BOARD OF ZONING APPEALS MINUTES

The Board of Zoning Appeals conducted a Public Hearing on **Wednesday, January 4, 2012** in the City Council Chambers of the City Hall Building, Municipal Center, Virginia Beach, Virginia.

The Board members’ staff briefing, was held at 1:00 p.m. in the City Managers Conference Room as to information pertaining to the agenda of January 4, 2012.

Those members present were Mr. James Wood, Mr. George Alcaraz, Mrs. Cheryl Avery-Hargrove, Mr. Richard Garriott, Mr. Randy Sutton, and Mr. Steve Draeger who sat in as an alternate.

**REGULAR AGENDA:**

**Case 1: Chris Bateman** requests a variance to a 22.6 foot setback for side yards adjacent to a street (Unimproved) instead of 30 feet as required (Proposed 2nd Story Addition) on Lot 6, **5731 Normandy Avenue.** Kempsville District #2, ZONING: R-10, RMA, GPIN: 1456-87-9817

Chris Bateman appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following conditions. Mr. Garriott was absent prior to this case.

Granted subject to the following conditions:

1. The proposed second story addition shall be constructed in substantial adherence to the site plan and hand sketch provided in the file.
2. Documentation from a certified structural engineer or design professional verifying the existing one story dwelling and foundation can support the proposed second story addition. This documentation must be submitted to the Zoning Office prior to obtaining a building permit.

**Case 2: Xenofon Fisekis** requests a variance to a 19.9 foot setback for side yards adjacent to a street (Clover Street) instead of 30 feet as required (Proposed Room Addition) on Lot 11, Aragona Village, **633 Cunningham Road.** Bayside District #4, ZONING: R-7.5, RMA, GPIN: 1477-39-5114

Xenofon Fisekis and Rob Holcomb appeared before the Board.

The Board of Zoning Appeals passed a motion by a recorded vote of 4-1 to deny this request. Mr. Garriott was absent prior to this case.
Case 3: Nicholas Potocska requests a variance to a 23 foot front yard setback (Indian River Road) instead of 30 feet as required (Proposed 2 Story Addition) on Lot 20, Brigadoon Pines, 1608 Wicomico Lane. Kempsville District #2, ZONING: R-7.5, GPIN: 1465-65-7334

Nick and Pam Potocska and Wendell Green, Architect appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following condition. Mr. Garriott was absent prior to this case.

Granted subject to the following condition:
   1. The existing shed shall be removed.

Case 4: Mike Wise requests a variance to a 9 foot front yard setback instead of 30 feet as required (Proposed Single Family Dwelling) on Lot 5, Lynnhaven Colony, 2909 Breezy Road. Lynnhaven District #5, ZONING: R-10(SD), RPA, GPIN: 1499-28-9572

Billy Garrington appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following conditions. Mr. Garriott was absent prior to this case.

Granted subject to the following condition:
   1. The proposed dwelling shall be constructed in substantial adherence to the submitted building elevations and site plan.

Case 5: Mark Anderson requests a variance to an 18 foot front yard setback (Tiller Circle) instead of 50 feet as required and to a '0' foot rear yard setback (West side) instead of 15 feet as required (Proposed Single Family Dwelling and Existing Block Garage) on Lot 84, Bay Island, 2400 Broad Bay Road. Lynnhaven District #5, ZONING: R-20, RPA, GPIN: 1499-99-4065

Billy Garrington appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following conditions. Mr. Garriott was absent prior to this case.

Granted subject to the following conditions:
   1. The new dwelling shall substantially adhere to the submitted site plan and architectural plans.
   2. The existing detached, block garage may remain, however, approval is only for the life of this existing structure.
Case 6: Carolyn Kaufman requests a variance to 37 feet in building height instead of 35 feet in building height as allowed (Proposed Roof Top Additions) on Lot B, 212 63rd Street. Lynnhaven District #5, ZONING: R-5R, RMA, GPIN: 2419-72-1500

Greg Battaglia appeared before the Board.

Martin Waranch of the North End Virginia Beach Civic League and another gentleman (name inaudible) appeared before the Board in opposition.

The Board of Zoning Appeals passed a motion by a recorded vote of 4-1 to deny this request. Mr. Garriott was absent prior to this case.

Case 7: Gregory Larsen requests a variance to a 5.3 foot rear yard setback (East side) instead of 20 feet as required and to a 5.7 foot side yard setback (South side) and to a 5.1 foot side yard setback (North side) instead of 8 feet each as required (Proposed Additions and Screen Porch) on Lot C, Cape Henry, 7207 Atlantic Avenue. Lynnhaven District #5, ZONING: R-5R, RMA, GPIN: 2419-66-7203

Greg Larsen appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following condition. Mr. Garriott was absent prior to this case.

Granted subject to the following condition:
1. The variance shall be applicable only to the rear and side yards as depicted on the submitted building rendering and the submitted site survey, entitled, “Proposed Site Improvements, BZA Exhibit for Lot A; Block 3…for Gregory Larsen,” by WPL, and dated October 25, 2011.

