



**MINUTES
BOARD OF ZONING APPEALS
VIRGINIA BEACH, VIRGINIA
JANUARY 15, 2020**

Chairman David Whitley, called to order the **Board of Zoning Appeals** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Wednesday, January 15, 2020.

The Board members' staff briefing, was held at 1:00 p.m. in the STiR Office to provide the Board members information pertaining the agenda of January 15, 2020.

Board Members Present: Janice Anderson, James Oglesby, Myles Pocta, Harry Purkey Jr., David Whitley, and Jan Hall sat as the alternate.

Case 2019-BZA-84: Beach Borough Development, LLC A variance to a 8-foot front yard setback; instead of 20-feet as required for (front) first and second-story porches; and a variance to a 13-foot front yard setback instead of 20-feet as required for a proposed single-family dwelling; and a variance to a 7.83-foot rear yard setback instead of 18-feet as required for a proposed chimney; and to a 10-foot rear yard setback instead of 15-feet as required for a proposed HVAC units; and a variance to a 6.17-foot south side yard setback; instead of 8-feet as required; and a variance to a 9.5-foot rear yard setback instead of 20-feet as required proposed single-family dwelling; and a variance to allow 42% in lot coverage instead of 40% in maximum lot coverage as allowed; and to allow 254.88 square feet in lot area comprised of landscaping of a minimum 600 square feet as required for a proposed three-story single family dwelling **410 25TH ST**
Zoning: A-12 GPIN: 2427-09-1654

Board Action: APPROVED WITH 4 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. When developed, the site shall be developed in substantial conformance with the submitted site plan entitled, "BZA EXHIBIT OF LOT 14A, BLOCK 93, EXCLUSIVELY FOR BEACH BOROUGH DEVELOPMENT, LLC," dated February 15, 2019 and prepared by WPL.
2. When developed, the single-family home shall be constructed in substantial conformance to the submitted building elevations entitled, "SF-18a PROPOSED TWO STORY BRICK AND FRAME SINGLE FAMILY DWELLING PREPARED FOR : BISHARD HOMES," dated January 7, 2016 and prepared by J. Bengston Land Planning Solutions.
3. When developed, the lot coverage shall not exceed 42% of the lot area.

- Landscape materials shall be planted in substantial conformance with the submitted site layout entitled, "BZA EXHIBIT (PLANTING LAYOUT) OF LOT 14A, BLOCK 93 EXCLUSIVELY FOR BEACH BOROUGH DEVELOPMENT, LLC," dated 8/16/2019 and prepared by WPL.

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. Oglesby to approve the variance with 4 conditions. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because the applicant is a client of his.

AYE 5 NO 0 ABSTAIN 1 ABSENT 2

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|-----------------|----------------|
| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | ABSTAIN |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-104: Stephen & Leighanne Chilmaid requests a variance to a 16.4 foot front yard setback (44th Street) instead of 30 feet as required and to an 8 foot west side yard setback instead of 10 feet as required for a covered unenclosed front porch, **108 44th Street**, R7.5, GPIN: 2418-96-3736

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 15, 2020

Conditions:

- The proposed covered porch shall be constructed in substantial adherence to the submitted site plan and building elevations.
- The proposed covered porch shall remain open and unenclosed.
- Modified to an 18.4 foot front yard setback (44th Street) instead of 30 feet as required.

Greg Battaglia of Battaglia Design and Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicants.

There was no opposition.

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

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

ANDERSON AYE
HOLLAND ABSENT
OGLESBY AYE
POCTA AYE
PURKEY AYE
THORNTON ABSENT
WHITLEY AYE
HALL AYE

Case 2019-BZA-105: Stephen & Barbara Miller requests a variance to a 12.2 foot side corner setback from the property line adjacent to 53rd Street instead of 20 feet as required and to a 8.1 foot south side yard setback instead of 10 feet as required for a proposed single family dwelling and to allow a total of 3 off street parking spaces instead of 4 off street parking spaces as required for a proposed single family dwelling and existing dwelling, **5210 Atlantic Avenue**, R5R, GPIN: 2418-89-2525

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. When developed, the site shall be developed in substantial conformance with the submitted site survey entitled, "BZA EXHIBIT 5210 ½ ATLANTIC AVENUE," dated 9/24/2019 and prepared by Gallup Surveyors and Engineers.
2. When constructed, the home shall be constructed in substantial conformance to the submitted rendering included in this report.

