



**MINUTES
BOARD OF ZONING APPEALS
VIRGINIA BEACH, VIRGINIA
SEPTEMBER 5, 2018**

Vice Chairman Randy Sutton , called to order the **Board of Zoning Appeals Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Wednesday, September 5, 2018.

The Board members' staff briefing, was held at 1:15p.m. in the City Managers Conference Room as to information pertaining to the agenda of September 5, 2018.

Board Members Present: Janice Anderson, Elizabeth Kovner, Myles Pocta, Harry Purkey, Randy Sutton, and David Whitley.

Case 2018-BZA-00043: HAMPTON ROADS SANITATION DISTRICT a variance to a 2.21-foot front yard setback from the property line adjacent to Old Providence Road; and to a 24-foot setback from the property line adjacent to Providence Road instead of 30-feet each as required; and to a 19.17 (west) side yard setback; instead of 20-feet as required for a proposed pressure reducing station/building; and to allow a modification of conditions of a variance previously approved on April 3, 2013 for a fence 6-feet in height **5729 OLD PROVIDENCE RD** Zoning: R10 GPIN: 1456-84-3182

Board Action: APPROVED WITH 4 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The site shall be developed in substantial conformance to the submitted site plan entitled, "PROPOSED CONCEPTUAL PLAN, PROVIDENCE ROAD PRESSURE REDUCING STATION UPGRADES AND INTERCONNECT FORCE MAIN," dated May, 2018 and prepared by RK&K.
2. The landscaping shall be installed and maintained in substantial conformance to the submitted landscape plan entitled, "PLANTING PLAN," dated August 10, 2018 and prepared by WPL.

3. The fencing shall be in substantial conformance to the submitted drawing entitled, "FENCE DETAILS," dated August 10, 2018 and prepared by WPL.
4. The building shall be in substantial conformance to the submitted elevation drawings entitled, "BUILDING ELEVATIONS," dated May 23, 2018 and prepared by RK&K.

Randy Royal appeared before the Board.

There was no opposition.

A motion was made by Mrs. Kovner, seconded by Mr. Whitley to approve the variance with 4 conditions. All voted for the motion except Mrs. Anderson who was abstained because her firm does legal work for the applicant.

AYE 5 NO 0 ABSTAIN 1 ABSENT 0

ANDERSON	ABSTAIN
KOVNER	AYE
POCTA	AYE
PURKEY	AYE
SUTTON	AYE
WHITLEY	AYE

Case 2018-BZA-00044: JOHN & MICHELLE HILL a variance to a 15-foot (east) side yard setback; instead of 20-feet required for a proposed two-story building addition **1540 QUAIL POINT RD**
Zoning: R-40 GPIN: 2408-93-3730

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The proposed addition shall be constructed in substantially adherence to the submitted site plan and building elevation entitled "John & Michelle Hill's Addition" and dated June 1, 2018.
2. The proposed addition shall be constructed with building materials and colors compatible with the existing dwelling.

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.

There was no opposition.

A motion was made by Mr. Pocta, seconded by Mr. Purkey to approve the variance with 2 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE

Case 2018-BZA-00045: MERRI TYRREL a variance to a 1.1-foot (north east) side yard setback; instead of 10-feet as required; and to a 11-foot rear yard setback instead of 20-feet as required for existing second-story deck and lower level deck exceeding 16" in height as measured from ground elevation **2912 SAND BEND RD** Zoning: R15 GPIN: 2433-33-2881

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. All decking depicted on the submitted site plan shall not be altered or enlarged.
2. The second floor deck shall not be covered or enclosed beneath it.

Bob Simon appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mrs. Anderson, seconded by Mr. Pocta to approve the variance with 2 conditions. All voted for the motion except Mr. Whitley who was abstained because he is an adjacent neighbor of the applicant.

AYE 5 NO 0 ABSTAIN 1 ABSENT 0

ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY ABSTAIN

Case 2018-BZA-00046: STUART JORDAN Variances to a 25.2- foot front yard setback for a proposed in ground swimming pool and to a 10-foot front yard setback for a proposed 6-foot wood privacy fence; instead of 30-feet as required from the property line adjacent to Virginia Dare Drive **508 VIRGINIA DARE DR** Zoning: R10 GPIN: 2427-30-1697

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The proposed in-ground swimming pool and 6-foot fence shall be installed in substantial adherence to the submitted site plan.
2. Tree protection shall be installed to preserve the existing landscaping installed along the west side property line parallel to Virginia Dare Drive. Category I landscaping screening shall be installed to replace any of the existing dying, diseased or damaged landscaping.

