

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 SEPTEMBER 24, 2020 AT 9:00 A.M., NOTICE HAVING BEEN**  
5 **PUBLISHED IN THE RICHMOND TIMES-DISPATCH SEPTEMBER 8, 2020 AND**  
6 **SEPTEMBER 14, 2020.**

7  
8 **Members Present:** Terone B. Green, Chair  
9 Walter L. Johnson, Jr., Vice-Chair  
10 Gentry Bell  
11 Terrell A. Pollard  
12 James W. Reid  
13

14 **Also Present:** Benjamin Blankinship, Secretary  
15 Leslie A. News, Senior Principal Planner  
16 Paul M. Gidley, County Planner  
17 R. Miguel Madrigal, County Planner  
18 Rosemary Deemer, County Planner  
19 Kristin Smith, County Planner  
20 Kuronda Powell, Account Clerk  
21

22 **Mr. Green -** Mr. Blackburn (ph), would like to confirm that the Board and  
23 the staff are ready. Good morning and welcome to the September 24, 2020 meeting of  
24 the Henrico County Board of Zoning Appeals. Would those who are able please stand  
25 and join us in the Pledge of Allegiance.  
26

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

29 **Mr. Green -** Mr. Blankinship will now read our rules.  
30

31 **Mr. Blankinship -** Good morning, Mr. Chair, members of the Board, ladies and  
32 gentlemen. The rules for this meeting are as follows. Acting as secretary I will call each  
33 case, and then we will ask everyone who intends to speak to that case to stand and be  
34 sworn in. For conditional use permits and variances, a member of the Planning  
35 Department staff will then give a brief presentation, and then the applicant will speak, and  
36 then anyone else who wishes to speak will be given the opportunity. And after everyone  
37 has had a chance to speak, the applicant and only the applicant will have an opportunity  
38 for rebuttal.  
39

40 This meeting is being recorded, so we'll ask everyone who speaks in the room this  
41 morning to speak directly into the microphone on the podium or the microphone at the  
42 back. There is a separate podium at the back just to facilitate social distancing. So if you  
43 would be more comfortable not sharing down here, you're welcome to use that  
44 microphone instead. But we do ask you to speak directly into the microphone and state  
45 your name and please spell your last name, so we get it correctly in the record.  
46

47 All of the members are present today. Today we are broadcasting this meeting over two  
48 media. There is a livestream on the Planning Department web page and we are also  
49 hosting a video conference using Webex. I would like to welcome everyone who is joining  
50 us remotely and provide just a few details for your participation.

51  
52 If you wish to observe the meeting, but you do not intend to speak, welcome and thank  
53 you for joining us. You do not need to take any further action. If you are an applicant, or  
54 if you wish to speak about one of the cases, we need to know that in advance so we can  
55 connect you with the appropriate time. We are managing the speakers using the Webex  
56 chat feature which can be found near the bottom of the page.

57  
58 If you would like to speak at any time during the meeting, please press the chat button  
59 now to open the chat screen and follow the prompts you'll see on the right side of the  
60 screen. Following the introduction and presentation of each case, the applicant will  
61 present their request, as I said. Then the public in the room will have an opportunity to  
62 comment and the public connecting through Webex will have the opportunity.

63  
64 And the staff will use the chat feature at that time to ask who wants to speak and to get  
65 people in the appropriate order. So you will need to use the drop-down menu to the right,  
66 select Kristin Smith, and send Kristin Smith a chat notifying her of what case you want to  
67 speak on. When it's your turn you will be introduced and unmuted and prompted to speak.  
68 The Board will be able to hear whatever you have to say. And following your question or  
69 comment you will be muted again.

70  
71 So in summary, if you want to speak using the Webex chat feature, send a Webex to  
72 Kristin Smith.

73  
74 Mr. Chair, we do have two requests for deferral and two withdrawals this morning. I'll  
75 announce the withdrawals first. They are Conditional Use Permit 2020, number 27,  
76 Kulsoom Quraishi.

77  
78 **CUP2020-00027 KULSOOM QURAISHI requests a conditional use permit pursuant**  
79 **to Section 24-12(h) of the County Code to allow short-term rental of a dwelling at**  
80 **9112 Carrington Woods Drive (CARRINGTON) (Parcel 758-771-9019) zoned One-**  
81 **Family Residence District (R-2AC) and Conservation District (C-1) (Brookland).**

82  
83 That case has been withdrawn. The other withdrawal is Conditional Use Permit 2020,  
84 number 34, Martha Jennings.

85  
86 **CUP2020-00034 MARTHA JENNINGS requests a conditional use permit pursuant**  
87 **to Section 24-12(h) of the County Code to allow short-term rental of a dwelling at**  
88 **3313 Merritt Court (SHEPPARDS WAY) (Parcel 767-769-6651) zoned One-Family**  
89 **Residence District (R-2AC) (Brookland).**

90  
91 That case has also been withdrawn. So, Mr. Chair, the first request for deferral is  
92 Variance 2020, number 15, Gibson M. Wright.

93  
94 **VAR2020-00016 GIBSON M. WRIGHT requests a variance from Section 24-9 of the**  
95 **County Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-**  
96 **7630) zoned Agricultural District (A-1) (Varina). The public street frontage**  
97 **requirement is not met. The applicant proposes 0 feet public street frontage, where**  
98 **the Code requires 50 feet public street frontage. The applicant requests a variance**  
99 **of 50 feet public street frontage.**

100  
101 Mr. Blankinship - Is the applicant here to speak to the request? Mr. Wright?  
102 You can either go, as I said, to the microphone in the back or use this one here.

103  
104 Mr. Wright - Oh yes, good morning Mr. Chairman, members of the Board.  
105 My name is Gibson Wright. I'm the applicant. I had requested deferral namely because  
106 this was going to be a long agenda and I had some other conflicting appointments today.  
107 I don't know what the procedure is, but it looks like it's going to be a short session, so I'd  
108 like to be heard if it's not too late to change my mind again. So is that something that's  
109 possible that I could be heard today?

110  
111 Mr. Blankinship - Yes, certainly.

112  
113 Mr. Wright - Okay.

114  
115 Mr. Blankinship - So you do not want to request withdrawal?

116  
117 Mr. Wright - Correct.

118  
119 Mr. Blankinship - Okay. I am sorry, deferral. Your request was deferral.

120  
121 Mr. Wright - Right.

122  
123 Mr. Blankinship - You do not wish to request deferral.

124  
125 Mr. Wright - Correct.

126  
127 Mr. Blankinship - All right.

128  
129 Mr. Wright - Thank you.

130  
131 Mr. Blankinship - Thank you for letting us know. All right. The other request for  
132 deferral was Variance 2020, number 22, Liberty Homes of Virginia, Incorporated.

133  
134 **VAR2020-00022 LIBERTY HOMES OF VIRGINIA, INC. requests a variance from**  
135 **Section 24-95(c)(4) of the County Code to build a one-family dwelling at 1358 Cedar**  
136 **Lawn Avenue (CEDAR LAWN) (Parcel 803-699-5490) zoned One-Family Residence**  
137 **District (R-4) (Varina). The front yard setback is not met. The applicant proposes 30**

138 feet front yard setback, where the Code requires 35 feet front yard setback. The  
139 applicant requests a variance of 5 feet front yard setback.

140  
141 Mr. Blankinship - Is anyone here this morning to present that? Yes.

142  
143 Mr. Kronenthal - Thank you, Mr. Blankinship, Mr. Chairman, members of the  
144 Board. I'm Mark Kronenthal with Roth Jackson representing Liberty Homes Virginia, Inc.  
145 with respect to 1358 Cedar Lawn, Ave. I'm requesting a deferral in this matter in order  
146 for me to become acquainted with the facts. I was only retained this Tuesday. And we'd  
147 like the opportunity to look at the facts and perhaps meet the staff before we move forward  
148 with the case.

149  
150 If there's anyone here from the public, we'd also be very glad for them to speak, but we  
151 would request that our presentation be continued till the 22nd.

152  
153 Thank you, sir.

154  
155 Mr. Blankinship - All right. Thank you, Mr. Kronenthal. Is there anyone in the  
156 room who objects to the deferral of variance 22? All right. I am told that there is no one  
157 on Webex who objects to the deferral either, so, Mr. Chair, a motion would be in order.

158  
159 Mr. Green - Is there a motion?

160  
161 Mr. Johnson - I motion that we defer.

162  
163 Mr. Pollard - I second.

164  
165 Mr. Reid - Second.

166  
167 Mr. Green - All in favor.

168  
169 On a motion by Mr. Johnson, seconded by Mr. Pollard, the Board **deferred** case  
170 **VAR2020-00022 LIBERTY HOMES OF VIRGINIA, INC's** request for a variance from  
171 Section 24-95(c)(4) of the County Code to build a one-family dwelling at 1358 Cedar Lawn  
172 Avenue (CEDAR LAWN) (Parcel 803-699-5490) zoned One-Family Residence District  
173 (R-4) (Varina).

174  
175  
176 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
177 **Negative:** 0  
178 **Absent:** 0

179  
180  
181 Mr. Green - The motion carries.

182

183 Mr. Blankinship - All right. That should complete the preliminaries, then. And  
184 the first case on the agenda to be heard this morning is Conditional Use Permit 2020,  
185 number 28, David N. Manley.

186  
187 **CUP2020-00028 DAVID N. MANLEY requests a conditional use permit pursuant to**  
188 **Section 24-95(i)(4) of the County Code to build a swimming pool in the front and**  
189 **side yards at 101 Antioch Drive (Bradley Acres) (Parcel 850-713-4293), zoned A-1,**  
190 **Agricultural District (Varina).**

191  
192 Mr. Blankinship - Is there anyone in the room who intends to speak to this case?  
193 All right, thank you. Mr. Gidley, you can begin.

194  
195 Mr. Green - Mr. Blankinship, before we begin.

196  
197 Mr. Blankinship - Yes, sir.

198  
199 Mr. Green - I just want to remind individuals that we've changed our policy.  
200 Once we hear the case, we vote on them, and once we vote the attendees, or those who  
201 are speaking of, you know, for or against are free to leave. They don't have to stay for  
202 the whole session.

203  
204 Mr. Blankinship - All right. Thank you, Mr. Chair.

205  
206 Mr. Gidley - Thank you, Mr. Secretary and good morning, Mr. Chair,  
207 members of the Board. The subject property is a corner lot that is located at the  
208 intersection of Antioch Drive and Woodview Drive. It contains an acre of land. And this  
209 is one of those cases where the dwelling faces Antioch Drive, but because Woodview  
210 Drive is the shortest street frontage, this is technically considered the front yard.

211  
212 The applicant would like to construct a 16 by 32-foot above-ground swimming pool  
213 located to the rear of the house, which would technically be the front yard. As a result, a  
214 conditional use permit is required.

215  
216 And this is the home here. This is Antioch that it faces. And the pool would be back over  
217 in this general area here. And, again, another view right here.

218  
219 It would be difficult for the applicant to place the pool in the actual rear yard because of  
220 the presence of a long driveway that comes up the property line here and encumbers  
221 much of the rear yard. In addition, the property is a reverse corner lot, which has  
222 additional setbacks off the adjoining property.

223  
224 In evaluating this request, the property is zoned A-1, Agricultural District, and is  
225 designated Rural Residential on the Land Use Plan. A one-family dwelling is consistent  
226 with these designations and an accessory swimming pool is allowed in the front yard with  
227 the approval of a conditional use permit.