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

Ann Crenshaw with Kaufman & Canoles appeared before the Board representing James Hall and Bill Cartlidge, who are adjacent property owners, to make commentary.

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 2

ANDERSON AYE
HOLLAND ABSENT
OGLESBY AYE
POCTA AYE
PURKEY AYE
THORNTON ABSENT
WHITLEY AYE
HALL AYE

Case 2019-BZA-106: Demetrios Milonas requests a variance to a 42 foot front yard setback instead of 50 feet as required and to a 10 foot west side yard setback instead of 15 feet as required for a detached garage, **2905 Keelingwood Ct**, R30, GPIN: 1499-26-5554

Board Action: DEFERRED ON JANUARY 15, 2020

Dr. Demetrios Milonas appeared before the Board.

Dag Zapatero of 2904 Keelingwood Court appeared before the Board in opposition.

A motion was made by Mr. Oglesby, seconded by Mr. Pocta to defer the variance with a new fee. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

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| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-107: Steven Acorn requests a variance to a 10.5 foot front yard setback (Bayside Rd) instead of 30 feet and to a 5 foot rear yard setback instead of 20 feet as required for the existing dwelling and to a 26 foot side corner setback from the property line adjacent to Hedgerow Drive instead of 30 feet as required for a proposed room addition (Carport Enclosure), **1501 Hedgerow Drive**, R7.5, GPIN: 1469-13-6979

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 15, 2020

Conditions:

1. The proposed room addition (carport enclosure) shall be constructed in substantial adherence to the submitted site plan.

Steven Acorn appeared before the Board.

There was no opposition.

A motion was made by Mr. Purkey, seconded by Mr. Oglesby to approve the variance with 1 condition. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

ANDERSON AYE
HOLLAND ABSENT
OGLESBY AYE
POCTA AYE
PURKEY AYE
THORNTON ABSENT
WHITLEY AYE
HALL AYE

Case 2019-BZA-108: Rudee Villas Condominiums requests a variance to a 20.2 foot setback from the property line adjacent to Indian Avenue instead of 30 feet as required and to a 13 foot setback from the property line adjacent to Norfolk Avenue instead of 30 feet as required to replace existing nonconforming decks, stairs and handrails, **902 & 947 Rudee Court**, A18, GPIN: 2417-84-5150-4870

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 15, 2020

Conditions:

1. The stairs, handrails and landings will be replaced like for like. No portion of the stairs or landing within the required setbacks will be expanded or enlarged without further consideration from the Board of Zoning Appeals.

Eva Daily of Daily Nestor Homes appeared before the Board.

There was no opposition.

A motion was made by Mr. Pocta, seconded by Mr. Oglesby to approve the variance with 1 condition. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

ANDERSON AYE
HOLLAND ABSENT
OGLESBY AYE
POCTA AYE
PURKEY AYE
THORNTON ABSENT
WHITLEY AYE
HALL AYE

Case 2019-BZA-109: Stephen Alexander Homes LLC requests a variance to a 9.52 foot east side yard setback instead of 10 feet as required for an existing dwelling **814 Terrace Avenue**, R5S, GPIN: 2417-92-6122

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 15, 2020

Conditions:

1. The site shall be developed in substantial conformance with the submitted site survey entitled, "PHYSICAL SURVEY OF LOT 14A, BLOCK 58, SHADOW LAWN HEIGHTS FOR KEITH ALEXANDER QUICK & STEPHEN ALEXANDER HOMES, LLC," dates 11/13/2019 and prepared by American Engineering.

Edward Rudiger appeared before the Board representing the applicant.

There was no opposition.

A motion was made by Mrs. Anderson, seconded by Mr. Oglesby to approve the variance with 1 condition. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because the applicant is a client of his.