Cartwright Reilly, Attorney with Williams Mullen appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mrs. Anderson, seconded by Mr. Pocta to approve the variance with 2 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON	AYE
KOVNER	AYE
POCTA	AYE
PURKEY	AYE
SUTTON	AYE
WHITLEY	AYE

Case 2018-BZA-00047: LYNNHAVEN MALL, LLC a variance to a 7-foot side corner setback from the property line adjacent to Lynnhaven Mall Loop Road; 35-feet as required for a proposed dumpster enclosure **743 Lynnhaven PKWY** Zoning: B2 GPIN: 1496-46-8027

Board Action: APPROVED WITH 3 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The trash enclosure shall be installed in substantial conformity of the location identified on the submitted site plan, entitled "PANERA VARIANCE EXHIBIT LYNNHAVEN MALL VIRGINIA BEACH, VIRGINIA."
2. The trash enclosure shall be constructed in substantial conformity to the submitted elevations, entitled "TRASH AND RECYCLE ENCLOSURE DETAILS PANARA – LYNNHAVEN MALL."

- The landscape buffering shall be installed in substantial conformity to the submitted landscape plan entitled "TRASH ENCLOSURE LANDSCAPE PLAN LYNNHAVEN MALL VIRGINIA BEACH, VIRGINIA" unless the plan is altered by or an alternative plan is approved by the Planning Director or their designee.

Grady Palmer, Attorney with Williams Mullen appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mrs. Anderson, seconded by Mrs. Kovner to approve the variance with 3 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE**

Case 2018-BZA-00048: Robert & Barbara O'Neal a variance to a 6-foot (south) side yard setback; instead of 8-feet as required for a proposed building addition **3845 SURRY RD** Zoning: R-5R GPIN: 1489-29-3730

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

- The proposed two-story addition shall be constructed in substantial adherence to the submitted site plan, rendering and building elevation entitled "Single-Family Addition- ONL-102 B. O'Neil Residence 3845 Surry Rd Virginia Beach, VA"
- Tree protection must be installed around the existing oak tree located west of the proposed addition

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mr. Pocta, seconded by Mr. Whitley to approve the variance with 2 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE

Case 2018-BZA-00049: Glenn Campbell a variance to a 5-foot side corner yard setback from the property line adjacent to (unimproved) 47th street; instead of 30-feet as required for a proposed in ground swimming pool **4612 OCEAN FRONT AVE** Zoning: R7.5 GPIN: 2418-97-3806

Board Action: APPROVED WITH 3 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The pool shall be installed in substantial conformity of the location identified on the submitted site plan entitled "PROPOSES SITE PLAN POOL CONCEPT OPTION 'A' CAMPBELL RESIDENCE VIRGINIA BEACH, VA."
2. Any fencing required for the in-ground pool shall adhere to all zoning and building code requirements.
3. The existing fencing located in the right-of-way shall be removed or relocated to comply with the requirements of the Zoning Ordinance.

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mrs. Kovner, seconded by Mr. Purkey to approve the variance with 3 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE

Case 2018-BZA-00050: STEPHANIE SAWYER a variance to a 31.5-foot front yard setback; instead of 50-foot as required for a proposed covered front porch addition; and to a 17.2-foot (west) side yard setback instead of 20-feet as required for a proposed carport **2721 PRINCESS ANNE RD** Zoning: AG2 GPIN: 1494-55-4176

Board Action: APPROVED WITH 5 CONDITIONS ON SEPTEMBER 5, 2018

Conditions:

1. The proposed additions shall be constructed in substantial conformity of the location and dimensions identified on the submitted site plan entitled "PHYSICAL SURVEY OF PART OF PARCEL LABELED J. RAWLS AS SHOWN ON SURVEY OF PART OF R. EVERETT SAWYER PROPERTY VIRGINIA BEACH, VIRGINIA FOR STEPAHNIE SAWYER & STEVE SAWYER."
2. The proposed additions shall be constructed in substantial conformity of the submitted elevations entitled "PROPOSED SIDE (WEST) ELEVATION" and "PROPOSED FRONT (NORTH) ELEVATION."
3. The proposed additions shall be constructed of the same material and color as what is currently on the principal structure.
4. The proposed front porch shall not be permitted to be converted to heated/cooled living space.
5. The proposed carport shall not be permitted to be converted into an enclosed parking garage or living space.

Mike Ashe appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mr. Purkey, seconded by Mrs. Anderson to approve the variance with 5 conditions. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE**

Case 2018-BZA-00051: Harry Thetford a variance to a 13.5-foot side corner yard setback from the property line adjacent to Myrtle Ave; instead of 30-feet as required for a proposed second floor addition **201 45TH ST** Zoning: R7.5 GPIN: 2418-87-8198

Board Action: DEFERRED TO OCTOBER 3, 2018 ON SEPTEMBER 5, 2018

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mr. Whitley, seconded by Mr. Pocta to defer the application to October 3, 2018. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
KOVNER AYE
POCTA AYE
PURKEY AYE
SUTTON AYE
WHITLEY AYE**

Respectfully Submitted

David Whitley
Secretary

lmr