228

229 As far as substantial detriment to a nearby property, because the home faces Antioch  
230 Drive, to the casual observer the pool would be located in the rear yard. In addition, the  
231 proposed location is roughly 100 feet from Woodview Drive and also 80 feet from the  
232 nearest neighbor who is at 302 Woodview. This is the closest neighbor here and the pool  
233 would go here, and this is roughly an 80-foot distance right here.  
234

235 Because the pool is an above-ground swimming pool, however, we are recommending  
236 five evergreen shrubs be planted on the neighbor's side of the pool to provide some  
237 additional screening. With that, staff does not anticipate any substantial detrimental  
238 impact to nearby property owners.  
239

240 So, in conclusion, the property contains an acre of land. Although technically in the front  
241 yard, to the casual observer the pool would be behind the house. While visible, it would  
242 be 80 feet from the nearest residence and 100 feet from the street. As a result, staff does  
243 not anticipate a substantial detrimental impact to nearby property and recommends  
244 approval of this request.  
245

246 This concludes my presentation and if you have any questions, I will be happy to answer  
247 those. Thank you.  
248

249 Mr. Green - Thank you. Are there any questions from the Board or staff?  
250

251 Mr. Johnson - Is there a power line on that side?  
252

253 Mr. Gidley - That brings the power, evidently, to the applicant's home. And  
254 --  
255

256 Mr. Johnson - So there's another wire then, seems like, there's on the other  
257 side.  
258

259 Mr. Gidley - I think it's --  
260

261 Mr. Johnson - Running over the pool is what I was --  
262

263 Mr. Gidley - That's a good point. It's not shown on the plot plan, so I can't  
264 really state where it is located with reference to the pool. The applicant should be able to  
265 speak to that since he's more familiar with his property.  
266

267 Mr. Blankinship - All right. If there are no further questions for Mr. Gidley, we  
268 do have the applicant connecting on Webex.  
269

270 Mr. Green - You want to hear from the applicant? Wait. They have to be  
271 sworn in?  
272

273 Mr. Blankinship - We can't really confirm it, since they're audio.  
274

275 Mr. Green - Okay.  
276  
277 Mr. Blankinship - Is the applicant available on Webex?  
278  
279 Ms. Deemer - Mitchell, you've been unmuted.  
280  
281 Mr. Blankinship - We cannot hear anything in the Board Room. I'm told he's  
282 trying.  
283  
284 Mr. Green - Mr. Blankinship, maybe we should move on to the next case  
285 until the applicant can get connected and then we can come back to this one.  
286  
287 Mr. Blankinship - Yes, sir. I was just thinking the same thing. I'm told now he  
288 is going to call in via phone. I guess his computer was having a problem. So, yes, we  
289 will pass by 28 and come back to that. (Case continues on page 9).  
290  
291 The next case is Conditional Use Permit 2020, number 29, Bruce Olsen.  
292  
293 **CUP2020-00029 BRUCE OLSEN requests a conditional use permit pursuant to**  
294 **Section 24-12(h) of the County Code to allow short-term rental of a dwelling at 1700**  
295 **Allegro Drive (Parcel 807-693-2736) zoned Agricultural District (A-1) (Varina).**  
296  
297 Mr. Blankinship - I see there is no one in the room who intends to speak to this  
298 case. So, Mr. Madrigal, you can present your report.  
299  
300 Mr. Madrigal - Thank you, Mr. Secretary. Good morning, Mr. Chair,  
301 members of the Board. Before you is a request to allow a short-term rental in a one-  
302 family dwelling zoned Agricultural. The subject property consists of an 11.2-acre parcel  
303 with two dwellings on it addressed as 1700 and 1750 Allegro Drive. This property here,  
304 or this home here, is the 1750 address, this is the 1700 address.  
305  
306 The 1750 home is the primary residence on the parcel and this is the property here at  
307 1750. This is 1700. This dwelling was moved onto the property in 1999 as a result of the  
308 construction of Pocahontas Parkway. This second home was moved onto the parcel as  
309 a workman's quarters, which is allowed by the Zoning Ordinance.  
310  
311 In 2009 the property was lost in foreclosure. It was purchased by the bank in 2014 and  
312 the current owner, Mr. Olson, acquired it in 2016. He currently lives in the home address  
313 at 1750 Allegro Drive and intends to rent this home on Airbnb.  
314  
315 As previously mentioned, the code allows two dwellings on one property as long as one  
316 of the homes is occupied by persons employed on the premises. While that might have  
317 been the case when the home was moved in 1999, it is not the case today.  
318

319 However, the code does allow a guest house, which is defined as an accessory building  
320 without cooking facilities intended for intermittent occupancy by one or more guests, and  
321 for which a certificate of occupancy has been issued.

322  
323 Under the new short-term rental ordinance, a guesthouse may be offered for short-term  
324 rental if a CUP is approved. If the Board decides to approve this request, the applicant  
325 will have to convert the building from a single-family residence to a guest house. This will  
326 include removing any cooking facilities from this structure here.

327  
328 The property is zoned A-1, and most of the property is designated Commercial  
329 Concentration on the Land Use Map. The western edge of the property is designated as  
330 Environmental Protection Area because it lies in the flood plain.

331  
332 The pattern of development in the area is mixed. On the opposite side of New Market  
333 Road are several large agricultural parcels. Along Burning Tree Road are dwellings on  
334 the wooded parcels ranging from 5 to 10 acres in size. On the south side of Burning Tree  
335 is Settler's Ridge, a 97-unit development of small lots. The surrounding area also includes  
336 the Varina Library, Varina High School, John Rolfe Middle School, and the Excel to  
337 Excellence Foundation. The proposed short-term rental is compatible with this broad  
338 range of uses.

339  
340 The property is bordered by Pocahontas Parkway, and the exit ramp to Laburnum Avenue  
341 on the south and the west. There is an 18-acre parcel with a dwelling on it to the north.  
342 To the east, between the subject property and New Market Road, are five homes on lots  
343 ranging from one to two acres in size. The nearest home, being this one here, belongs  
344 to the applicant as well.

345  
346 The other four homes are approximately 500 feet distant to the proposed short-term  
347 rental. So from here to here.

348  
349 Allegro Drive is a private road owned by the applicant, which serves three dwellings. It  
350 extends approximately 900 feet and is level and well maintained. Sight distance is clear  
351 for well over 500 feet in either direction.

352  
353 Based on location of the dwellings the distance to neighbors, and good access to the  
354 property, staff does not anticipate any detrimental impacts from the proposed short-term  
355 rental.

356  
357 In conclusion, the applicant owns three dwellings along a private access road. He intends  
358 to live in one and offer one for short-term rental. Because the two dwellings are on the  
359 same lot, he will have to convert the rental unit into a guest house by removing the cooking  
360 facilities and changing the occupancy of it. Once that is accomplished, the short-term  
361 rental of the unit should be consistent with the Zoning Ordinance and the Comprehensive  
362 Plan and should not cause any detrimental impacts to nearby property.

363

364 Staff recommends approval subject to conditions. This concludes my presentation. I'll  
365 be happy answer -- or attempt to answer your questions, as this is Ben's case.

366  
367 Mr. Green - Thank you. And any questions from the Board or staff? We're  
368 not hearing from the applicant?

369  
370 Mr. Blankinship - Is the applicant for case 29 here? Mr. Olson? He is  
371 apparently not on Webex either, Mr. Chair. I don't know what the challenges are this  
372 morning, but we do have Mr. Hanley now on the line for the previous case. So, Mr. Gidley,  
373 if you want to come back up so we can run the presentation. And, Ms. Smith, if you would  
374 go ahead and connect Mr. Henley, this is the applicant for the previous case. The pool  
375 in the front yard on Antioch Drive.

376  
377 Unknown Speaker - Do we need to vote to defer to 29th?

378  
379 Mr. Blankinship - I suggest, Mr. Chair, that you pass it over and see if the  
380 applicant shows up. He may be caught in traffic or something.

381  
382 **(This case continues on page 28)**

383  
384 Mr. Green - Okay.

385  
386 **Case CUP2020-00028 DAVID N. MANLEY continues:**

387  
388 Mr. Blankinship - All right. Mr. Hanley.

389  
390 Mr. Hanley - Yes, good morning.

391  
392 Mr. Blankinship - Good morning, sir. Can you tell us what you're applying for  
393 and why?

394  
395 Mr. Hanley - Yes. My name is Mitchel Hanley. I'm here for David Manley,  
396 for the above-ground pool at 101 Antioch Drive. I know that you went through the second  
397 case then already. So if there're any questions about the location, I'm here to answer.

398  
399 Mr. Blankinship - Well can you just give the Board a brief description of the  
400 project, please?

401  
402 Mr. Hanley - Well, it was an above ground pool. There was a concern  
403 about it being in the front yard where it is indeed the back yard. But because of how the  
404 house is situated the garage prevents us from putting anything in the actual back yard  
405 behind the house. So we have to put it off to the right of the house. But it can be seen  
406 from the street. So this was the only location we can put the pool because of how the  
407 house is built the corner of the lot.

408  
409 Mr. Blankinship - Okay. Thank you, sir.

410  
411 Mr. Hanley - Okay.  
412  
413 Mr. Blankinship - Are there any questions for the applicant?  
414  
415 Mr. Johnson - I have a question about the power line. How close is that to  
416 where you're planning on putting the pool?  
417  
418 Mr. Blankinship - Mr. Henley, I don't know if you can hear the question. One of  
419 the Board members would like to know how close the electrical line serving the house is  
420 to the location of the pool.  
421  
422 Mr. Hanley - Okay. If you go back to the survey map, the survey map will  
423 show you where the electric line is. Right. Here there's the line here. Right there. So  
424 it's about --  
425  
426 Mr. Johnson - Yeah. Okay.  
427  
428 Mr. Hanley - Ten, twelve feet away from it.  
429  
430 Mr. Johnson - Okay.  
431  
432 Mr. Hanley - The pool is actually that box, that 16' by 32'. And the other  
433 shaded area is level ground that is going to go to the extension of six feet away from the  
434 pool.  
435  
436 Mr. Johnson - Okay. And is it visible from Woodview as well?  
437  
438 Mr. Hanley - Yes, it is.  
439  
440 Mr. Green - Mr. Hanley, I have a question. The staff recommended that  
441 you put screening around the pool for purposes of your neighbor.  
442  
443 Mr. Hanley - Right.  
444  
445 Mr. Green - But since it is visible from the street, you know, how are you  
446 going to protect that so kids or someone just doesn't come in and jump in the pool?  
447  
448 Mr. Hanley - What?  
449  
450 Mr. Green - How is it protected?  
451  
452 Mr. Hanley - There's a ladder that will be removed, and I asked them to put  
453 a locked gate. If we build a more permanent -- like a deck -- we can lock the deck. You  
454 can't get access to it.  
455

456 Mr. Johnson - So there would be no fence around the pool.  
457  
458 Mr. Hanley - No. No fence right now, but because of the height it doesn't  
459 require a fence.  
460  
461 Mr. Johnson - Okay. Can you tell me what's the height?  
462  
463 Mr. Hanley - The height is 52 inches.  
464  
465 Mr. Johnson - Okay. Okay. Thank you.  
466  
467 Mr. Green - Is there a cover for the pool?  
468  
469 Mr. Hanley - Yes there is. Yes.  
470  
471 Mr. Johnson - That's all that I have.  
472  
473 Mr. Green - Since we have concluded our questions, does anyone wish to  
474 speak in support of this request?  
475  
476 Mr. Blankinship - I'm hearing none, Mr. Chair.  
477  
478 Mr. Green - Is there anyone to speak against this request? Public hearing  
479 is now closed, and a motion would be in order. What is the pleasure of the Board?  
480  
481 Mr. Johnson - Mr. Chairman, I move that we approve the conditional use  
482 permit subject to conditions recommended by staff. And the proposed pool will be about  
483 100 feet from the two streets and 80 feet from the nearest house. And it would not have  
484 a detrimental impact on the neighbors or surrounding people.  
485  
486 Mr. Green - This is a motion by Mr. Johnson to approve. Do I hear a  
487 second?  
488  
489 Mr. Reid - I do.  
490  
491 Mr. Green - The motion was seconded by Mr. Reid. Is there any  
492 discussion? All in favor of the motion say aye. All opposed say nay. Motion is approved.  
493  
494 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved** case **CUP2020-**  
495 **00028 DAVID N. MANLEY's** request for a conditional use permit pursuant to Section 24-  
496 95(i)(4) of the County Code to build a swimming pool in the front and side yards at 101  
497 Antioch Drive (BRADLEY ACRES) (Parcel 850-713-4293) zoned Agricultural District (A-  
498 1) (Varina). The Board approved the request subject to the following conditions:  
499  
500 1. This conditional use permit applies only to the location of the proposed swimming pool  
501 in the front yard. All other applicable regulations of the County Code shall remain in force.

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2. Only the improvements shown on the plot plan and pool 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 shall require a new conditional use permit.

3. At least five evergreen shrubs, a minimum of two feet in height when planted and with an ultimate height of at least five feet, shall be planted and maintained between the swimming pool and the property at 302 Woodview Drive. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.

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

5. The applicant must obtain a building permit for the proposed pool by September 26, 2022, or this conditional use permit will expire. If the building permit is cancelled or revoked because construction was not diligently pursued, this conditional use permit will expire at that time.

<b>Affirmative:</b>	<b>Bell, Green, Johnson, Pollard, Reid</b>	<b>5</b>
<b>Negative:</b>		<b>0</b>
<b>Absent:</b>		<b>0</b>

Mr. Blankinship - All right. Thank you, Mr. Chair. I don't think we have yet heard from the applicant for 29, but we do have the applicant for 30 on Webex, so let us proceed. Conditional Use Permit 2020, number 30, Home Depot.

**CUP2020-00030 HOME DEPOT requests a conditional use permit pursuant to Section 24-116(d)(1) of the County Code to allow a temporary sales stand at 6501 W Broad Street (Parcel 768-742-3277) zoned Business District (B-3) (Tuckahoe).**

Mr. Blankinship - Mr. Madrigal, would you give your report, please?

