR2019-00031 GREEN MEADOWS LAND COMPANY, LLC requests a variance from Section 24-95(b)(6) of the County Code to build a one-family dwelling at 201 Sandston Avenue (SEVEN PINES VILLA SITES) (Parcels 830-714-7127 and 830-714-7426) zoned One-Family Residence District (R-4) (Varina). The lot width requirement is not met. The applicant proposes 47.5 feet lot width, where the Code requires 50 feet lot width. The applicant requests a variance of 2.5 feet lot width.

- Mr. Blankinship Would everyone who intends to speak to this case please stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you. Mr. Madrigal.
- Mr. Madrigal Thank you, Mr. Secretary. Mr. Chair, members of the board, good morning. Before you is a request to build a one-family dwelling on an R-4 zoned property.

- The subject property consists of two 25-foot-wide lots at the southwest corner of Piedmont and Sandston Avenues in the Seven Pines Vila Sites subdivision. The property fronts on Piedmont Avenue, which is a paper street, and backs onto the rear of the developed lot. The subject property is unimproved, heavily wooded, and is relatively flat. Each lot that comprises the property is independently owned, and the applicant is a contract purchaser of both lots. The property is subject to the exception standards which require 6,000-square-feet of lot area and 50 feet of lot width to have a buildable lot.
- C²²

Taking both lots into consideration the property is 7,250-square-feet in area and has 50 feet of lot width. Because the right of way along the eastern line of property is only 45 feet in width the county will require a dedication of 2 1/2 feet on each side of the roadway for street-widening purposes upon the development of the property. The dedication will reduce the lot area to 6,887-square-feet, and the lot width to 47 1/2 feet. The applicant is requesting a variance for the lot width for 2 1/2 feet.

With respect to the threshold question, the subject property in its current configuration is a developable lot measuring 50 feet in width and 145 feet in depth. Because the county will require a 2 1/2-foot street-widening dedication the lot width will be reduced to 47 1/2 feet which will render the lot undevelopable. This governmental act will unreasonably restrict the utilization of the property creating a significant hardship for the applicant contrary to the intent of the zoning ordinance. Absent of variance the lot cannot be developed, which would be tantamount to a government taking.

Relative to the five subtests: Item number one, good faith acquisition, the applicant is under contract for the purchase of both lots and he wishes to combine them in order to build the one-family dwelling. The applicant is purchasing the property in good faith and is not responsible for the hardship situation affecting the property.

Item number two, substantial detriment, the property is part of a one-family residential neighborhood composed of properties ranging in width from 50 to 100 feet. There are over 20 lots fronting in Piedmont Avenue that have yet to be developed due to the unimproved roadway. The applicant is purchasing the two lots and combining them to create a developable corner lot with access from Sandston Avenue. The home will be oriented towards Piedmont Avenue so that it's properly oriented once the street is ultimately improved. Granting the variance should not result in any detrimental impacts to adjacent or nearby property.

Item number three, general recurring nature, the property is part of a very old subdivision that predates the county zoning ordinance. The property is a corner lot that fronts on an unimproved street and abuts into an improved right-of-way on the side. The improved right-of-way is slightly undersized at 45 feet in width and will be required to be widened to 50 feet in ultimate width.

The specific circumstances surrounding the property are unique to it and do not justify a code amendment to address this issue. The applicant is exercising his best recourse in this instance. Items four and five are satisfied as outlined in the staff report.

In conclusion, a one-family dwelling is a permitted principal use consistent with both the zoning and comprehensive plan designations of the property. The applicant is combining two 25-foot wide lots in order to develop the property for residential use. The development of the site triggers Public Works improvements that require street-widening dedication of 2 1/2 feet unintentionally rendering the lot undevelopable and resulting in a situation contrary to the intent of the ordinance. Absent of variance the lot is unreasonably