Case 8: John Waller requests a variance to a 10 foot rear yard setback (West side) and to a 15 foot setback for side yards adjacent to a street (69th Street) instead of 18 feet as required (Proposed Single Family Dwelling) on Lot 6A-2, Cape Henry, 69th Street & Atlantic Avenue. Lynnhaven District #5, ZONING: R-5R, RMA, GPIN: 2419-64-7983

John Waller and Morris Fine, Attorney appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following condition. Mr. Garriott was absent prior to this case.

Granted subject to the following condition:
1. The variances shall be applicable only to the rear (West) yard and side (69th Street) yard of the single family dwelling depicted on the submitted site survey, entitled “Variance Exhibit, Proposed Lot 6A-2,” by Gallup Surveyors & Engineers, Ltd., and dated October 27, 2011.
Case 9: John Waller requests a variance to an 8 foot rear yard setback (North side) instead of 20 feet as required and to a 15 foot front yard setback instead of 20 feet as required (Proposed Single Family Dwelling) on Lot 6A-1, Cape Henry, 69th Street. Lynnhaven District #5, ZONING: R-5R, RMA, GPIN: 2419-64-7983

John Waller and Morris Fine, Attorney appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to approve this request subject to the following condition. Mr. Garriott was absent prior to this case.

Granted subject to the following condition:
1. The variances shall be applicable only to the rear (North) yard and front yard setbacks of the single family dwelling depicted on the submitted site survey, entitled “Variance Exhibit, Proposed Lot 6A-1,” by Gallup Surveyors & Engineers, Ltd., and dated October 27, 2011.
2. The live oak trees shall be protected and saved.

Case 10: Haynes Furniture Company, Inc. requests a variance to 8 signs instead of 3 signs as allowed and to allow 6 of these signs to be over 150 square feet each where prohibited and to 1,487 square feet in total sign area instead of 984 square feet in total sign area as allowed (Proposed New Signage), 5324 Virginia Beach Boulevard. Kempsville District #2, ZONING: B-2, RMA, GPIN: 1467-67-4441

David Embree with Williams Mullen appeared before the Board.

Kevin Hershberger, Zoning Inspector appeared before the Board to make commentary if needed.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 6-0 to approve this request subject to the following conditions.

Granted subject to the following conditions:
1. The sign variances are approved in keeping with the submitted plans and architectural elevations showing that the building exterior and landscaping will also be upgraded.
2. Final inspection for the signage shall not be approved until the Zoning Administrator has confirmed that all the upgrades to the site shown on the submitted plans have been completed.
Case 11: Jack and Norma Young request a variance to an 18.5 foot side yard setback (West side) instead of 20 feet as required (Proposed 2nd Story Deck) on Lot 15, Briarcliff, 1000Briarwood Point. Lynnhaven District #5, ZONING: R-40, RPA, GPIN: 1488-54-6581

Jack Young appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 6-0 to approve this request subject to the following conditions.

Granted subject to the following conditions as modified:

1. The existing upper deck shall not be expanded in the required 20 foot side yard setback without further consideration from the Board of Zoning Appeals.
2. An after the fact building permit must be obtained within 7 business days of approved from the Chesapeake Bay Site Plan approval.

Case 12: City of Virginia Beach requests a variance to a 24.5 foot setback for side yards adjacent to a street (Lifetime Court) instead of 30 feet as required (Proposed Single Family Dwelling) 4005/4009 Indian River Road. Centerville District #1, ZONING: R-15, GPIN: 1474-62-6761; 1474-62-3312

Tom Laidlaw with Human Services appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 6-0 to approve this request subject to the following condition.

Granted subject to the following condition:

1. The approved variance is for a 29 foot setback for the front (Southeast) yard instead of the 24.5 foot setback as advertised. Said 29 foot setback shall be applicable only to the proposed construction of the single family dwelling, as depicted on the submitted exhibit entitled “Exhibit Showing 0.83’ Encroachment Into 30’ Front Yard Setback,” by Hoggard/Eure Associates, P.C., and dated December 2, 2011.

APPEAL AGENDA

Case A-1: DELETED

Case A-2: Princess Anne Associates, Inc. requests an appeal of the Zoning Administrator Designee’s letter dated September 27, 2011 pertaining to a satellite wagering facility at 3717 Tiffany Lane.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to defer this request to February 1, 2012. Mr. Garriott was absent prior to this case.
Case A-3: Raymond Gottlieb requests an appeal of the Zoning Administrator’s letter dated October 12, 2011 pertaining to the replacement of a nonconforming fence/wall at 105 50th Street.

Edward Bourdon, Attorney appeared before the Board.

The Board of Zoning Appeals passed a motion unanimously by a recorded vote of 5-0 to defer this application indefinitely with a new fee required. Mr. Garriott was absent prior to this case.

Respectfully Submitted

Cheryl Avery-Hargrove
Secretary

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