Mr. Madrigal - Yes, sir, Mr. Secretary. Mr. Chair, members of the Board. Before you is a request to allow a temporary sales tent at the Home Depot improvement center. The subject site is the Home Depot property adjacent to Office Max and Burlington Coat Factory on West Broad Street. On site improvements consist of a 109,000-square-foot store and attached 22,500-square-foot outdoor garden center.

Consistent with the last eight years, the store management intends to erect a 40 by 60 tent in the parking lot for Christmas tree sales between November 2 and December 26, 2020. And you can make out the tent here in this area.

547 The garden center is identified as an outdoor display area on the approved POD.  
548 Christmas Tree sales would be allowed in that area without the need for a conditional use  
549 permit. However, Home Depot prefers to sell Christmas trees from a tent in the parking  
550 lot. Because this location is not identified on their POD as an outdoor display area, a  
551 CUP is required in order to allow temporary outdoor sales at the front of the store.  
552

553 The property is predominantly zoned B-3 and is designated Commercial Arterial on the  
554 Land Use Map. A building material store is a principal permitted use in this district, the  
555 sale of Christmas trees is a customary and incidental accessory use to a home  
556 improvement center. Consequently, the proposed tent is not out of character with the  
557 existing use and is consistent with the zoning and comprehensive plan designations.  
558

559 As in past years, the tent location will be in front of the garden center adjacent to the main  
560 drive aisle along the front of the store. And this area here is the tent location. Although  
561 14 parking stalls will be temporary displaced, staff is not aware of any lasting detrimental  
562 impacts from previous approvals. Also, the county has not received any complaints about  
563 the seasonal sales use or a lack of onsite parking for the retail center during the holiday  
564 season.  
565

566 In conclusion, the request is consistent with the commercial nature of West Broad Street,  
567 the intent of the Zoning Ordinance, and the Comprehensive Plan. The proposed use  
568 consistent with a home improvement center. The tent will be on site for a short duration  
569 and there appears to be no lasting or substantial detrimental impacts.  
570

571 Specific conditions of approval have been prepared to mitigate any adverse impacts on  
572 adjacent uses during the temporary period that the tent will be on site. Based on these  
573 facts, staff recommends approval subject to conditions and I'll be happy to answer any  
574 questions you may have.  
575

576 Mr. Green - Thank you. Are there any questions from the Board of staff?  
577

578 Mr. Bell - Yes. I have one. How long this year are they going to have  
579 music? The weather has -- they're going to have it use it --?  
580

581 Mr. Madrigal - Oh. I'm not aware of that to be quite honest with you. The  
582 application didn't mention at all any kind of exterior music or band or anything like that.  
583 Perhaps you want to direct that to the applicant.  
584

585 Mr. Reid - Mr. Madrigal is the location going to be in pretty much the  
586 same spot it's been in the past years?  
587

588 Mr. Madrigal - Yes, sir.  
589

590 Mr. Reid - Good.  
591

592 Mr. Green - Yes. Okay. Are there any more questions from the Board of  
593 staff? We'll now hear from the applicant.  
594  
595 Mr. Blankinship - All right. I understand we have Debbie Woolridge on Webex.  
596  
597 Ms. Woolridge - Correct. Good morning.  
598  
599 Mr. Blankinship - Good morning. Would you like to tell the Board what it is  
600 you're applying for and why?  
601  
602 Ms. Woolridge - It's a conditional use permit for the sale of Christmas trees for  
603 the Home Depot, which is something we've been doing for the last eight years. And it's  
604 basically the same as the past eight years.  
605  
606 Mr. Blankinship - There is a note in the staff report that the store has a garden  
607 center that's already been approved where sales of other plants are conducted. Is there  
608 a reason why the garden center can't be used for the Christmas tree sales?  
609  
610 Ms. Woolridge - I think that they want the tent to be there to generate more  
611 business.  
612  
613 Mr. Blankinship - All right. Thank you. I believe one of the Board members also  
614 had a question.  
615  
616 Mr. Bell - Yes. Did I hear anything about music in the tent with the  
617 Christmas trees and stuff?  
618  
619 Mr. Blankinship - I don't know if you could hear. The question was, Will there  
620 be music in the area around the tent outdoors?  
621  
622 Ms. Woolridge - No. No music.  
623  
624 Mr. Bell - Thank you.  
625  
626 Mr. Reid - Ms. Woolridge, are you in agreement with the conditions of  
627 approval outlined in the staff report?  
628  
629 Ms. Woolridge - Yes.  
630  
631 Mr. Reid - Thank you.  
632  
633 Mr. Green - Ms. Woolridge, have you completed your presentation?  
634  
635 Ms. Woolridge - Yes, I have. I thank you for your consideration.  
636

637 Mr. Green - Thank you. Does anyone else wish to speak in support of this  
638 request? Does anyone wish to speak in opposition to this request? We will now entertain  
639 a motion.

640  
641 Mr. Reid - I move that we approve the conditional use permit subject to  
642 the conditions recommended by the staff. They've operated here for the past eight years  
643 and I don't think there's been any complaints. They appear to have enough parking and  
644 this allows them to use the garden center for other items. The proposed term is not  
645 detrimental to surrounding property and should be approved.

646  
647 Mr. Green - There is a motion by Mr. Reid to approve. Do I hear a second?

648  
649 Mr. Bell - Second.

650  
651 Mr. Green - Motion was seconded by Mr. Bell. Is there any discussion?  
652 All in favor of the motion say aye. All opposed nay. The motion is approved. Thank you.

653  
654 On a motion by Mr. Reid, seconded by Mr. Bell, the Board **approved** case **CUP2020-**  
655 **00030 HOME DEPOT's** request for a conditional use permit pursuant to Section 24-  
656 116(d)(1) of the County Code to allow a temporary sales stand at 6501 W Broad Street  
657 (Parcel 768-742-3277) zoned Business District (B-3) (Tuckahoe). The Board approved  
658 the request subject to the following conditions:

659  
660 1. This conditional use permit applies only to the installation of a tent for the sale of  
661 Christmas trees from November 2, 2020 through December 26, 2020. All other applicable  
662 regulations of the County Code shall remain in force.

663  
664 2. Only the improvements shown on the plot plan filed with the application may be  
665 constructed pursuant to this approval. Any additional improvements shall comply with the  
666 applicable regulations of the County Code. Any substantial changes or additions to the  
667 design or location of the improvements shall require a new conditional use permit.

668  
669 3. The applicant shall obtain a building permit for the tent, and shall comply with all  
670 requirements and conditions of the Department of Building Inspections.

671  
672 4. The tent shall not interfere with approved landscaping islands or parking lot lighting.  
673 All approved landscaping shall be maintained in a healthy condition.

674  
675 5. A sign shall be posted on the exterior of the tent providing emergency contact  
676 information and stating that trespassing is prohibited.

677  
678 6. The tent shall be removed from the property no later than December 30, 2020, at which  
679 time this permit shall expire.

680  
681  
682 **Affirmative:** **Bell, Green, Johnson, Pollard, Reid** **5**  
683 **Negative:** **0**

684 **Absent:**

0

685

686

687 Mr. Blankinship - All right, Mr. Chair. The next case is Conditional Use Permit  
688 2020, number 31, Meghan Geiss.

689

690 **CUP2020-00031 MEGHAN GEISS requests a conditional use permit pursuant to**  
691 **Section 24-12(h) of the County Code to allow short-term rental of a dwelling at 7716**  
692 **Patterson Avenue (FOREST HEIGHTS) (Parcel 759-741-3719) zoned One-Family**  
693 **Residence District (R-3) (Tuckahoe).**

694

695 Mr. Blankinship - Ms. Geiss is joining us on Webex this morning, so, Mr. Gidley,  
696 if you would go ahead and make your presentation.

697

698 Mr. Gidley - Thank you, Mr. Secretary. The subject property is located  
699 along the northern side of Patterson Avenue just east of Valley Drive. You can see it  
700 closer right here. Here's Patterson, Valley Drive, and the property. And this is the picture  
701 of the home right here.

702

703 The surrounding area is residential with the exception of St. Mathew's Church located just  
704 to the west. The applicant wishes to have short-term rentals that would exceed 60 days  
705 per year and potentially be unhosted which will allow up to 8 guests at any one time.

706

707 In evaluating this request, the property is zoned R-3, One-Family Residence District, and  
708 has designated this SR2, Suburban Residential on the Land Use Plan. A one-family  
709 dwelling is consistent with both these designations. Unhosted stays and over 60 days of  
710 rental each year require approval of a conditional use permit.

711

712 As far as substantial detrimental impact, again, this is the home here and this is the  
713 driveway that comes in here. This is a crescent-shaped driveway. This can  
714 accommodate up to seven cars, so parking should not be a problem. The closest  
715 residence is located over to the left and this is roughly 30 feet to the northwest.

716

717 The home itself, has four bedrooms and with two people allowed per bedroom as many  
718 as eight guests could be on the property at any one time.

719

720 One of the bedrooms contains a twin bed, however, so the home is advertised as just  
721 having seven guests at any one time. Staff recommends incorporating that as a condition  
722 just to provide a little more protection for the adjacent residence as well.

723

724 Finally, the applicants are listed as owning a residential dwelling in the Forest Hill section  
725 of Richmond City. They should provide this Board assurances that they, well, at least  
726 one of them will reside at the Patterson Avenue Property for at least 185 days per year  
727 as required by the county code.

728

729 In conclusion, this is a four-bedroom home located off of Patterson Avenue. It has  
730 adequate parking and only one home is within 100 feet. For these reasons staff does not  
731 believe there would be substantial detrimental impact from this request, and thus  
732 recommends approval subject to the conditions found in your staff report. This concludes  
733 my presentation and if you have any questions, I would be happy to answer those. Thank  
734 you.

735  
736 Mr. Green - Thank you. Are there any questions from the Board of staff?  
737 Mr. Blankinship, may I hear from the applicant?

738  
739 Mr. Blankinship - All right. We understand the applicant is connected on  
740 Webex. Ms. Geiss, are you able to hear and speak?

741  
742 Ms. Deemer - Ms. Geiss you'll be unmuted now.

743  
744 Ms. Geiss - Hello. Can you hear me?

745  
746 Mr. Blankinship - Yes, thank you.

747  
748 Ms. Geiss - Okay. Yes. My name is Meghan Geiss. Thank you so much  
749 for your consideration. And just to reiterate the point that I do not allow for more than  
750 seven guests on the property. I'm also very, very conservative in terms of who I open our  
751 home to.

752  
753 Airbnb is not a big fan of me because of the fact that I decline all requests where there's  
754 an individual who has no reviews. I maintain five-star ratings as a host and I take that to  
755 be of great value and the good relationships with both my neighbors that are aware of my  
756 use of Airbnb. I really care about my residence and the people surrounding it, so I will  
757 appreciate consideration of this matter, but will also respect any decision made.

758  
759 Mr. Blankinship - Ms. Geiss, I apologize for mangling your name so badly.

760  
761 Ms. Geiss - No. Believe me. You're doing just fine. It looks like Guise.

762  
763 Mr. Blankinship - I'm sure I'm not the first.

764  
765 Ms. Geiss - Yeah, just about every, single day of my life.

766  
767 Mr. Blankinship - Not a problem.

768  
769 Mr. Green - Are there any questions from the Board for the applicant.

770  
771 Mr. Reid - Ms. Geiss, do you live in that home, or do you live on Forest  
772 Hill Avenue?

773

774 Ms. Geiss - I split my time between both homes, but I do have at least 185  
775 days at the Patterson property.

776  
777 Mr. Reid - Will you be able to respond within 30 minutes if there's a  
778 problem?

779  
780 Ms. Geiss - Oh, yeah.

781  
782 Mr. Reid - If you have people there who are causing a lot of noise in town  
783 for a reunion or a college graduation or something and people have complaints. Can you  
784 respond within 30 minutes?

785  
786 Ms. Geiss - Absolutely. And let me also reiterate how conservative I am  
787 in regard to who I open my home to. So the majority of individuals who have stayed are  
788 usually people that are -- it could be a reunion for University of Richmond. The rate at  
789 which I charge is higher than what Airbnb would wish for me to do, meaning that Airbnb  
790 is more concerned about filling vacancies. I'm more concerned about making sure I have  
791 the top-quality guests in my home.

792  
793 So if you're unfamiliar with Airbnb, each guest has the potential to have zero reviews or  
794 some reviews so that hosts are able to understand how did they perform, or how did they  
795 behave, with other Airbnb hosts. So I have a policy that I cannot accept -- I do not accept  
796 any guests with zero reviews, because I need to know how they performed in the past.  
797 This is inconvenient for guests, it's inconvenient for Airbnb, but it ensures that I have top-  
798 quality guests stay in my home.