restricted and undevelopable. Based on the facts of the case staff recommends approval 369 subject to conditions. This concludes my presentation. I'll be happy to answer any 70 auestions. 371 372 Mr. Bell -Are there any questions? 373 374 Mr. Johnson -The lot you were saying that 2 1/2 feet. Is that the road on 375 Sandston Avenue? 376 377 Yes, sir. From property line to property line the roadway Mr. Madrigal -378 width, or the right-of-way there, is 45 feet in width. Ultimately Public Works wants it to be 379 50 feet in width, so they'll require 2 1/2 feet from each side of each property. So, it's the 380 2 1/2 dedication on the central property. 381 382 383 Mr. Johnson -Oh, okay. 384 Mr. Bell -Any other questions? 385 386 Mr. Johnson -It's okay. 387 388 Mr. Bell -Thank you. 389 390 Mr. Madrigal -Thank you. 391 192 393 Mr. Bell -Good morning. 394 Mr. Rempe -Morning. 395 396 Mr. Bell -Have you been sworn in? 397 398 Yes. Mr. Rempe -399 400 Mr. Blankinship -Yes. 401 402 Mr. Rempe -Good morning Mr. Chairman, board members, staff. My name 403 is Mark Rempe, and we concur with staff's finding. I believe all the tests are met, and we 404 asked for the Board to move forward with the variance. 405 406 Mr. Bell -Any questions? Hearing none, I thank you --407 408 You know there's one condition that talks about curb and Mr. Rempe -409 gutter. I'd like to put the words in roadside ditch and culverts, because that kind of 410 matches what's out there, even though there is going to be dedication, on the whole street 411 there's ditches and culverts. 412

414 415	Mr. Blankinship - that? Oh, okay. All right.	Do we not have a recommendation from Public Works on
416 417 418 419	Mr. Johnson - the facility?	You said you were putting in culverts for the entrance onto
420 421 422 423	Mr. Rempe - Williamsburg Road there's we add the words road-sid	Going down that street, next block going all the way to roadside ditches and culverts. I just ask that on condition five, de ditch and culverts for curb and gutter unless there's
424 425	Mr. Johnson -	Yes. Because I know that is somewhat deep.
426 427	Mr. Rempe - road, sir.	Yes sir, right. There are well-defined ditches going down that
428 429	Mr. Johnson -	Right. I agree with that. It's to the left of that, yes.
430 431 432	Mr. Bell -	Are we going to go ahead and add that to this?
433 434	Mr. Rempe -	Thank you.
435 436 437	Mr. Bell - who would like to speak for Do I hear a motion?	All right, any other questions? Thank you, sir. Anyone here or it or against it? Hearing no response, we'll go on to the vote.
438 439 440 441 442 443 444 445	development, however, to widening the street it will to was not created by the ap property, because the adj	I move that we approve the variance subject to conditions taken together, the two lots will be large enough to support the because of the county requirement for dedication of land for fall short by 2 1/2 feet. This is an unreasonable hardship which eplicant. And there will be no detrimental impacts on the nearby oining lots are also 50-feet wide and is not developed. The other staff report. Again, I recommend approval.
446 447 448	Mr. Bell - second?	Mr. Johnson has recommended approval. Do I hear a
449 450 451	Mr. Pollard -	Second.
452 453 454 455	lining and all that's require	Do I hear any discussion? I would just like to mention that we in the condition of approval what should be done, that the ditch red to incorporate that with the street that they will be doing at will be taken care of as well.
456 457 458		All those in favor of approving the application say aye. All those nay. Hearing no nays, it's been approved.

- After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Pollard, the Board approved application VAR2019-00031 GREEN MEADOWS LAND COMPANY, LLC requests a variance from Section 24-95(b)(6) of the County Code to build a one-family dwelling at 201 Sandston Avenue (SEVEN PINES VILLA SITES) (Parcels 830-714-7127 and 830-714-7426) zoned One-Family Residence District (R-4) (Varina). The Board approved this request subject to the following conditions:
- 1. This variance applies only to the lot width requirement for one dwelling only. All other applicable regulations of the County Code shall remain in force.
- 2. Only the improvements shown on the plot plan and building design filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new variance.
- 3. Clearing, grading, or other land disturbing activity shall not begin until the applicant has submitted, and the Department of Public Works has approved, an environmental compliance plan.
- 4. Any dwelling on the property shall be served by public water and sewer.
- 5. Curb and gutter or roadside ditches and necessary storm drainage as requested by the Department of Public Works shall be constructed along Sandston Avenue.
 - 6. The applicant shall provide a minimum 10-foot street side setback from the ultimate right-of-way of Sandston Avenue to the new dwelling.
 - 7. A building permit must be approved by October 25, 2021, or this variance will expire. If the building permit is cancelled or revoked because construction was not diligently pursued, this variance will expire at that time.

