



**MINUTES
BOARD OF ZONING APPEALS
VIRGINIA BEACH, VIRGINIA
AUGUST 5, 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, August 5, 2020.

The Board members' staff briefing, was held at 1:00 p.m. in the City Council Chambers to provide the Board members information pertaining the agenda of August 5, 2020.

Board Members Present: Janice Anderson, Thomas Holland, Kevin Newton, Myles Pocta, Harry Purkey Jr., Robert Thornton, David Whitley, and Elizabeth Kovner sat as the alternate.

Case 2020-BZA-00025: HICKMAN FOREST Variances to a 19.49 foot front yard setback instead of 30 feet as required; and to a 18.7 foot rear yard setback instead of 20 foot as required for a proposed 3rd floor addition, trellis, covered porches (front& rear) and raised existing single family **2721 CANAL RD** Zoning: R-10 GPIN: 1499-57-4375

Board Action: APPROVED WITH 1 CONDITION ON AUGUST 5, 2020

Conditions:

1. When constructed, the proposed additions shall be constructed in substantial adherence to the submitted site plan entitled LOT 4 SUBDIVISION OF BROAD BAY POINT, VIRGINIA BEACH, VIRGINIA FOR HICKMAN RESIDENCE," dated 02/03/2020 and prepared by WPL.

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

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to approve the variance with 1 condition. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed

Case 2020-BZA-00026: ABT Custom Homes, LLC, ~~JULIUS DEMETRIOS~~ Variances to a 12-foot side corner setback from the property line adjacent to 88th Street instead of 20-feet as required for detached single-family dwelling units A&B; and to a 10.67-foot side corner setback from the property line adjacent to 88th Street instead of 20-feet as required for proposed bay window on unit B **8710 88TH ST A** Zoning: R5R(N) GPIN: 2510-51-0572

Board Action: APPROVED WITH 5 CONDITIONS ON AUGUST 5, 2020

Conditions:

1. When developed, the proposed detached dwelling units shall be constructed in substantial adherence to the submitted site plan entitled, "BZA EXHIBIT OF LOT 1; BLOCK 2 PLAN OF LOTS CAPE HENRY SYNDICATE VIRGINIA EBACH, VIRGINIA EXCLUSIVELY FOR ABT CUSTOM HOMES, LLC," dated 04/06/2020 and prepared by WPL.
2. When constructed, the homes shall be constructed in substantial adherence to the submitted elevation drawings for Units A and B for ABT Custom Homes, dated March 31, 2020 and prepared by Mayfield Designs. Any changes to the proposed elevations must conform to the North End District Design Guidelines.
3. The property owner will retain an arborist to work with WPL to prepare and submit an "on site" tree protection plan for (a) the large "Spider" Live Oak located in the 88th Street public right of way near its intersection with the feeder road; and (b) the cluster of live oaks in the same right of way near the western/rear property line of the subject lot. Said plan shall be reviewed by the DSC and other appropriate City departments, and upon approval, the on-site tree protection shall be installed and maintained by the property owner at all times until the development of the property is complete.
4. The property owner, along with his arborist and WPL, will coordinate with the appropriate persons in the Parks and Recreation Department including the City Arborist, to plan for, install and maintain, tree protection, during redevelopment of 8710 Atlantic Avenue, for the "Spider" Live Oak, within any portion of the unimproved 88th Street public right of way, if permitted and authorized to do so by the City.
5. The property owner's arborist will also submit for review and approval by the City a "limbing back" plan for those limbs of the Spider Live Oak which extend over the northeast portion of the owner's property and must be cut back to permit and facilitate construction

of the dwelling designated "Unit A" on the submitted BZA Exhibit, submitted to the Board under seal dated 08/03/2020.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant. Eddie Bourdon stated for the record that the applicant should be listed as ABT Custom Homes, LLC.

John Iuliano appeared before the Board to make commentary.

Dr. Carol Ashman of 209-B 88th Street, Martha Tillett of 211 88th Street, Gail Mottola of 115 88th Street, Captain Brent James of 1085 Downshire Chase and Kristen Brennan of 210-B 88th Street appeared before the Board in opposition.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed**

Case 2020-BZA-00028: NICHOLS JOANNE Variance to a 20.6-foot front yard setback instead of 30-feet as required for existing screened porch **609 S WESTGROVE RD** Zoning: R 7.5 GPIN: 1468-80-8516

Board Action: DENIED ON AUGUST 5, 2020

Joanne Nichols and Jon Powell, brother appeared before the Board.

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to deny the variance. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed

Case 2020-BZA-00029: COPELAND TODD Variance to a 8-foot side corner setback from the property line adjacent to 62nd Street instead of 20-feet as required for single-family dwelling **6110 OCEAN FRONT AVE** Zoning: R5R(N) GPIN: 2419-82-0339

Board Action: APPROVED WITH 1 CONDITION ON AUGUST 5, 2020

Conditions:

1. When constructed, the proposed single-family dwelling will be constructed in substantial adherence to the submitted site plan entitled, "BZA EXHIBIT OF LOT 1, BLOCK 2 NEW VIRGINIA BEACH CORP, EXCLUSIVELY FOR TODD COPELAND," dated 04/20/2020 and prepared by WPL.