799  
800 Fortunately, based on observations from my neighbors, there's been no concerns or  
801 complaints of noise or disrupted behavior. All the horror stories that you may hear in the  
802 media have not applied to my property because of some of the extra measures I've taken  
803 as a host. I can't speak for other Airbnb hosts, but that's how I conduct my business. So  
804 I can, to go back to your point, yes. 30 minutes is not a problem whatsoever. And I'm  
805 never out of town during times where we have our home available to guests. So I'm  
806 always available to address any issues.

807  
808 Mr. Reid - Thank you.

809  
810 Ms. Geiss - Yes, sir.

811  
812 Mr. Green - And you speak about certain -- that you restrict your property  
813 to certain guests.

814  
815 Ms. Geiss - Yes, sir.

816  
817 Mr. Green - Can you give me some idea of how diverse your guests have  
818 been as it relates to rental on your property?

819

820 Ms. Geiss - So diverse?

821  
822 Mr. Green - Yes.

823  
824 Ms. Geiss - So we have, in terms of diversity, geographic diversity has  
825 occurred where we have individuals that have come from Maryland, Pennsylvania,  
826 different areas of Virginia itself. In terms of the guests themselves, I can't speak to -- in  
827 great detail of how diverse they are as a population outside of what I have available to  
828 me in terms of their profile picture. But I have had individuals stay that have had English  
829 as a second language. Individuals of a variety of ethnic backgrounds.

830  
831 When I say conservative and my high level of restrictiveness for who stays in my home,  
832 that's based primarily on those reviews, because I want to make sure that the others  
833 coming into my home has already demonstrated that they are good guests elsewhere.  
834 And so when I say conservative it's not to target any particular population, it's to say -- I  
835 want to have assurances that people that are coming into my home have already  
836 demonstrated that they're appropriate in other homes.

837  
838 Mr. Green - The other question I have is, because this whole Airbnb and  
839 stuff is so new, what would happen if you got an application from somebody whose a first  
840 time, you know, user of this service? How would you screen them?

841  
842 Ms. Geiss - So that's a perfect example of what we're talking about here.  
843 If they're a first-time user of Airbnb and they signed up and they request to stay at my  
844 home, I have available to me when they put in a request -- for one thing I have no  
845 automatic bookings, so I have to approve every single booking that comes my way.

846  
847 So one of the things I look for is reviews. Okay? So if they have zero reviews, they just  
848 signed up that day, request to book me, I literally have a little blurb that I copy and paste  
849 that says, I'm so sorry, unfortunately we do not accept guest bookings from individuals  
850 with no history of reviews. And then I wish them the best of luck.

851  
852 This also includes individuals that are not new to Airbnb where those people have been  
853 members of Airbnb since 2015 but have zero reviews. To me that sends up a lot of flags.  
854 You've been part of this platform for multiple years, however you've collected no reviews.  
855 That to me is a much worse sign indicating, hey, why weren't you getting any reviews, but  
856 you've been a participant for four or five years. So I definitely would be very hesitant.

857  
858 And I'm very honest. You have to give feedback to Airbnb as to why you're declining  
859 guests, and I make it very clear. I'm uncomfortable opening my home to individuals with  
860 zero reviews.

861  
862 Mr. Green - So I get, well, I'm a parent of a college student who'll be  
863 graduating from college. So I guess if I were to go to her location where she's graduating  
864 and try to rent an Airbnb, because I've never done this before, I would potentially be  
865 rejected from you.

866  
867 Ms. Geiss - Yes. If you have zero reviews, you would be rejected by me.  
868  
869 Mr. Green - Thank you.  
870  
871 Ms. Geiss - I don't work for Airbnb. I don't rely on Airbnb. My spouse and  
872 I are fully employed. Airbnb is not our main source of income. I enjoy hosting. I enjoy  
873 hospitality. And I don't -- I'm not in it for making coin. Okay? So you seem like a nice  
874 person, but if you were to submit a request with zero reviews, you would get the same  
875 message. My loyalty is not to Airbnb. It's to my home, safety, and my neighbors.  
876  
877 Mr. Green - Are there any additional questions for the applicant? Does  
878 anyone else wish to speak in support of this request? Is there anyone that wishes to speak  
879 in opposition to this request?  
880  
881 Mr. Johnson - How long has she been doing this?  
882  
883 Mr. Green - The question is how long have you been doing this?  
884  
885 Ms. Geiss - Think it's been a little bit over a year.  
886  
887 Mr. Green - Public hearing is now closed, and a motion would be in order.  
888 What is the pleasure of the Board?  
889  
890 Mr. Reid - I move that we approve the conditional use permit subject to  
891 the conditions recommended by the staff. The house fronts on Patterson Avenue, but it  
892 has a large semi-circular driveway so there's adequate parking. There is only one house  
893 within 100 feet and the neighbor has not expressed any opposition. As long as they abide  
894 by the conditions, there's no reason to think that this will have a detrimental impact on the  
895 neighborhood.  
896  
897 Mr. Green - There is a motion by Mr. Reid to approve. Do I hear a second?  
898  
899 Mr. Bell - Seconded.  
900  
901 Mr. Green- The motion was seconded by Mr. Bell. Is there any  
902 discussion? The only concern that I have is that since this concept is relatively new, well,  
903 it's not relatively new, but it's new in a sense that a lot of people are beginning to use this.  
904 You know, it could easily be perceived that you could be somewhat discriminatory in, you  
905 know, in your selection. Because, like you said, I would be rejected. And I don't know  
906 how I would take that. So I would just like to just say that's how I feel about this.  
907  
908 The motion was seconded by Mr. Bell, and all in favor of the motion say yea. All opposed  
909 say nay. The motion passes.  
910



957 nonconforming with respect to lot size, lot width and setbacks. It is improved with a 1,406-  
958 square-foot home constructed in 1948. Parking for the property is located at the rear of  
959 the lot and is accessed by way of a 16-foot-wide unimproved alley.

960  
961 The home was originally a single-story bungalow totaling 843 square feet. In 2011 the  
962 previous owner added 563 square feet to the home by creating two second-floor  
963 bedrooms and a full bathroom, which you can see here on the floor plans.

964  
965 The applicant purchased the property in August of 2015. Over the years she has offered  
966 the home as an unhosted short-term rental. Since September of 2015. The property has  
967 been listed on several web-based platforms. The home consists of three bedrooms and  
968 two bathrooms, and it includes two queen-sized beds and one twin for a total of five  
969 guests. Several amenities are included with the rental.

970  
971 A CUP is required because the property is offered for unhosted stays in excess of 60  
972 calendar days a year, and the property has less than 80 feet of public street frontage.  
973 The property is zoned R-3 and is designated Suburban Residential 2 on the Land Use  
974 Map. The existing dwelling is consistent with both designations. The Board of  
975 Supervisors has determined that the short-term rental of a dwelling may be permitted in  
976 a one-family district subject to the approval of a CUP. The code allows short-term rental  
977 only in an applicant's primary residence.

978  
979 In September of 2019, the applicant purchased another home in the City of Richmond.  
980 She has stated that the subject property is her primary residence, and that she will live  
981 there a minimum of 185 days per year. In the past, however, she has posted on her listing  
982 that she does not reside at the subject property. This discrepancy should be clarified at  
983 this hearing. Unless she lives in the dwelling at least 185 days a year, the application  
984 cannot be approved.

985  
986 The property is part of a subdivision that was platted prior to the adoption of the Zoning  
987 Ordinance. The lot is substandard in size, lot width, and setbacks. This does not even  
988 meet the exception standards outlined in the code. The homes on either side of the  
989 property are within 9 to 12 feet from the subject home. This is the home on the right.  
990 You'll see the distance between the homes.

991  
992 And this is the home on the left. Parking for the home is provided at the back of the lot.  
993 It's accessed by way of an unimproved alley. There is one open and one covered stall  
994 atop a gravel parking area. The applicant will have to remove the car port, clear and level  
995 the rear of the lot to accommodate two more parking stalls to satisfy the code requirement  
996 for short-term rentals.

997  
998 Street parking is limited due to the narrow nature of the roadway, lack of curb and gutter,  
999 narrow lots, and the sub-standard front-yard setback hindering driveways in onsite  
1000 parking.

1001

1002 Although it appears that the applicant is a responsible host and managers her property  
1003 well, staff is concerned due to the dense nature of the neighborhood with compact lot  
1004 sizes, substandard setbacks, and limited parking. The proposed use could result in  
1005 substantial detrimental impacts.

1006  
1007 Staff is also concerned that the property may not be the applicant's primary residence  
1008 contrary to the requirements and intent of the ordinance.

1009  
1010 In conclusion, a one-family dwelling is consistent with both the zoning and the  
1011 comprehensive plan designations. The property is part of a neighborhood with smaller  
1012 lots and a dense development pattern. Several of the lots are non-conforming with  
1013 respect to lot area, lot width, and setbacks. The two adjacent dwellings on either side of  
1014 the property are within 9 to 12 feet distant. The property has two onsite parking spaces  
1015 at the rear of the lot and significant improvements would have to be made to  
1016 accommodate two additional parking stalls, as required by code.

1017  
1018 The property owner has rented the home exclusively as an unhosted rental for the last  
1019 five years and does not appear to have lived at the property during that time. Although  
1020 she has stated that she will live at the subject property a minimum of 185 days per year  
1021 so that it qualifies as her primary residence, last year she purchased a home in the City  
1022 of Richmond and has been using that property as her primary residence. Based on the  
1023 facts of the case, staff recommends denial in this instance.

1024  
1025 Staff has received one letter in support of this request, and it has been included in your  
1026 packets. And that concludes my presentation.

1027  
1028 Mr. Green - Thank you. Are there any questions from the Board of staff?

1029  
1030 Mr. Bell - Do you have any more information about the 185 days?

1031  
1032 Mr. Madrigal - Basically, that's the minimum amount of time that you should  
1033 live on a property for it to be considered your primary residence. So I believe that's based  
1034 on tax code.

1035  
1036 Mr. Green - Was there any evidence that she maintained that 185 days?

1037  
1038 Mr. Madrigal - Not that I'm aware of. You would have to direct that to the  
1039 applicant to provide.

1040  
1041 Mr. Green - Any additional questions for staff? Mr. Blankinship, we'll now  
1042 hear from the applicant.

1043  
1044 Mr. Blankinship - Yes, sir. We have the applicant on Webex.

1045  
1046 Ms. Ziegler - Good morning. This is Irene.

1048 Mr. Blankinship - Good morning.  
1049  
1050 Ms. Ziegler - Good morning.  
1051  
1052 Mr. Johnson - We have a question. Have you been living at the dwelling for  
1053 185 days?  
1054  
1055 Ms. Ziegler - For the first three years that was true. And then my --, I bought  
1056 another residence so that I could -- I was not aware of the 185 days requirement, so --  
1057 going forward that it's required at that point.  
1058  
1059 Mr. Blankinship - Ms. Ziegler your audio is breaking up a little bit over the  
1060 computer. I believe what I understood you to say was that there were some years in the  
1061 past where you did and some years where you did not. But that now you're aware of the  
1062 requirement it is your intention to live in this dwelling for 185 days a year?  
1063  
1064 Ms. Ziegler - That is correct.  
1065  
1066 Mr. Johnson - Okay.  
1067  
1068 Mr. Blankinship - We sort of skipped over your presentation. Would you like to  
1069 go ahead and explain to the Board what it is you're requesting and why?  
1070  
1071 Ms. Ziegler - I request a conditional use permit to allow short-term rental --  
1072 at 910 Sabot.  
1073  
1074 Mr. Green- She's breaking up.  
1075  
1076 Mr. Blankinship - This audio is really bad. Is there anything the staff can do?  
1077  
1078 Mr. Johnson - She did say she would commit to the 185 days?  
1079  
1080 Mr. Blankinship - Yes, sir. She did.  
1081  
1082 Mr. Green - But I think staff said that for the past five years it's been used  
1083 with --  
1084  
1085 Mr. Madrigal - I'm sorry. Can you repeat the question?  
1086  
1087 Mr. Green - You said for the last five years it's been used as what?  
1088  
1089 Mr. Madrigal - It's been used as a short-term rental for the last five years.  
1090 She's been renting it since September of 2015.  
1091  
1092 Mr. Green - And maybe she can answer, during those five years did she  
1093 stay in the property 185 days?

1094  
1095 Mr. Madrigal - I believe she said that the first three years she did, but then  
1096 afterwards she did not. But now she intends to from here on out.

1097  
1098 Ms. Ziegler - That is correct.

1099  
1100 Mr. Blankinship - Ah. Good.

1101  
1102 Mr. Green - Did you want to complete your presentation, Ms. Ziegler?

1103  
1104 Ms. Ziegler - I'm hearing for the first time the objections to my application  
1105 the ways that I do not qualify for this and I'm surprised and disappointed. There's two  
1106 parking places in front of the house and two parking places behind the house. I have had  
1107 no complaints from my neighbors. In fact, two of my neighbors have used my home for  
1108 their relatives. I am a super host on Airbnb. Meaning that I exceed requirements.