Affirmative: Bell, Green, Johnson, Pollard, Reid 5
Negative: 0
Absent: 0

Mr. Bell - And now that seems to be all the applications at this time. We will go ahead and approve the minutes of last week, or last month, which was the September 26th meeting. Do I hear a motion?

501 Mr. Johnson - Mr. Chair.

503 Mr. Bell - Yes, sir.

505 506 507	Mr. Johnson - should be 2014. That's or	I have page 26, line 1167, it mentioned 2000 it was 2004, it n line 1167, and so
508 509	Mr. Bell -	In page 26?
510 511	Mr. Johnson -	26, yes.
512 513	Mr. Bell -	And line 1167?
514 515 516	Mr. Johnson - It should be 2014.	Yes. It says, "notice we had two approvals" and it says "2004".
517 518	Mr. Bell -	Okay. All right. Any other corrections or discussion?
519 520	Mr. Johnson -	No.
521 522 523	Mr. Bell - and vote on the minutes of	Hearing no more corrections or discussions we'll go ahead of the last meeting, which was September 26th.
524 525	Mr. Johnson -	I move that we approve it.
526 527 528	Mr. Bell - a second?	I'm hearing Mr. Johnson move that we approve it. Do I hear
529 530	Mr. Reid -	Second.
531 532 533 534	Mr. Bell - No discussion. All those Hearing no nays, the moti	Got a motion of a second that we approve it. Any discussion? in favor of approving the minutes say aye. Opposed say nay. on is carried.
535 536 537		nson, seconded by Mr. Reid, the Board approved the minutes 19 meeting of the Board of Zoning Appeals.
538 539 540 541 542 543	Affirmative: Negative: Absent:	Bell, Green, Johnson, Pollard, Reid 5 0 0
544 545	Mr. Bell -	And then we have a couple things under new business.
546 547 548 549	know, the contractual agre is on schedule for Novem	Yes sir. We are not 100 percent certain of that date yet. be confirming on their calendars and we're working out a, you ement to provide the training. But as far as we know everything ber 21st, next month's meeting date. And as of now there are

only two -- well the application period is closed, so there are only two variances on the

agenda, and they don't look any more complicated than the two that were on this 551 morning's agenda. Now of course you never know. As soon as I say that there'll be 600 52 people to speak on one of them. But as far as I know we should be able to start about 553 554 this time or 10:00 a.m. 555 Mr. Bell -Sounds good. 556 557 Mr. Blankinship -Now we do need a motion to set that, if you don't mind. 558 559 Mr. Bell -Okay. We do need a motion to set that. Do I hear a motion 560 that we take and conduct our training session on November the 21st? 561 562 Mr. Johnson -I motion that we do that. 563 564 565 Mr. Bell -566 Mr. Green -Second. 567 568 Mr. Bell -569 opposed say nay. Ayes have it. The motion has been approved. 570 571 After a motion by Mr. Johnson, seconded by Mr. Green, the Board set a work session 572 immediately following the November 21, 2019 Board of Zoning Appeals hearing. 573 174 575 Affirmative: Bell, Green, Johnson, Pollard, Reid 576 Negative: 577 Absent: 578 579 580 And the only thing that I will mention is on the 21st I will not be here, but Mr. Green will 581 be chairperson and that's the order of the new business as I have on my mind. Anybody 582 have anything? Then I think that's about it. Time to go home. 583 584 585 586 587 588 589 590 591 592 593 594

Mr. Johnson moves to approve it. Do I hear a second? Mr. Green has seconded. All those in favor say aye. All those 5 0 0 Mr. Gentry Bell, Chair Mr. Benjamin W. Blankinship\ Secretary