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

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed

Case 2020-BZA-00030: BEST FAMILY REVOCABLE LIVING TRUST A variance to a 13.3-foot front yard setback instead of 30-feet as required for existing single-family dwelling, balcony and stairs and landing; and a modification of conditions of a variance previously granted on November 5, 2014 for a single-family dwelling **2727 POINCIANA DR** Zoning: R 7.5 GPIN: 1499-59-2209

Board Action: APPROVED WITH 3 CONDITIONS ON AUGUST 5, 2020

Conditions:

1. The existing dwelling will conform to the submitted site plan entitled, "PHYSICAL SURVEY OF LOT 484, CAPE STORY BY THE SEA, PLAT NO. 2 FOR KENNETH S. MERNER AND MARY J. MERNER VIRGINIA BEACH, VIRGINIA," dated 03/05/2020 and prepared by Rouse-Sirine Associates, Ltd.
2. The existing building shall conform to the building elevations provided in the file.
3. The third-floor balcony shall remain unenclosed.

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

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed**

Case 2020-BZA-00032: PWI1604 LLC Variance to an 18-foot front yard setback instead of 35-feet as required for proposed 2nd and 3rd story additions **1604 VIRGINIA BEACH BLVD** Zoning: B2 GPIN: 2407-95-2876

Board Action: APPROVED WITH 4 CONDITIONS ON AUGUST 5, 2020

Conditions:

1. The proposed building addition shall be constructed in substantial adherence to the submitted site plan provided in the file, dated 05/07/2020 and prepared by WPL.

2. Documentation from a structural engineer verifying the existing one-story building can support the proposed second-story addition shall be submitted to the Zoning Office prior to receiving a building permit.
3. All proposed improvements shall be made in accordance with the Hilltop SGA Guidelines.
4. The variance hereby approved by the Board is expressly subject to or conditioned upon the City of Virginia Beach receiving or obtaining the 17' by 104' strip of the applicant's land as additional Virginia Beach Boulevard public right of way as highlighted on the submitted BZA Exhibit prepared by WPL, dated May 7, 2020

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

There was no opposition present.

A motion was made by Mr. Thornton, seconded by Mr. Purkey to approve the variance with the 4 conditions. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed

Case 2020-BZA-00033: COSTIGAN LIVING TRUST Variances to a 10-foot side corner setback from the property line adjacent to Twilight Lane instead of 30-feet as required; and to a 9.7-foot south side yard setback instead of 10-feet as required for proposed elevator addition and to enclose existing 2nd floor deck **500 VANDERBILT AVE** Zoning: GPIN: 2426-39-3784

Board Action: APPROVED WITH 2 CONDITIONS ON AUGUST 5, 2020

Conditions:

1. When constructed, all improvements shall be in substantial adherence to the submitted site plan and within the footprint of the existing structure.
2. When constructed, the additions shall be in substantial adherence to the submitted building elevations and floor plans entitled, "COSTIGAN REMODEL," and dated 04/09/2020 and prepared by Seaside Design.

David Harrington of Pinnacle Construction appeared before the Board representing the applicant.

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed**

Case 2020-BZA-00034: PREMIER CONSTRUCTION MANAGEMENT A variance to an 18.7-foot rear yard setback instead of 20-foot as required for an existing single-family dwelling **1414 Mill Dam Rd** Zoning: R10 GPIN: 2408-39-7452

Board Action: APPROVED WITH 1 CONDITION ON AUGUST 5, 2020

Conditions:

1. The existing dwelling shall be completed in substantial adherence to the submitted site plan entitled, "BZA VARIANCE EXHIBIT OF LOT 2 MERCER COVE 1414 MILL DAM ROAD VIRGINIA BEACH, VIRGINIA," dated 05/08/2020 and prepared by American Engineering.

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

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE
KOVNER (Alternate) No vote needed

Case 2020-BZA-00035: OCEAN RENTAL PROPERTIES LLC Variances to a 7.15-foot side corner setback from the property line adjacent to Mediterranean Ave instead of 18-feet as required; and to a 4.10-foot west side yard setback instead of 8-foot as required for a proposed single-family dwelling and HVAC units **600 12TH ST** Zoning: GPIN: 2427-04-2962

Board Action: APPROVED WITH 4 CONDITIONS ON AUGUST 5, 2020

Conditions:

1. When constructed, the proposed two-story single-family dwelling shall be constructed in substantial adherence to the submitted site plan entitled, "BZA EXHIBIT OF PROPOSED REDUCED SETBACKS ON LOT 18A BLOCK 108 PLAT OF LAKEWOOD EXCLUSIVELY FOR BISHARD FAMILY REAL ESTATE, LLC," dated 05/04/2020 and prepared by Fox Land Surveying.
2. When constructed, the single-family home shall be constructed in substantial adherence to the submitted building renderings included in this staff report.
3. No above-ground improvements shall be constructed or installed within the 7.15 foot setback from Mediterranean Avenue and no trees or landscaping shall be planted within this 7.15 foot setback, with the exception of foundation landscaping within 2 feet of the home's foundation, which landscape materials shall not exceed 2 feet in height.
4. As offered by the applicant and as a condition of site plan approval, the applicant shall record a Declaration of Restriction in the land records maintained by the Clerk of the Circuit Court of the City of Virginia Beach, which expressly prohibits the use of the dwelling constructed on this property with this variance, from being used as a "Short Term Rental".

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

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Thornton 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, and Mr. Holland and Mr. Whitley who voted no.

AYE 5 NO 2 ABSTAIN 1 ABSENT 0

ANDERSON	AYE
HOLLAND	NO
NEWTON	AYE
POCTA	AYE
PURKEY	ABSTAIN
THORNTON	AYE
WHITLEY	NO
KOVNER (Alternate)	AYE

Respectfully Submitted

Janice Anderson
Secretary

lmr