1109  
1110 My prices are high in order to discourage -- And, like the previous applicant, I do not  
1111 allow people with no, I guess, with no reviews to stay in my home.

1112  
1113 I know that you're concerned that this is not my primary residence, and, in fact, it is. I get  
1114 mail there. It is my primary residence on all my official paperwork. Taxes and so forth.

1115  
1116 Living in this house for 185 days out of the year will be a change for me admittedly. But  
1117 when I am willing to do that in order to qualify -- obey the provisions.

1118  
1119 Mr. Green - I think Mr. Pollard had a question for you.

1120  
1121 Ms. Ziegler - Sure.

1122  
1123 Mr. Pollard - She answered it.

1124  
1125 Mr. Green - Okay. Thank you. All right. Are you finished with your  
1126 presentation to us?

1127  
1128 Ms. Ziegler - I think so. I mean, I don't know what else I need to address.  
1129 I'd be happy to answer any questions.

1130  
1131 Mr. Madrigal - Fred, can you turn up the volume? It's hard to hear her.

1132  
1133 Mr. Bell - What percentage of the time do you keep it rented?

1134  
1135 Ms. Ziegler - I'm sorry, was that a question?

1136  
1137 Mr. Blankinship - Yes, ma'am. The question was, what percentage of the time  
1138 is the house rented?

1139

1140 Ms. Ziegler - You mean how many days per year?  
1141  
1142 Mr. Blankinship - Yes. That would explain it.  
1143  
1144 Ms. Ziegler - Well, again, in the past probably it went between 200 and 220  
1145 days out of the year. Which I recognize I would have to decrease significantly. I depend  
1146 on the income, which is why I would like to go forward. But I understand that I have to  
1147 comply with the ordinances. So I will.  
1148  
1149 Mr. Green - Are there any additional questions for the applicant? Does  
1150 anyone else wish to speak in support of this request?  
1151  
1152 Ms. Ziegler - You do have a letter, I believe.  
1153  
1154 Mr. Green - Yes.  
1155  
1156 Mr. Blankinship - Yes, thank you.  
1157  
1158 Mr. Green - Does anyone wish to speak in opposition to this request?  
1159 Okay, we can move to a motion. The public hearing is now closed and a motion will be  
1160 in order. What is the pleasure of the Board?  
1161  
1162 Mr. Bell - For several reasons, and many of them have been already  
1163 talked about, but the idea of running a home as a residence is relatively new for the county  
1164 to begin with. And what strikes me if we were to go that way, then we've got to take a  
1165 look at things like this for consideration. So that's seven people. And because its parking  
1166 is limited and noise chances are increasing and things like that. I move that we deny the  
1167 conditional use permit. The house on the sides of the street are very close together.  
1168 There will be unhosted stays that we've known in the past. But there seems to be, or will  
1169 be, corrected in the future. But that's still is a concern. It is a concern.  
1170  
1171 Also, there is very little room for parking on the property and several of the neighbors rely  
1172 on street parking for their property. That's what gets me the most is street parking and  
1173 how crowded it can be there. If you go to many places in the city after 6:15 p.m., when  
1174 everybody's home you might -- at the corner and you got to walk two blocks to get to your  
1175 house. I don't want to create a situation like that even though it might not be the property's  
1176 cars. And there are many chances that a short-term rental will have a detrimental impact  
1177 on the neighborhood. So, therefore, I move that we deny it.  
1178  
1179 Mr. Green - There's a motion by Mr. Bell to deny the request. Do I hear a  
1180 second?  
1181  
1182 Mr. Johnson - Second.  
1183  
1184 Mr. Pollard - Is this the portion for discussion?  
1185

1186 Mr. Green - Wait a minute. The motion was seconded by Mr. Johnson. Is  
1187 there any discussion?  
1188  
1189 Mr. Pollard - If I understand it correctly it has been going on for five years?  
1190  
1191 Mr. Johnson - Yes.  
1192  
1193 Mr. Pollard - So, to me, if it's been happening for five years and she has  
1194 not -- so, like was mentioned, the county's kind of catching up with Airbnb. And the orders  
1195 are kind of catching up. And so, to me, if she was kind of able to operate because there  
1196 was nothing specific on the books. And she hasn't had any complaints. And she said  
1197 even the neighbors were renting it out. So it sounds like the concerns, or far as the  
1198 parking, noise, how close it is, have already been addressed. And she sounds as if she's  
1199 making the accommodations as far as how long she going to be there and things of that  
1200 nature. I think it should be approved.  
1201  
1202 Mr. Green - Well back to staff. Were those concerns addressed when you  
1203 all moved to recommend approval? Was her parking addressed? I think you were  
1204 specific. And could you read the denial again, please? Staff's report?  
1205  
1206 Mr. Madrigal - Oh. Why we're recommending denial?  
1207  
1208 Mr. Green - Yeah.  
1209  
1210 Mr. Madrigal - Yes, sir. Essentially the property is in the neighborhood with  
1211 smaller lots and a dense development pattern. Several of the lots are nonconforming  
1212 with respect to lot area, lot width, and setbacks. Again, the two adjacent dwellings on  
1213 either side of the property are within 9 to 12 feet distance, so that's very close.  
1214  
1215 The property has two onsite parking spaces at the rear of the lot and, again, significant  
1216 improvements would have to be made to accommodate two additional parking stalls as  
1217 required by code and that would be onsite parking. So a total of four onsite parking. She  
1218 had mentioned the parking at the front of the lot. That parking is on street. And you can  
1219 see it here on the aerial.  
1220  
1221 So the parking is on the public right-of-way. You can see the roadway outlined here. So  
1222 between the roadway and the property line is where she's parking. So those two are on  
1223 street. They would not county -- there would have to be a total of four onsite parking stalls  
1224 per the code.  
1225  
1226 The property owner has rented the home exclusively as an unhosted rental for the last  
1227 five years as best as staff can tell. And, you know, it did not appear that she had lived on  
1228 the property during that time. Although she stated that she has lived there for the first  
1229 three years.  
1230

1231 And, again, although she stated that she will live at the subject property a minimum of  
1232 185 days a year, so that it will qualify as her primary residence, last year she did purchase  
1233 a home in the City of Richmond and she's been using that property as her primary  
1234 residence. So based on those facts, that's why staff is recommending denial.  
1235

1236 Mr. Green - Any additional discussion? Okay, we got to move. All in favor  
1237 of the motion to deny by Mr. Bell that was seconded by Mr. Johnson. All in favor of the  
1238 motion to deny say aye. All opposed say nay. I didn't get a consensus of everybody. All  
1239 in favor of the motion to deny say aye. All opposed say nay. The motion is denied.  
1240

1241 On a motion by Mr. Bell, seconded by Mr. Johnson, the Board **denied** case **CUP2020-**  
1242 **00033 IRENE ZIEGLER's** request for a conditional use permit pursuant to Section 24-  
1243 12(h) of the County Code to allow short-term rental of a dwelling at 910 Sabot Street  
1244 (WESTVIEW) (Parcel 767-737-7604) zoned One-Family Residence District (R-3)  
1245 (Brookland).  
1246

1247			
1248	<b>Affirmative:</b>	<b>Bell, Green, Johnson, Pollard, Reid</b>	<b>5</b>
1249	<b>Negative:</b>		<b>0</b>
1250	<b>Absent:</b>		<b>0</b>

1251  
1252 Mr. Blankinship - All right, Mr. Chair, we do have Mr. Bruce Olson on Webex  
1253 now. So if you want to return to Conditional Use Permit 2020, number 29, Bruce Olson.  
1254

1255 **(CUP2020-00029 is continuing from page 9)**  
1256

1257 **CUP2020-00029 BRUCE OLSEN requests a conditional use permit pursuant to**  
1258 **Section 24-12(h) of the County Code to allow short-term rental of a dwelling at 1700**  
1259 **Allegro Drive (Parcel 807-693-2736) zoned Agricultural District (A-1) (Varina).**  
1260

1261 Mr. Blankinship - I believe we already had the staff report on this.  
1262

1263 Ms. Deemer - Mr. Olsen, you've been unmuted.  
1264

1265 Mr. Blankinship - Mr. Olsen, are you there?  
1266

1267 Mr. Olsen - I'm here.  
1268

1269 Mr. Blankinship - Ah. Great.  
1270

1271 Mr. Green - Okay.  
1272

1273 Mr. Blankinship - Can you tell the Board what you are applying for and why?  
1274

1275 Mr. Olsen - I'm applying for a short-term rental at a guest house at 1750  
1276 Allegro Drive. Well actually the address of the guest house is 1700 Allegro Drive.

1277  
1278 Mr. Blankinship - All right. Can you tell us about the property, please?  
1279  
1280 Mr. Olsen - Well I purchased the property in 2016 and there were two  
1281 houses on the same parcel that had been that way for I don't know how many years. And  
1282 I renovated one house -- they were in foreclosure and I bought them and renovated them  
1283 both. And we rented a long-term lease on the property of 1700 for a couple of years. And  
1284 then when our tenant moved out we transferred it into an Airbnb and have been renting it  
1285 that way for about a year or so and we would like to continue. It sits all by itself and the  
1286 whole property is about 12 1/2 acres in Varina.  
1287  
1288 Mr. Green - Are there any questions for the applicant?  
1289  
1290 Mr. Johnson - Your main house, is that on the same property?  
1291  
1292 Mr. Olsen - Yes, sir.  
1293  
1294 Mr. Johnson - So that's not a guest house it's a rental house?  
1295  
1296 Mr. Olsen - Excuse me?  
1297  
1298 Mr. Johnson - The house that you are renting is not a guest house. Right?  
1299  
1300 Mr. Olsen - Yes. That's the guest house right there that you see. That  
1301 white house.  
1302  
1303 Mr. Johnson - Okay.  
1304  
1305 Mr. Green - Could staff explain to me if the rule now is that they have to  
1306 live in the house 185 days of the year and you have a main property and then this  
1307 particular property is adjacent or the subject property -- how does that work?  
1308  
1309 Mr. Madrigal - In this instance it's one lot. So there's two homes on the one  
1310 property. This is the primary dwelling where the applicant lives in and this is a second  
1311 dwelling that he's renting out. And this home was moved back, you know, when  
1312 Pocahontas parkway was improved. It was on a 1.1-acre lot and it got moved on to this  
1313 property and it was moved down with the understanding that this was going to be a  
1314 workman's quarters for people that reside there and work thereon the property. So when  
1315 it was moved on it's a full on, you know, dwelling unit, with a full kitchen.  
1316  
1317 You know, back then when it was moved on, the understanding was workman's quarters  
1318 and it was moved under those understandings. So now what's happened is that, you  
1319 know, he's purchased the property. He resides in this dwelling here. And then this is the  
1320 home that he wants to rent out. Because he's got two units, or two dwellings, on the  
1321 property, the code doesn't allow for that. What it does allow is for a guest house to be  
1322 rented out with a conditional use permit. So he would have to convert the occupancy of

1323 this dwelling into a guest house and remove the full kitchen from it to make it a guest  
1324 house. So that's the caveat there. It has to change the occupancy of it and he has to  
1325 remove the kitchen for it to qualify as a guest house. So then he's living in his house and  
1326 renting out a guest house per code.

1327  
1328 Mr. Green - Mr. Olsen, have you seen the conditions of that?

1329  
1330 Mr. Olsen - Well I just heard them. That's probably not going to work for  
1331 us.

1332  
1333 Mr. Blankinship - It was explained in the email that was sent to you last  
1334 Thursday containing the staff report.

1335  
1336 Mr. Olsen - Yes. Well I had to go out of town in an emergency, and I've  
1337 been away from any kind of digital communication until this morning. Sorry about that.

1338  
1339 Mr. Johnson - So if that dwelling, your main dwelling, was a separate  
1340 property, then it wouldn't be a guest house and you wouldn't have that situation.

1341  
1342 Mr. Olsen - I'm sorry. I can't hear you.

1343  
1344 Mr. Blankinship - Mr. Johnson, a member of the Board, was stating that if the  
1345 dwellings were on two separate lots, then it would not be a guest house. But, of course,  
1346 then you couldn't rent it separately on Airbnb, either. So under the code that was passed  
1347 last year, or earlier this year, the only way forward for you to rent the property on Airbnb  
1348 would be to convert 1700 to a guest house.

1349  
1350 Mr. Olsen - And that would mean removing the kitchen.

1351  
1352 Mr. Blankinship - Yes. The definition of guest house includes the phrase that it  
1353 does not have facilities for cooking. Because it's not meant to be a second independent  
1354 dwelling. It's meant to be an accessory to the main or principal dwelling.

1355  
1356 Mr. Olsen - Okay. Well, I guess I withdraw my application.

1357  
1358 Mr. Blankinship - All right. Well, I apologize that that was not made clear to you  
1359 earlier in the process.