AYE 5 NO 0 ABSTAIN 1 ABSENT 2

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|-----------------|----------------|
| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | ABSTAIN |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-110: Andrew and Anita Ward requests a variance to a 12.3 foot rear yard setback instead of 20 feet as required for proposed unenclosed 2nd floor deck and to a 13.6 foot rear yard setback for proposed uncovered 3rd floor deck **2688 Ocean Shore Avenue**, R7.5, GPIN: 1590-51-5827

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. If approved, the proposed second and third floor decks shall be constructed in substantial adherence to the submitted site plan.
2. The second -floor shall remain unenclosed both above it and below it and third floor shall remain uncovered.

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

There was no opposition.

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

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

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| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-111: Riggi Residential Inc requests a variance to a 40 foot front yard setback instead of 50 feet as required and to a 15.1 foot west side yard setback instead of 20 feet as required for proposed single family dwelling/front porch **989 Nimmo Pkwy**, AG2, GPIN: 2414-64-1999

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. The proposed single-family dwelling shall be constructed in substantial adherence to the submitted site plan.
2. All related zoning ordinance requirements such as required parking but limited to; shall be met.

Paul Smith appeared before the Board representing the applicants.

There was no opposition.

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

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

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| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |

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| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-112: Edgewater East LLC request a variance to a 6 foot rear yard setback from the property line adjacent to unimproved Atlantic Avenue instead of 20 feet as required for proposed inground swimming pool **4604 Ocean Front Ave**, R7.5, GPIN: 2418-97-3756

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. The proposed inground swimming pool shall be installed in substantial adherence to the submitted site plan.
2. Any fencing located in the Atlantic Ave right-of-way shall be removed or an encroachment agreement must be obtained from City Council prior to receiving a final inspection for the in-ground swimming pool.
3. All building code requirements, including but not limited to required fencing; shall be met.

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

There was no opposition.

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

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| AYE | 6 | NO | 0 | ABSTAIN | 0 | ABSENT | 2 |
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|----------|--------|
| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-115: David Wolf Variances to a 8 foot front yard setback from the property line adjacent to Pleasure Ave; instead of 20 feet as required; and to a 9.05 foot rear yard setback; instead of 20 feet as required; and to a 3.5 foot east and west yard setbacks instead of 8 feet each as required; and to allow 69% (1,128 sq ft) in impervious cover instead of 60% (985.2 sq ft) in impervious cover as allowed; and to allow 40.3% (661 sq ft) in lot coverage instead of 35% (575 sq ft) in lot coverage as allowed for a single family dwelling; and to a 3.5 foot west side yard setback instead of 5 feet and to a 8.60 foot rear yard instead of 15 feet as required for proposed (HVAC) heating and cooling units **4502 PLEASURE AVE** Zoning: R5R GPIN: 1570-61-9589

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 15, 2020

Conditions:

1. When developed, the property shall be developed in substantial conformance with the submitted site survey entitled, "BZA EXHIBIT OF LOT-18; SECTION 2 PLEASURE HOUSE CAMP EXCLUSIVELY FOR ANTHONY WOLF & CARMEN WOLF," dated 11/26/2019 prepared by WPL.
2. When constructed, the single-family dwelling shall be built in substantial conformance to the submitted building elevations as Exhibit A as submitted at the hearing.
3. The front porch will never be enclosed.

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

Michael Brown of 4500 Pleasure Avenue appeared before the Board to make commentary.

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

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

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|-----------------|---------------|
| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Case 2019-BZA-116: Lynnhaven Area Properties, LLC requests an appeal of the Zoning Administrator’s determination letter dated November 13, 2019, **Westminister Lane** Zoning: A18, GPIN: 2407-09-6257

Board Action: DEFERRED ON JANUARY 15, 2020 TO FEBRUARY 5, 2020

Lisa Murphy, Attorney with Willcox and Savage appeared before the Board representing the applicant.

A motion was made by Mr. Oglesby, seconded by Mr. Pocta to defer the appeal to the February 5, 2020 hearing. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 2

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|-----------------|---------------|
| ANDERSON | AYE |
| HOLLAND | ABSENT |
| OGLESBY | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | ABSENT |
| WHITLEY | AYE |
| HALL | AYE |

Respectfully Submitted

Janice Anderson
Secretary

lmr