1360  
1361 Mr. Olsen - Well it was probably my error. And thank you for your  
1362 consideration.

1363  
1364 Mr. Blankinship - All right. Thank you, sir.

1365  
1366 **CUP2020-00029 BRUCE OLSEN was withdrawn by the applicant.**

1367

1368 Mr. Green - Okay. Before we move on to deferrals, I mean variances,  
1369 could we take just a quick three-minute break?

1370  
1371 Mr. Blankinship - Yes, sir.

1372  
1373 Mr. Green - Is that all right with the Board?

1374  
1375 Mr. Pollard - All right with me.

1376  
1377 Mr. Johnson - Yes, all right.

1378  
1379 Mr. Pollard - I welcome it.

1380  
1381 [Break in audio]

1382  
1383 Mr. Blankinship - This is Variance 2020, number 16, Gibson M. Wright.

1384  
1385 **VAR2020-00016 GIBSON M. WRIGHT requests a variance from Section 24-9 of the**  
1386 **County Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-**  
1387 **7630) zoned Agricultural District (A-1) (Varina). The public street frontage**  
1388 **requirement is not met. The applicant proposes 0 feet public street frontage, where**  
1389 **the Code requires 50 feet public street frontage. The applicant requests a variance**  
1390 **of 50 feet public street frontage.**

1391  
1392 Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, again, members of the  
1393 Board. This case was deferred from last month's meeting due to technical difficulties  
1394 preventing the applicant from participating in the public hearing. Also, testimony was  
1395 provided by Ms. Andrea Lett, an adjacent neighbor questioning the enforceability of a  
1396 reported private access easement and road maintenance agreement encompassing the  
1397 six properties that are served by the private road.

1398  
1399 The deferral was necessary to allow the applicant an opportunity to participate in the  
1400 public hearing and to allow him to speak to his neighbor and resolve any disagreements  
1401 over the road maintenance agreement.

1402  
1403 Staff has provided you with a copy of this document for your convenience. The applicant's  
1404 request is to build a one-family dwelling on an agricultural parcel with no public street  
1405 frontage.

1406  
1407 The subject property dates back to the 1920s and was owned by the Gibbs family until  
1408 2010. The parcel is three acres in area. It is landlocked and heavily forested, sloping  
1409 down from a south to north direction at a rate of 6 percent. It is accessed by way of a  
1410 private road that serves six other lots. The applicant acquired the subject property and  
1411 the adjoining lot to the west in 2010.

1412

1413 In 2014 he obtained variances to construct single-family dwellings on each of the two  
1414 parcels. These were the two parcels here that he purchased. So he got a variance for  
1415 both. And this parcel here was developed.

1416  
1417 This parcel was developed with a 3,300-square-foot home and, again, it was constructed  
1418 in 2016. And this is Mrs. Lett's property.

1419  
1420 The variance for the subject property expired and it was not developed. The applicant  
1421 obtained a second variance in 2017, but that permit also expired. The property is under  
1422 contract again, and he would like to obtain his third variance to develop this property here.

1423  
1424 The underlying conditions at the property have not changed. It is zoned A-1 and is  
1425 designated Rural Residential on the Land Use Map. In 1939, the property was improved  
1426 with a three-bedroom bungalow, which was razed in '75. Since then the parcel has  
1427 remained unimproved, landlocked, and without a beneficial use. Sand and gravel has  
1428 been extracted from several large tracts in the area, but the subject property is too small  
1429 for that use. Its limited size and lack of public street access also limits its use for  
1430 agricultural.

1431  
1432 12 lots are along Gibbs Lane and the private access road have been improved with single-  
1433 family dwellings establishing the immediate development pattern. Absent a variance to  
1434 allow a one-family dwelling, the property would appear to lack any reasonable and  
1435 beneficial use under the A-1 standards.

1436  
1437 With respect to the five subtests, the applicant has satisfied all five of the items. In  
1438 conclusion, the request is consistent with both the zoning and comprehensive plan  
1439 designations on the property. The property predates the adoption of the zoning ordinance  
1440 and the street frontage requirement. Due to its size and restricted access it is not suited  
1441 for mining or agricultural. Without a variance it has no reasonable beneficial use.

1442  
1443 Given the existing development pattern and the established access and road  
1444 maintenance agreement, staff does not anticipate any detrimental impacts if the request  
1445 is approved. Based on these facts, staff recommends approval.

1446  
1447 Mr. Green - Okay.

1448  
1449 Mr. Madrigal - Thank you.

1450  
1451 Mr. Green - Okay. Are there any questions from the Board of staff? We  
1452 will now hear from the applicant.

1453  
1454 Mr. Blankinship - All right, Mr. Wright, you were the first person to actually give  
1455 testimony in the room this morning, so I'll ask you to raise your right hand. Do you swear  
1456 the testimony you're about to give is the truth, the whole truth, and nothing but the truth,  
1457 so help you God?

1458

1459 Mr. Wright - I do.

1460  
1461 Mr. Blankinship - Thank you, sir.

1462  
1463 Mr. Wright - Mr. Secretary, Mr. Chair, members of the Board, I apologize I  
1464 wasn't here at that last meeting, but I've tried to get on the Webex and I'm here to tell you  
1465 that's a pretty complicated tool there. And I couldn't get through. I apologize to Ms. Lett  
1466 who was here, the neighbor. I did hear her concerns and I'd like to address those. Of  
1467 course, I sold her that property and she bought it without reservation. She knew that road  
1468 maintenance agreement was there. It is recorded. Another house has been built recently  
1469 right up a street utilizing the same road.

1470  
1471 We've had several variances on this. And the reason is, to market the property is kind of  
1472 chicken and the egg. You know. To put a house on there and sell a house to a buyer,  
1473 you know, you can't really offer for sale unless you can build on it. So that raises a big  
1474 question mark. So it's been tough to market it. And then we've had a few sales that have  
1475 fallen through, through the timing situation, so I've had to come back and back.

1476  
1477 But in response to one of her objections was the house was too close to the property.  
1478 This was sort of an arbitrary siting of the house we would need to put on there. But the  
1479 house will be the exact location determined by the purchaser, or the builder. And there's  
1480 a drainfield -- we've had it perked. It does perc for a conventional drain field. So the  
1481 house could relocate.

1482  
1483 It is consistent with the A-1 zoning setbacks. And I think that's 50 feet on each side, 50-  
1484 foot front, rear. But anyway, we can certainly stay within those guidelines and in the A-1  
1485 ordinance.

1486  
1487 With respect to the road maintenance agreement, it's enforceable. It's recorded. I had  
1488 not heard anything from anybody. Have not been assessed I don't think. The road  
1489 coming down to it is actually in good shape. That's not the road there, is it? I was out  
1490 there yesterday. Got macadam on it.

1491  
1492 Mr. Madrigal - The picture's probably a month old, if not that.

1493  
1494 Mr. Wright - Well, no. It's hard surface. But in any event I've not had a  
1495 chance to speak with Ms. Lett, but based on her concerns about the road maintenance,  
1496 that's just something that we'll have to have a meeting of the neighbors if that's something  
1497 she thinks would be appropriate. So I'm bound by it just like she is. I don't think I have  
1498 to contribute till I actually build a house on the property, but I can certainly adhere to it.  
1499 So are there any questions from the Board?

1500  
1501 Mr. Green - The only question I have is that I remember this case. And I  
1502 think one of her biggest concerns, and I'm not sure if she's on Webex or not that she could  
1503 address it, was the proximity of the house to her house. But you seem to say that that  
1504 could be dealt with.

1505  
1506 Mr. Wright - Yes. There are some topo considerations there. It does go  
1507 down to a creek. But, certainly, the lot is a big enough lot, there's a lot of flexibility. And,  
1508 quite frankly, if I were to build a house on my lot I'd want to get as far away from her as I  
1509 could. Because you've got about 200 feet difference. She's about 100 feet, almost 100  
1510 feet off the line, and we'd be 100 feet in front of her and 50 feet. But, you know, I can  
1511 certainly do that. I'll be glad to meet with her and site it, but within reason.  
1512  
1513 Mr. Green - Mr. Johnson.  
1514  
1515 Mr. Johnson - She had mentioned that the roadway was in front of her house  
1516 and other people were using her right-of-way to get to theirs.  
1517  
1518 Mr. Blankinship - I think I can clarify that question, Mr. Johnson. Miguel, would  
1519 you bring the plat back up, please.  
1520  
1521 Mr. Green - Okay.  
1522  
1523 Mr. Blankinship - Mr. Wright, the plat shows the 50-foot easement ending 50  
1524 feet onto Ms. Lett, or Mr. and Mrs. Lett's property. And part of her concern was that the  
1525 driveway serving the house for the subject property should not trespass on her property  
1526 after the end of that easement.  
1527  
1528 Mr. Johnson - That's right.  
1529  
1530 Mr. Green - Okay.  
1531  
1532 Mr. Blankinship - She wanted to be assured that the driveway to the house  
1533 you're talking about would come to the east out of the end of that easement rather than -  
1534 -  
1535  
1536 Mr. Wright - Correct. Yes.  
1537  
1538 Mr. Johnson - Okay. I mean, that'd become a title issue if it wasn't built that  
1539 way.  
1540  
1541 Mr. Blankinship - Well, as you know, the existing driveway does not lie within  
1542 the easement all the way. So those issues certainly come to pass every now and then.  
1543  
1544 Mr. Wright - Yeah. We would pull off right at the property line along the  
1545 creek. As soon as we cross that creek, we'd turn in here. So we would not access her  
1546 property.  
1547  
1548 Mr. Blankinship - Thank you.  
1549

1550 Mr. Johnson - Yes. That's my concern. Thank you. Thank you, Mr.  
1551 Secretary.

1552  
1553 Mr. Blankinship - Yes, sir.  
1554

1555 Mr. Green - Are there any other questions for the applicant? Does anyone  
1556 else wish to speak in support of this request? Does anyone wish to speak in opposition  
1557 of this request? Okay. We can move to a motion. Public hearing is now closed and a  
1558 motion will be in order. What is the pleasure of the Board?  
1559

1560 Mr. Johnson - Mr. Chairman, I move that we approve the variance subject to  
1561 the conditions recommended by staff and the lot was created before the requirement of  
1562 the public street frontage was adopted and there is no other reasonable use for the  
1563 property. The recorded maintenance agreement protects the neighbors against damage  
1564 to the roads and I do not think that there will be any detrimental impact. The tests are  
1565 met as stated in the staff report.  
1566

1567 Mr. Wright - Excuse me. I may be speaking out of order, but I have one  
1568 thing to say I forgot. In the conditions there was a condition that the house plans  
1569 submitted with the ordinance be adhered to built just like that, or else we have to go for  
1570 another variance. That was really just a typical house that we might put on there and it's  
1571 really up to the ultimate buyer to build a house that would obviously comply with the  
1572 zoning restrictions and limits size, et cetera, et cetera. So I'd like to strike that from the  
1573 conditions. I'd be happy. I appreciate that.

1574  
1575 Mr. Blankinship - Mr. Johnson, it's your motion, do you have a response to that?  
1576

1577 Mr. Johnson - Could you clarify that again? I'm --  
1578

1579 Mr. Blankinship - Well the condition number two recommended by the staff  
1580 specifies the plat as well as the building plans that were submitted with the application.  
1581 And those would be binding on the applicant as drafted. He has asked to be relieved  
1582 from that -- this specific building plan.  
1583

1584 Mr. Wright - Right.  
1585

1586 Mr. Blankinship - So that if his client changes building designs, they could do  
1587 that without coming back to this Board.  
1588

1589 Mr. Wright - Exactly. Thank you.  
1590

1591 Mr. Johnson - Oh. Okay. Thank you. I agree. Yes.  
1592

1593 Mr. Blankinship - You're amenable to that? So your motion is to strike condition  
1594 number two? Or modify condition number two to allow for that flexibility?  
1595

1596 Mr. Johnson - Yes. Modify condition number two. And I'll agree to that.

1597  
1598 Mr. Green - There's a motion by Mr. Johnson to approve the variance. Do  
1599 I hear a second?

1600  
1601 Mr. Reid - Second.

1602  
1603 Mr. Green - The motion was seconded by Mr. Reid. Is there any  
1604 discussion? Hearing no one who wanted to discuss, all in favor of the motion to approve  
1605 say aye. All those opposed say nay. The motion is approved, sir.

1606  
1607 On a motion by Mr. Johnson, seconded by Mr. Reid, the Board **approved** case **VAR2020-**  
1608 **00016 GIBSON M. WRIGHT's** request for a variance from Section 24-9 of the County  
1609 Code to build a one-family dwelling at 8630 Gibbs Lane (Parcel 818-681-7630) zoned  
1610 Agricultural District (A-1) (Varina). The public street frontage requirement is not met. The  
1611 Board approved the request subject to the following conditions:

1612  
1613 1. This variance applies only to the public street frontage requirement for one dwelling  
1614 only. All other applicable regulations of the County Code shall remain in force.

1615  
1616 2. The improvements constructed pursuant to this approval shall be consistent with the  
1617 plans titled "Shannon Hill Lot 15" or "Shannon Hill Lot 22" by David Jinnett dated June 16,  
1618 2017. Any additional improvements shall comply with the applicable regulations of the  
1619 County Code. The location of the dwelling may be adjusted by agreement with the  
1620 adjoining property owner. The house plans are intended to be illustrative.

1621  
1622 3. At the time of building permit application, the applicant shall provide evidence of Health  
1623 Department approval of a private water supply and onsite sewage disposal system.

1624  
1625 4. The applicant shall present proof with the building permit application that a legal access  
1626 to the property has been obtained. The driveway shall be improved with a durable asphalt  
1627 or compacted gravel surface at least 10 feet wide with 12 feet of horizontal clearance and  
1628 14 feet of overhead clearance to provide access for police, fire, emergency medical  
1629 services, and other vehicles. The owners of the property, and their heirs or assigns, shall  
1630 accept responsibility for maintaining access to the property until such time as the access  
1631 is improved to County standards and accepted into the county road system for  
1632 maintenance.

1633  
1634 5. Any dwelling on the property shall be set back a minimum of 50 feet from the western  
1635 property line, abutting the private road.

1636  
1637 6. The existing trees shall be maintained within 50 feet of the side and rear property lines.

1638  
1639 7. A building permit for the proposed dwelling must be approved by August 26, 2022, or  
1640 this variance will expire. If the building permit is cancelled or revoked because  
1641 construction was not diligently pursued, this variance will expire at that time.

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<b>Affirmative:</b>	<b>Bell, Green, Johnson, Pollard, Reid</b>	<b>5</b>
<b>Negative:</b>		<b>0</b>
<b>Absent:</b>		<b>0</b>

Mr. Blankinship - All right, Mr. Chair. We have one more adventure in Webex. Variance 2020, number 21, Charles Futrell.

**VAR2020-00021 CHARLES FUTRELL requests a variance from Section 24-94 of the County Code to build a one-family dwelling at 2101 Carneal Street (Parcel 800-727-9415) zoned One-Family Residence District (R-4) (Fairfield). The rear yard setback is not met. The applicant proposes 27 feet rear yard setback, where the Code requires 35 feet rear yard setback. The applicant requests a variance of 8 feet rear yard setback.**

Mr. Blankinship - Mr. Madrigal, are you going to present this one?

Mr. Madrigal - Yes, sir.

Mr. Blankinship - Thank you.

Mr. Madrigal - Thank you, Mr. Secretary. Mr. Chair, members of the Board, before you is a variance request for a reduced rear-yard setback in order to build a one-family dwelling.

Prior to 1960 the subject property was part of a 14-acre parcel. When Interstate 64 was built, the subject property was part of the land acquired by the Commonwealth for the right of way. Then in 1967 the Commonwealth sold the subject property to a private owner because it was not needed for the interstate. It was assessed for tax purposes at \$600 not as a buildable lot.

The property sold again in 1999 and in 2008. In February the property was transferred by gift deed to the current owner. The property was assessed for tax purposes at \$3600. For comparison, the buildable lot to the east and the lots across Carneal Street are assessed with a land value of \$20,000 each.

The property consists of a long, narrow, wedge of land that tapers from a depth of 95 feet to the eastern -- woops, let me fix that. I'm sorry. There we go. It tapers from a depth of 95 feet on the eastern end to 25 feet at the western end. It is zoned R-4 and the required front and rear setbacks are 35 feet.

The applicant proposes to build a home 60 feet long and varying in depth from 20 feet to 12 feet. As proposed, the house would meet the front and side-yard setbacks, but it would extend eight feet into the rear-yard setback. It would meet the minimum house-size

1688 requirements for the zoning ordinance and would be the maximum house size on this  
1689 wedge-shaped lot.

1690  
1691 There would be very little room for a proper rear yard or any future accessory structures,  
1692 much less for any future additions to the home. This application is similar to a case  
1693 decided by the Board back in June. In that case most of an 8-acre lot was taken for  
1694 construction for I-64 in Short Pump. The southern remnant of that lot is now the site of  
1695 Tom Leonard's and the Goodwill store in the Brookhollow development. The northern  
1696 remnant was donated to a nonprofit. It was never improved or intended as a separate  
1697 building lot. It was merely leftover land from I-64. As a result, the Board denied that  
1698 variance.

1699  
1700 In this case, however, the middle portion of the property was acquired by the  
1701 Commonwealth for construction of I-64. The southern remnant of the property was  
1702 acquired by the City of Richmond in 1967 and is now part of Armstrong High School. The  
1703 remaining sliver between the interstate and Carneal Street was never intended to be a  
1704 buildable lot. The person who owned the property when the interstate was constructed  
1705 was compensated for it. Those who have owned it since '67 did not have a reasonable  
1706 expectation that the sliver of excess right-of-way would ever be a buildable lot.

1707  
1708 This case is also very different from the previous one in that this request is consistent with  
1709 the comprehensive plan. In the previous case, construction of a one-family dwelling  
1710 would have been inconsistent with the land use designation and would have complicated  
1711 future development of the adjoining property. In this case the land use plan calls for  
1712 suburban residential development and the proposed dwelling would be consistent with  
1713 that designation.

1714  
1715 While the property in the previous case was likely to be incorporated into a large  
1716 development, a single dwelling is the only viable use that is likely to be proposed for this  
1717 lot.

1718  
1719 With respect to the five subtests, they are satisfied as outlined in the staff report.  
1720 Additionally, the proposed one-family dwelling will not have any substantial detrimental  
1721 impacts on nearby property. In conclusion, the property is too small to fit even a minimal  
1722 dwelling within the required setbacks. The only way to develop the property is through a  
1723 variance. The previous owners were compensated for the loss of value, and those who  
1724 have owned the lot since 1967 should have known it was not a buildable lot.

1725  
1726 Nevertheless, without a variance there is no reasonable beneficial use of the land. It was  
1727 acquired in good faith, and the proposed dwelling will not cause any substantial  
1728 detrimental impacts. This situation is not of a general or recurring nature, so a variance  
1729 is the appropriate mechanism for this relief. This is not a use variance and no other relief  
1730 is available.

1731  
1732 Staff recommends approval subject to conditions.

1733

1734 Mr. Green - Thank you. Are there any questions from the Board of staff?  
 1735 We'll now hear from the applicant.  
 1736  
 1737 Mr. Blankinship - Mr. Chair, we have both Mr. Futrell who is the owner and  
 1738 applicant, and also Mr. Swinson, who is the representative on Webex.  
 1739  
 1740 Mr. Swinson - Good morning, Board. My name is Anthony Swinson.  
 1741  
 1742 Mr. Blankinship - Yes, sir.  
 1743  
 1744 Mr. Swinson - And I'm here to answer any questions.  
 1745  
 1746 Mr. Blankinship - Well if you could begin by giving the Board a brief presentation  
 1747 on what it is you're requesting and why.  
 1748  
 1749 Mr. Swinson - Yes. We're requesting a variance to relax the rear setbacks  
 1750 in order to build a single-family home. This home that we're looking to build is conducive  
 1751 to the neighborhood. It's a rancher in style. We're right in the neighborhood of 900 to  
 1752 1,100 square feet, which is conducive to the neighborhood. It meets the requirements of  
 1753 the R-4 zoning. I'm open for any other questions.  
 1754  
 1755 Mr. Pollard - Mr. Futrell, are you familiar with the conditions?  
 1756  
 1757 Mr. Swinson - I'm Anthony Swinson. Yes, I am. Yes, sir. I am aware of the  
 1758 conditions. And they will be addressed and followed.  
 1759  
 1760 Mr. Pollard - Thank you.  
 1761  
 1762 Mr. Green - Are there any additional questions for the applicant? You said  
 1763 someone else was on there that wanted to speak?  
 1764  
 1765 Mr. Blankinship - Yes. That was the representative, Mr. Swinson. Mr. Futrell,  
 1766 you're also on the line? I guess the applicant is only following along and allowing the  
 1767 representative to speak for him.  
 1768  
 1769 Mr. Green - Does anyone out there wish to speak in support of this  
 1770 request? Does anyone wish to speak in opposition to this request? The public hearing  
 1771 is now closed and a motion would be in order. What is the pleasure of the Board?  
 1772  
 1773 Mr. Pollard - I move that we approve the variance subject to the conditions  
 1774 recommended by the staff. Although the property owner was compensated with the  
 1775 highway taking the larger portion of the property has already been developed. There is  
 1776 no other reasonable use for this small piece of property. Unless the variance is granted,  
 1777 the land will remain vacant.  
 1778

1779 The proposed house will fit into the neighborhood and will not have a detrimental impact  
1780 on nearby property. The other tests are met as stated in the staff report.

1781  
1782 Mr. Green - There is a motion by Mr. Pollard to approve. Do I hear a  
1783 second?

1784  
1785 Mr. Bell - Second.

1786  
1787 Mr. Green - The motion was seconded by Mr. Bell. Is there any  
1788 discussion? All in favor of the motion to approve, say aye. All opposed nay. The motion  
1789 is approved.

1790  
1791 On a motion by Mr. Pollard, seconded by Mr. Bell, the Board **approved** case **VAR2020-**  
1792 **00021 CHARLES FUTRELL's** request for a variance from Section 24-94 of the County  
1793 Code to build a one-family dwelling at 2101 Carneal Street (Parcel 800-727-9415) zoned  
1794 One-Family Residence District (R-4) (Fairfield). The Board approved the request subject  
1795 to the following conditions:

1796  
1797 1. This variance reduces the rear yard setback from 35 feet to 27 feet for one dwelling  
1798 only. All other applicable regulations of the County Code shall remain in force.

1799  
1800 2. Only the improvements shown on the "Plat Showing a Proposed Dwelling on 0.424  
1801 Acres of Land Located on the South Side of Carneal Street & the North Side of I-64" by  
1802 Timmons Group dated June 16, 2020, together with the attached building plans and  
1803 elevations, may be constructed pursuant to this approval. Any additional improvements  
1804 shall comply with the applicable regulations of the County Code. Any substantial changes  
1805 or additions to the design or location of the improvements will require a new variance.

1806  
1807 3. Any dwelling on the property shall be served by public water and sewer.

1808  
1809 4. Curb and gutter and necessary storm drainage shall be constructed along Carneal  
1810 Street along with any street improvements that may be required by the Department of  
1811 Public Works.

1812  
1813 5. Prior to requesting a certificate of occupancy, the applicant shall install a privacy fence  
1814 at least 6 feet in height between the dwelling and the rear property line.

1815  
1816 6. The applicant must obtain a building permit for the proposed dwelling by September  
1817 26, 2022, or this variance will expire. If the building permit is cancelled or revoked because  
1818 construction was not diligently pursued, this variance will expire at that time.

1819  
1820

1821 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
1822 **Negative:** 0  
1823 **Absent:** 0

1824  
1825

1826 Mr. Blankinship - All right, Mr. Chair. That brings us to the last case for this  
1827 morning. Variance 2020, number 23, James and Katie Yoffy.

1828  
1829 **VAR2020-00023 JAMES AND KATIE YOFFY request a variance from Section 24-94**  
1830 **of the County Code to build a screened porch on an existing deck at 2962 Dragana**  
1831 **Drive (DOVER HUNT) (Parcel 746-754-7654) zoned One-Family Residence District**  
1832 **(R-3C) (Three Chopt). The rear yard setback is not met. The applicants propose 28**  
1833 **feet rear yard setback, where the Code requires 40 feet rear yard setback. The**  
1834 **applicants request a variance of 12 feet rear yard setback.**

1835  
1836 Mr. Blankinship - Would everyone who intends to speak to this case please  
1837 stand and be sworn in? Do you swear the testimony you're about to give is the truth, the  
1838 whole truth, and nothing but the truth, so help you God?

1839  
1840 Mr. Blankinship - Thank you. Mr. Gidley.

1841  
1842 Mr. Gidley - Thank you, Mr. Secretary. The subject property is located in  
1843 the Dover Hunt subdivision not far from the intersection of Church and Three Chopt  
1844 Roads. The property contains a one-story, 3394-square-foot dwelling with an attached  
1845 two-car garage, a front porch, and a rear-yard deck. This is the home here. This acts as  
1846 living space now and the deck is right here and they're proposing a screen porch right  
1847 here. As is common throughout the county, the house was built near the rear-yard  
1848 setback and the deck extends into the setback as allowed by the county code.

1849  
1850 This is the deck right here.

1851  
1852 The owners would like to build a screen porch where the deck is now located. And while  
1853 a deck is allowed extended to the rear-yard setback a screen porch is not.

1854  
1855 In evaluating this request, the property was improved after the ordinance was adopted,  
1856 and there is no mention of a disability in the application. To grant the variance the Board,  
1857 therefore, must decide that the 40-foot rear-yard setback unreasonably restricts the use  
1858 of the property.

1859  
1860 The Supreme Court of Virginia has interpreted the words, the ordinance would  
1861 "unreasonably restrict the utilization of the property", to mean that a variance should only  
1862 be granted where the effect of the zoning ordinance as applied to the piece of the property  
1863 under consideration would, in absence of a variance, interfere with all reasonable  
1864 beneficial uses of the property taken as a whole.

1865  
1866 The language of the statute has been changed since that decision was rendered, but the  
1867 words, unreasonably restrict the utilization of the property. Are still included. The  
1868 applicant's attorney did submit a letter of opinion from the circuit court of Fairfax that  
1869 applied a less demanding interpretation in a case.

1870

1871 In staff's view, the Fairfax opinion appears to contradict the guidance of the Supreme  
1872 Court of Virginia. The Fairfax decision even quotes an earlier Supreme Court decision,  
1873 Packer vs. Hornsby regarding the purposes of variance. However, the Fairfax opinion  
1874 stopped short of the quotation, or stopped two sentences short of the quotation of the  
1875 Supreme Court's conclusion in that case that variances may be, and I quote, be granted  
1876 only in cases where the application of the zoning restrictions would appear to be  
1877 constitutionally impermissible, unquote, such as the taking of the property.

1878  
1879 That principle is the basis for the Supreme Court's conclusion that to unreasonably restrict  
1880 the utilization of the property means to leave the owner with no reasonable beneficial use  
1881 of the property taken as a whole. In this case this application does not appear to meet  
1882 that standard, as the applicant has reasonable and beneficial use similar to the adjacent  
1883 lots.

1884  
1885 As for the five subtests. As you know, in addition to the threshold tests, all five subtests  
1886 must also be met. Staff does not believe subtest number three is met which provides the  
1887 situation should be unique rather than one that is general and reoccurring.

1888  
1889 Other homes on this block or elsewhere in the county typically face the same situation  
1890 when they wish to convert a deck to a screen porch or sunroom. Homeowners take  
1891 advantage of the exception allowed for decks to encroach into the setbacks. However, if  
1892 they decide to change the deck to a screen porch or sunroom, as you know, they often  
1893 end up before this Board.

1894  
1895 The applicant indicated it was somewhat unique due to the park being located behind the  
1896 lot. But that is not what causes the need for the variance. It is the desire to convert a  
1897 deck that complies with setbacks into a screen porch that would not comply with setbacks.  
1898 That is the reason for the day's request. And based on past cases before this Board this  
1899 does not appear to be unique to this property, but is general and reoccurring, so staff  
1900 does not believe the third subtest is met.

1901  
1902 In conclusion, staff is sympathetic with the applicant's desire to add a screen porch and  
1903 the proposed improvements would not cause any substantial detrimental impacts to  
1904 nearby property. However, staff does not agree that the rear-yard setback unreasonably  
1905 restricts the use of the property.

1906  
1907 In addition, the situation that gives rise to this request is general and reoccurring  
1908 throughout the county. Because the application does not meet the threshold tests or the  
1909 third subtest required by the Code of Virginia, staff recommends denial. This concludes  
1910 my presentation and I will be happy to answer any questions you may have. Thank you.

1911  
1912 Mr. Green - Thank you. Are there any questions from the Board of staff?  
1913 We'll now hear from the applicant.

1914  
1915 Mr. Theobald - Good morning, Mr. Chairman, members of the Board. My  
1916 name is Jim Theobald. I'm an attorney with Hirschler Fleischer, and I'm here on behalf

1917 of Mr. and Mrs. James Yoffy seeking a variance to allow the Yoffys to screen an existing  
1918 deck that has been there for nearly 30 years. Mr. Yoffy is here with me this morning to  
1919 answer any questions that you might have of him.

1920  
1921 The Yoffy's have owned their home since 1991. Which home backs up to Deep Run Park  
1922 along with this army of mosquitos. Thus the request to screen their deck. Not a sunroom.  
1923 It's the screening of their deck. And while the deck itself is allowed within the rear-yard  
1924 setback, screening the deck suddenly creates a violation of that setback with he only  
1925 avenue for relief lying in a variance from this Board.

1926  
1927 Their neighbors on either side have no opposition to this request, and I have provided Mr.  
1928 Blankinship with verification from those neighbors.

1929  
1930 We could go back to that rear -- that picture of the rear of the house. The one that's just  
1931 above the aerial shot. That's it. There is some precedence for this request. The Yoffys  
1932 were granted a variance in 2003 to bump out their dining room into the rear-yard setback.  
1933 And you see that bump out just to the left of the existing deck. I take a little bit of issue  
1934 with the interpretation of the state statute that no reasonable use of the property was -- it  
1935 was the Supreme Court's opinion, but the legislature did change that ordinance in  
1936 response to that.

1937  
1938 They thought that that interpretation not to be reasonable, and thus now the standard is  
1939 such that would unreasonably restrict the utilization of the property. Not take away all  
1940 that official use of the -- Whether or not there's an unreasonability, basically, for the  
1941 utilization of the property. And we believe the ordinance does unreasonably restrict  
1942 utilization of their property and creates a hardship inasmuch as the variance is the only  
1943 mechanism in the county code that can address an inequitable result. The strict  
1944 interpretation of the code denying the ability to screen an existing deck. The only way to  
1945 improve that rear lot line would be to buy land from Deep Run Park.

1946  
1947 Property was acquired in good faith nearly 30 years ago and a variance will not be a  
1948 substantial detriment to the adjacent and nearby properties. As the side-yard setbacks  
1949 will continue to be met and the adjacent owners have expressed no opposition.

1950  
1951 It would not be practical to devise an ordinance incorporating the unique circumstances  
1952 of the request short of eliminating the rear-yard setback in the county ordinance all  
1953 together. Granting a variance would not cause a use violation under the existing R-3  
1954 District.

1955  
1956 So I believe that all statutory requirements for the granting of a variance are present and  
1957 have been stated. The request is both reasonable and practical. We believe there are  
1958 no additional burdens that would be created by screening the existing deck in this  
1959 circumstance.

1960  
1961 We are in agreement with staff's proposed conditions and respectfully request your  
1962 granting this variance to the Yoffys. I'd be happy to answer any questions.

1963  
1964 Mr. Green - Are there any questions for the applicant?  
1965  
1966 Mr. Johnson - The last addition that was put on, when was that done?  
1967  
1968 Mr. Theobald - 2003 was the variance. It's a dining room. So that's pushed  
1969 out from the rear of the house also into the rear-yard setback. And as you notice from  
1970 the pictures, it's nothing but woods behind them, which is the park, and you can't really  
1971 even see their side. The neighbors have expressed no objection.  
1972  
1973 That Fairfax case cited, by the way, was almost an identical circumstance where a  
1974 homeowner had a deck where it encroached into the rear-yard setback and then he'd  
1975 wanted to just screen it. He was adjacent to a park. He suffered from infestation of  
1976 mosquitos. The Board of Zoning Appeals denied that request and the Fairfax Circuit  
1977 Court overturned that decision.  
1978  
1979 That's a bit of an oversimplification for sure. And not binding legally on you. I understand  
1980 that. But it's unusual to find a case on point dealing with mosquitos.  
1981  
1982 Mr. Reid - Mr. Theobald, I don't understand why you can have a deck  
1983 there, but you can't have a screened-in porch. Why couldn't you just screen in the deck?  
1984  
1985 Mr. Theobald - That's exactly the request, sir. Because somehow magically  
1986 and, you know, I understand this on one level, but that deck has been there for 30 years.  
1987 It's there. The minute you raise a screen up in front of it you're in violation of the law.  
1988 And so this is the only way that that can be accomplished. So you're correct.  
1989  
1990 Mr. Reid - Thank you, sir.  
1991  
1992 Mr. Green - Are there any other questions for the applicant?  
1993  
1994 Mr. Johnson - Are there any disabilities or --  
1995  
1996 Mr. Theobald - No, sir. You only have to meet one of those criteria.  
1997  
1998 Mr. Johnson - Right.  
1999  
2000 Mr. Theobald - And there are no disabilities.  
2001  
2002 Mr. Green - Mosquitos.  
2003  
2004 Mr. Theobald - So not applicable.  
2005  
2006 Mr. Green - Does anyone else wish to speak in support of this request?  
2007 Does anyone wish to speak in opposition of this request? The public hearing is now  
2008 closed, and a motion would be in order. I would make a motion as the Three Chopt

2009 representative. I move that we approve the variance subject to the conditions  
2010 recommended by the staff. The applicant's attorney has provided a circuit court opinion  
2011 from Fairfax that indicates that it is an unreasonable hardship. That is already there and  
2012 this Board has already approved a variance for an addition.

2013  
2014 The adjoining property is also a county park and the nearest footpath is over 200 feet  
2015 away. The other tests are met as stated in the staff report. And I think the staff also said  
2016 that there was no detrimental impact to this. So is there a second?

2017  
2018 Mr. Reid - I second.

2019  
2020 Mr. Green - That was a motion made by myself, Mr. Green, to approve  
2021 and it was seconded by Mr. Reid. All in favor of the motion to approve say yea. Aye, I  
2022 mean say aye. All opposed nay. The motion is approved.

2023  
2024 On a motion by Mr. Green, seconded by Mr. Reid, the Board **approved** case **VAR2020-**  
2025 **00023 JAMES AND KATIE YOFFY's** request for a variance from Section 24-94 of the  
2026 County Code to build a screened porch on an existing deck at 2962 Dragana Drive  
2027 (DOVER HUNT) (Parcel 746-754-7654) zoned One-Family Residence District (R-3C)  
2028 (Three Chopt). The Board approved the request subject to the following conditions:

- 2029  
2030 1. This variance applies only to the rear yard setback requirement for the proposed  
2031 screened porch only. All other applicable regulations of the County Code shall remain in  
2032 force.  
2033  
2034 2. Only the improvements shown on the plot plan and building design filed with the  
2035 application may be constructed pursuant to this approval. Any additional improvements  
2036 shall comply with the applicable regulations of the County Code. Any substantial changes  
2037 or additions to the design or location of the improvements will require a new variance.  
2038  
2039 3. The new construction shall match the existing dwelling as nearly as practical in  
2040 materials and color.  
2041  
2042 4. The applicant must obtain a building permit for the proposed screened porch by  
2043 September 26, 2022, or this variance will expire. If the building permit is cancelled or  
2044 revoked because construction was not diligently pursued, this variance will expire at that  
2045 time.

2046  
2047  
2048 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
2049 **Negative:** 0  
2050 **Absent:** 0

2051  
2052  
2053 Mr. Theobald - Thank you very much.

2054

2055 Mr. Green - Thank you, sir. The next item on the agenda is the approval  
2056 of minutes. Are there any corrections to the draft minutes?  
2057

2058 Unknown Speaker - No.  
2059

2060 Mr. Green - Since there are no corrections to the minutes, I call for a  
2061 motion to approve the minutes.  
2062

2063 Mr. Johnson - Motion that we approve the minutes.  
2064

2065 Mr. Green - Is there a second?  
2066

2067 Mr. Bell - Second.  
2068

2069 Mr. Green - All in favor. All opposed.  
2070

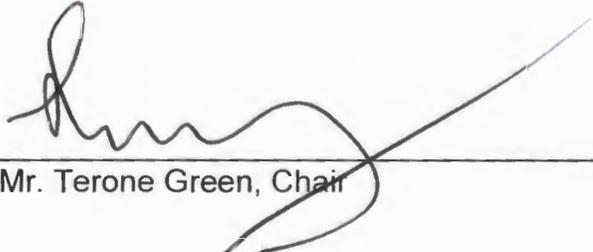
2071 The Board **approved** the minutes of the **August 27, 2020** meeting of the Board of Zoning  
2072 Appeals.  
2073

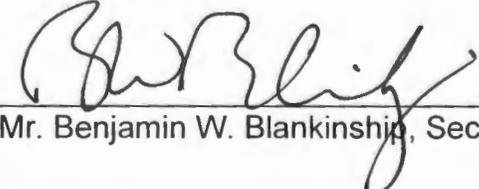
2074  
2075 **Affirmative:** Bell, Green, Johnson, Pollard, Reid 5  
2076 **Negative:** 0  
2077 **Absent:** 0  
2078

2079  
2080 Mr. Green - Is that it, Mr. Blankinship?  
2081

2082 Mr. Blankinship - Yes, sir. There's no other new business.  
2083

2084 Mr. Green - Done.  
2085  
2086  
2087  
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Mr. Terone Green, Chair

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